ELECTRONICALLY FILED APR 05, 2017 CLERK OF SUPREME COURT

IN THE SUPREME COURT OF IOWA

NO. 16-1794

STORY COUNTY NO. CDDM012128

Upon the Petition of
LYNN MARIE LARSEN,

Petitioner/Appellee,

And Concerning
ROGER WAYNE LARSEN,

Respondent/Appellant.

APPEAL FROM THE DISTRICT COURT
STORY COUNTY
THE HONORABLE MICHAEL J. MOON, JUDGE

APPELLEE'S FINAL BRIEF AND CONDITIONAL REQUEST FOR ORAL ARGUMENT

Nicole S. Facio AT0010622
NEWBROUGH LAW FIRM, LLP
612 Kellogg Ave., P.O. Box 847
Ames, Iowa 50010
Telephone: (515) 232-1761
Fax: (515) 232-8962
E-mail: nfacio@newbroughlaw.com

ATTORNEYS FOR PETITIONER/APPELLEE

TABLE OF CONTENTS

TABLE OF CONTENTS 2

TABLE OF AUTHORITIES 3

STATEMENT OF ISSUES PRESENTED FOR REVIEW 4

ROUTING STATEMENT 6

STATEMENT OF THE CASE 6

STATEMENT OF THE FACTS 6

ARGUMENT 13

I. THE DISTRICT COURT ACTUALLY UNDERESTIMATED THE COST OF ATTENDANCE 13

II. IT WOULD BE INEQUITABLE TO INCREASE THE CONTRIBUTION EXPECTED FROM THE CHILD.... 19

III. LYNN DESERVES APPELLATE ATTORNEY FEES..... 23

CONDITIONAL REQUEST FOR ORAL ARGUMENT 24

CONCLUSION 24

CERTIFICATE OF COST 25

CERTIFICATE OF COMPLIANCE 25

CERTIFICATE OF SERVICE AND FILING 26

TABLE OF AUTHORITIES

Cases

In re Marriage of Dolter, 644 N.W.2d 370 (2002) 14

In re Marriage of Gooodman, 690 N.W.2d 279 (Iowa 2004) 14, 16

In re Marriage of Krone, 530 N.W.2d 468 (Iowa Ct. App. 1995) 23

In re Marriage of Kupferschmidt, 705 N.W.2d 327 (Iowa Ct. App. 2005) 21

In re Marriage of Larsen, 2016 WL5408073 (Iowa Ct. App.2016) 6

In re Marriage of McDermott, 2005 WL 2216982 (Iowa Ct. App. 2005) 14, 22

In re Marriage of Neff, 675 N.W.2d 573 (Iowa 2004) 14

In re Marriage of Vannausdle, 668 N.W.2d 885 (Iowa 2003) ..... 13, 14, 18 ,20

In re Marriage of Zeliadt, 390 N.W.2d 117 (Iowa 1986) 19

Johnson v. Louis, 654 N.W.2d 886 (Iowa 2002) 21

Statutes

Iowa Code §598.21F(1)(2016) 13

Iowa Code §598.21F(2)(2016) 13

Iowa Code §598.21F(2)(b)(2016) 19

Rules

Iowa R. App. P. 6.907 (2016) 13

Iowa R. App. 6.1101 (2016) 6

STATEMENT OF ISSUES PRESENTED FOR REVIEW

I. THE DISTRICT COURT ACTUALLY UNDERESTIMATED THE COST OF ATTENDANCE.

Cases

In re Marriage of Vannausdle, 668 N.W.2d 885, 887 (Iowa 2003).

In re Marriage of Dolter, 644 N.W.2d 370 (2002).

In re Marriage of McDermott, 2005 WL 2216982 at *1 (Iowa Ct. App. 2005).

In re Marriage of Goodman, 690 N.W.2d 279, 284 (Iowa 2004).

In re Marriage of Neff, 675 N.W.2d 573, 579 (Iowa 2004).

Statutes

Iowa Code §598.21F(1)(2016).

Iowa Code §598.21F(2) (2016).

Rules

Iowa R. App. P. 6.907 (2016).

