

**IN THE SUPREME COURT OF IOWA**

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**NO. 15-0943**

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**SHARI KINSETH and RICKY KINSETH,  
Co-executors of the Estate of Larry Kinseth, Deceased,  
And SHARI KINSETH, Individually,**

**Plaintiffs-Appellees/Cross-Appellants,**

**v.**

**WEIL-McLAIN,**

**Defendant-Appellant/Cross-Appellee,**

**And**

**STATE OF IOWA, ex. rel.,  
CIVIL REPARATIONS TRUST FUND,**

**Intervenor-Appellee**

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**Appeal from the Iowa District Court for Wright County**

**The Honorable Stephen P. Carroll**

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**INTERVENOR-APPELLEE'S BRIEF**

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## STATEMENT OF THE CASE

The jury found through special interrogatories the conduct of Weil-McLain was not directed specifically at the claimant. Judgment for punitive damages was entered on May 1, 2014, in favor of the Estate of Larry Kinseth and the Trust Fund for \$2.5 million plus interest. The actual allocation between the claimants, Trust Fund and attorney fees pursuant to Iowa Code §668A.1(2)(b) was reserved for a later hearing and order. App. pp. 738-739.

The State of Iowa ex rel. Civil Reparations Trust Fund filed a petition for intervention along with a motion for joinder or intervention on May 15, 2014, and was allowed to intervene and participate in the post-trial proceedings. For example, the parties extensively briefed the constitutionality of the punitive damage award. The trial court found the ratio between punitive and compensatory damages fully met due process requirements. App. pp. 813-815 (“Applying the above cases on punitive damages and mindful of the statutes allowing for treble damages, I conclude Weil-McClain’s due process argument is without merit.”). The allocation of the punitive damages between the parties will need to be made by the district court on remand in the event of affirmance.

## **JOINDER IN BRIEF OF PLAINTIFFS-APPELLEES**

The State of Iowa ex rel. Civil Reparations Trust Fund joins in the brief of plaintiffs-appellees in the interest of convenience of the parties and judicial efficiency. *See In Re A.W.*, 741 N.W.2d 793, 804 (Iowa 2007).

## **CONCLUSION**

The State of Iowa ex rel. Civil Reparations Trust Fund respectfully requests the punitive damages be upheld. The matter should then be remanded to the district court for the determination of the applicable fees and distribution to the Civil Reparations Trust Fund and the claimants pursuant to Iowa Code section 668A.1(2)(b) with interest. *See Revere Transducers, Inc. v. Deere & Co.*, 595 N.W.2d 751, 772 (Iowa 1999), appeal after remand, 637 N.W.2d 189, 191 (Iowa 2001); *Wilson v. IBP, Inc.*, 558 N.W.2d 132, 148 (Iowa 1996), cert. denied, 522 U.S. 810, 118 S.Ct. 52, 139 L.Ed.2d 17 (1997), appeal after remand, 589 N.W.2d 729 (Iowa 1999); *Riggan v. Glass*, 734 N.W.2d 486, 2007 WL 911888, \*10 (Iowa App. 2007) (Table).

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**CERTIFICATE OF COMPLIANCE WITH  
TYPE-VOLUME LIMITATION, TYPEFACE REQUIREMENTS,  
AND TYPE-STYLE REQUIREMENTS**

This Brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1) because this Brief contains 358 words, excluding the parts of the Brief exempted by Iowa R. App. p. 6.903(1)(g)(1).

This Brief complies with the typeface requirements of Iowa R. App. P. 6.903(1)(e) and the type-style requirements of Iowa R. App. P. 6.903(1)(f) because this Brief has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in size 14 Times New Roman.

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## **CERTIFICATE OF FILING AND CERTIFICATE OF SERVICE**

I, Richard E. Mull, hereby certify that on July 6, 2016, a copy of Intervenor-Appellee's Brief was filed electronically with the Clerk of the Iowa Supreme Court through the EDMS system, and which system further will provide access and service to the brief on that same date to:

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