II. IT WOULD BE INEQUITABLE TO INCREASE THE CONTRIBUTION EXPECTED FROM THE CHILD.

Cases

In re Marriage of Zeliadt, 390 N.W.2d 117, 120 (Iowa 1986).

In re the Marriage of Vannausdle, 668 N.W.2d 885, 889-890 (Iowa 2003).

In re Marriage of Kupferschmidt, 705 N.W.2d 327, 335 (Iowa Ct. App. 2005).

Johnson v. Louis, 654 N.W.2d 886, 891 (Iowa 2002).

In re Marriage of McDermott, 2005 WL2216982, at *3 (Iowa Ct. App. 2005).

Statutes

Iowa Code §598.21F(2)(b)(2016).

III. LYNN DESERVES APPELLATE ATTORNEY FEES.

Cases

In re Marriage of Krone, 530 N.W.2d 468 (Iowa Ct. App. 1995).

ROUTING STATEMENT

Petitioner-Appellee, Lynn Jones (hereinafter "Lynn"), agrees that this case is appropriate for transfer to the Iowa Court of Appeals. Iowa R. App. 6.1101.

STATEMENT OF THE CASE

Lynn concurs with the Roger's statement of the case. Further discussion on the course of proceedings and disposition is provided below.

STATEMENT OF FACTS

Lynn and Roger were married almost 20 years at the time the Decree of Dissolution was entered on August 11, 2015. (App. 12, "Decree"). Roger appealed the Decree of Dissolution regarding many issues including child support, property division, and tax exemptions, which was pending at the time of these proceedings but was ultimately affirmed by the Court of Appeals. See *In re Marriage of Larsen*, 2016 WL5408073 (Iowa Ct. App. 2016). Roger's appeal did not include the issue of a post-secondary education subsidy.

Lynn and Roger have three children, Hannah (born in 1997 and now 19 years old); J.N.L. (born in 2001); and C.A.L. (born in 1994). Lynn is

employed at Iowa State University and earns approximately $77,000 annually. (App. 47, Tr. I p. 11 Ll. 8-16). Roger is employed with the Iowa Department of Transportation and in the military reserves earning approximately $110,000 annually (App. 75, Tr. I p. 39 Ll. 21-24).

On the first day scheduled for the dissolution trial, the parties reached agreement on several issues including the division and use of the 529 College Savings Accounts they had accumulated for each child during their marriage. (App. 8-9, Partial Stipulation for Decree pp. 5-6). This agreement was read into the record on April 29, 2015, and then a signed partial stipulation was filed with the court on April 30, 2015. (App. 95-103, Exhibit 8; App. 8-9, Partial Stipulation for Decree). At the time of the dissolution trial, the balance of the 529 College Savings account for the sole benefit of Hannah was approximately $63,000. (App. 101, Exhibit 8; App. 8; Partial Stipulation for Decree). When the division of the account occurred in January 2016, each party received approximately $30,000. (App. 89-90, Exhibits 3 and 4). The parties also had separate accounts for their other two children with balances of $53,049.08 for the benefit of J.N.L. and $39,716.76 for the benefit of C.A.L. (App. 8, Partial Stipulation for Decree).

The complete provision including in the Partial Stipulation and adopted by the court in the Decree of Dissolution is as follows:

> **Post-Secondary Education Subsidy**. In the event any child pursues a course of study or training beyond high school under the circumstances contemplated by Iowa Code Section 298.21F, each of the parties shall contribute toward the costs of that study or training as provided for by section 598.21F(c). The parties' custodial 529 accounts for each child shall first be used to discharge their share of their contributions under this provision but neither party shall be able to avoid contribution based upon any claims of alienation or estrangement. These accounts shall be equally divided with each party having an account for each child. The values of these accounts as of March 31, 2015 was as follows: J.N.L. ($53,049.08); H.M.L. ($63,107.24); and C.A.L. ($39,716.76). The parties shall be free to continue to add funds to these accounts but are not required to do so, however, the balances on each of these accounts should not be reduced below half of the amounts above unless due to market conditions. The parties acknowledge that these accounts are for the children and will not be used for any other purposes or withheld from any of the children. The parties shall exchange statements annually on April 1st.

(App. 8-9, Partial Stipulation pp. 5-6). Lynn testified during these proceedings that they had established the 529 College Savings accounts during their marriage to make it easier for their children so they wouldn't have to work as hard as Roger did when he went to college. (App. 49-50, Tr. I, pp. 13-14 Ll. 16-3). Roger agreed the parties talked about paying for part of their children's education costs.

(App 68-69, Tr. I pp. 32-33 Ll. 24-1). Roger also testified that the purpose of saving these large amounts of money during the marriage was to "assist with their college education." (App. 70, Tr. I p. 34 Ll. 11-20).

Hannah started as a freshman at Iowa State University on the same day of the hearing, August 22, 2016. (App. 46, Tr. I p. 10 Ll. 20-24). When Lynn applied for determination of the post-secondary education subsidy, she attached to her Application for Hearing to Determine Post-Secondary Education Subsidy the Iowa State University Costs of Attendance provided by the University which indicated the estimated costs of attendance to be $19,750 for the 2016-2017 academic year. (App. 18, Application for Hearing; App. 23, Exhibit B). By the time of the hearing, Hannah had received her first Iowa State University bill which was submitted by Lynn as Exhibit 2 and indicated the actual costs for tuition, room and board, and school fees for the Fall 2016 semester were $8,390.70. The actual scholarships payments applied to the bill totaled $2,763. (App. 87-88, Exhibit 2). The University bill does not include any expenses for books, supplies, or personal expenses which could consist of costs for

transportation, sorority participation, clothing, food, spending money, and entertainment. Iowa State University estimates $2,430 per year for personal expenses and $995 per year for books and supplies (App. 80, Exhibit 1). If you add these additional estimated expenses, which could not be completely determined at the time of the hearing, to the actual costs above, the total estimated costs of attendance for the 2016-2017 academic year would be $20,206.40. One-third of this amount is $6,735. Lynn requested the court also consider the additional expense of sorority dues for the year which were expected to total $1,933 for the academic year. (App. 91, Exhibit 5). After adding in the sorority dues, the total estimated costs for the 2016-2017 academic year for Hannah would be $22,139.40. At the time of the hearing, Hannah had already paid for her books (but not additional supplies) for the fall semester ($294.40) and part of her sorority dues ($225). (App. 92-94, Exhibit 6). Lynn had made a payment of $3,335 which had already been applied to the Iowa State University bill. (App. 87, Exhibit 2).

Lynn testified that Hannah had been offered a part-time job the very day of the hearing which was for 5 hours a week at minimum

wage ($7.25 per hour). (App. 47, Tr. I p. 11 Ll. 4-7). Hannah had also been awarded a $5,000 merit scholarship from Iowa State University and a community scholarship, "Dollars for Scholars," of $525 for the 2016-17 academic year. (App. 80, Exhibit 1). There is another scholarship listed on Hannah's financial award statement (Reported ISU/Non-ISU Aid) for $500 but that was a duplicate of the "Dollars for Scholars" scholarship which Hannah self-reported to Iowa State University earlier in the year but could not be removed from the system. She only received a total of $525 for this scholarship for the academic year. (App. 122, Tr. II p. 8 Ll. 3-17; App. 80, Exhibit 1). At the time of the hearing, Hannah also had $2,119.11 in her bank accounts and a loan of approximately $15,000 on her vehicle. (App. 30, Exhibit D). Lynn testified Hannah could have received an unsubsidized loan of $5,500 for the academic year but that she did not believe it was necessary or appropriate for her to take that loan since the parties had significant savings in their 529 College Savings accounts which could be applied to pay her remaining costs without her incurring this debt. (App. 49, Tr. I p. 13 Ll. 12-15; App. 56-57, Tr. pp. 20-21 Ll. 13-14).

Lynn proposed during the hearing that ownership of both parties' 529 College Savings accounts be transferred to their daughter for the purposes of her education and then both parties be discharged from any further post-secondary education subsidy for Hannah. (App. 49, Tr. I, p. 13, Ll. 1-4). Lynn made this proposal because of the extensive amount of litigation involved in this matter and to avoid future litigation every year regarding this child and their other two children. (App. 50, Tr. I p. 14, Ll 4-21). The second proposed option was that each party, including Hannah, be required to pay a third of the costs of attendance each year. (App. 49, Tr. I p. 13 Ll. 5-8). Roger requested neither party be required to pay anything towards the education costs for their daughter. (App. 67, Tr. I p. 31 Ll. 10-12).

The district court entered an Order finding that the cost of attendance at Iowa State University totaled $19,099.40 and requiring each party to contribute $6,366.47. (App. 104-107, Order filed on September 13, 2016). After both parties filed Motions to Amend, Enlarge, and Modify, the district court amended its order now calculating the total cost of attendance at $19,889.20 and requiring each party to pay $6,629.73 towards Hannah's education costs. (App.

133-134, Amended Order). Using the district court calculations for total costs of attendance, still leaves Hannah responsible for $6,629.74 of the total costs, most of which is paid by her merit based scholarships. Roger filed a Notice of Appeal on October 19, 2016, but has already made payments to Iowa State University as required by the district court.

ARGUMENT

I. THE DISTRICT COURT UNDERESTIMATED THE COST OF ATTENDANCE.

Preservation of Error. Lynn agrees with Roger's statement on preservation of error.

Scope and Standard of Review. Lynn agrees that appellate review for these equity proceedings is de novo. Iowa R. App. P. 6.907 (2016); *In re Marriage of Vannausdle,* 668 N.W.2d 885, 887 (Iowa 2003).

Discussion. A post-secondary education subsidy may be ordered by the district court upon a finding that good cause exists to require divorced parents to subsidize their child's education. Iowa Code §598.21F(1)(2016). The factors for the court to consider when determining whether good cause exists are listed in Iowa Code Section 598.21F(2) and include the child's age and educational ability, the child's ability to support themselves, and the

parent's financial condition. Iowa Code §598.21F(2)(2016). Hannah, who is 19 years of age, had started at Iowa State University on the day of the first hearing and there were no concerns about her ability to be successful in college. (App. 46, Tr. I p. 10 Ll. 20-25). The main issues in dispute were the district court's calculation of the costs of attendance and the child's contribution to her own educational costs.

The Iowa Supreme Court has previously recognized that the costs of a college education are not limited to tuition, books, supplies, and room and board but also include the opportunity for "social, cultural, and educational experiences outside the classroom." *In re Marriage of Vannausdle*, 668, 889 N.W.2d 885 (Iowa 2003). The courts have also included mandatory fees, transportation expenses, sorority dues, general living expenses, and spending money as necessary expenses. See *In re Marriage of Dolter*, 644 N.W.2d 370, 373 (2002) (mandatory fee assessments); *In re Marriage of McDermott*, 2005 WL 2216982 at *1 (Iowa Ct. App. 2005) (general living expenses); *In re Marriage of Goodman*, 690 N.W.2d 279, 284 (Iowa 2004) (sorority dues and cash allowance). University award letters have been considered by the Court to be an "accurate estimate of costs" and often include estimates for personal expenses and transportation. *In re Marriage of McDermott*, 2005

WL 2216982 at *2 (Iowa Ct. App. 2005) (citing *In re Marriage of Neff*, 675 N.W.2d 573, 579 (Iowa 2004)).

At the time of the hearing, Hannah had received her first Ubill which detailed the actual tuition, room and board, and mandatory fees for the Fall 2016 semester. (App. 87, Exhibit 2). This bill did not include any additional educational expenses such as those listed above including books, personal expenses, transportation, sorority dues, etc. Outside of adding in the amount spent on books, Roger is requesting this court limit the cost of attendance to exclude any additional expenses involved in the college experience for a total cost of attendance of $16,694.40. This very short sighted approach ignores the reality that the costs associated with college go beyond tuition, room and board, fees, and books, a fact clearly acknowledged by the Court in previous cases and the district court in this matter.

Iowa State University estimated the cost of attendance to attend their university for Fall 2016 and Spring 2017 at $20,000 which includes $2,430 for anticipated personal expenses and $995 for books and supplies. (App. 80, Exhibit 1). In this case, Hannah had already purchased books for the Fall semester in the amount of $294.40 and the district court just doubled

this number to account for the Spring semester. (App. 92, Exhibit 6; App. 132, Amended Order). This figure, however, does not account for the additional supplies Hannah might also need or that her books in the Spring semester might be more expensive. As Lynn testified, Hannah was in the college of design and will need various supplies throughout the year. (App. 56, Tr. I p. 20 Ll. 1-6).

The district court included in its calculation a cash allowance of $600 total for the academic year which is less than $70 per month for the 9-month academic year. In 2004, the Court indicated that a "reasonable cash allowance" would be $300 per month noting "a cash allowance is necessary for a college student to participate in the social, cultural, and educational experiences outside the classroom." *In re Marriage of Goodman*, 690 N.W.2d 279, 284 (Iowa 2004). As was the case in *Goodman*, both parties have the financial ability to provide this level of support or greater to their daughter. Even the district court in this matter acknowledged that the amount of cash allowance was "perhaps a little understated." (App. 133, Amended Order). The meager cash allowance awarded by the district court and resisted by Roger does not begin to cover the other additional expenses which the University includes in their estimate as "anticipated personal

expenses." Lynn testified she had already spent approximately $600 on furnishings for Hannah's dorm room. (App. 48, Tr. I p. 12 Ll. 9-18). Hannah also has a vehicle loan for which she has a balance of almost $15,000 and must make monthly payments. (App. 30, Exhibit D). Roger acknowledged that his calculations did not include any consideration for additional expenses like parking, gas, transportation, clothes, eating a meal off campus, or dorm room supplies while at the same time admitting that there were going to be additional expenses that Hannah would have to pay for herself. (App. 72-74, Tr. I pp. 36-38 Ll. 18-6). It would be more realistic and appropriate to utilize the University's estimate for these personal expenses of $2,430 for the academic year as opposed to the $600 allocated by the district court.

Roger is also opposed to the district court's inclusion of Hannah's sorority dues in the costs of attendance. Although the Court noted in *Goodman*, that the parties had previously agreed regarding the value of sorority life to a college experience, it should not then mean that these expenses should be absolutely excluded if there is not agreement. The district court included the sorority dues in the cost of attendance because it believed that sorority participation and dues are part of the entire college

experience. It is undeniable that Greek life is a part of the college experience for a great many people and at Iowa State University participation in Greek life includes 16.5% of the undergraduate population. http://www.greek.iastate.edu/news-events/greek-community-annual-statistics-report. Roger doesn't really support paying for any of Hannah's college experience so it is not surprising that he does not want to include this additional expense. Although the issue in this case and *Goodman* was sorority dues, it could be said that any experiences which could be considered "optional" should not be included. This would include participation in any one of the many student organizations provided by Iowa State University. See https://www.stuorg.iastate.edu/org-listing. As stated above, the Court has already enlarged the meaning of "necessary" expenses to include experiences outside the classroom and that there is "no reason to limit costs to an unrealistic amount." *In re Marriage of Vannausdle*, 668 N.W.2d 885, 889 (Iowa 2003).

The calculation of the total cost of attendance for the 2016/17 academic year should really be as follows:

Tuition:	$7,098 (actual from Exhibit 2)
Room:	$4,487 (actual from Exhibit 2)

Board:	$3,831 (actual from Exhibit 2)
Fees:	$1,365.40 (actual from Exhibit 2)
Books:	$995 (estimate from Exhibit 1)
Personal Expenses	$2,430 (estimate from Exhibit 1)
Sorority Dues	$1,933 (actual from Exhibit 5)
Total=	**$22,139.40**

The district court underestimated the total cost of attendance at $19,889.20.

II. IT WOULD BE INEQUITABLE TO INCREASE THE CONTRIBUTION EXPECTED FROM THE CHILD.

Preservation of Error. Lynn agrees with Roger's statement on preservation of error.

Scope and Standard of Review. Lynn agrees that appellate review for these equity proceedings is de novo.

Discussion. Before determining what a parent should pay towards their child's post-secondary education, the court must look at what financial contribution the child can make to their own education. Iowa Code §598.21F(2)(b)(2016). The court should *consider* available resources to the child including scholarships, grants, student loans, and ability of the child to earn an income. *Id.* (emphasis added). After determining the child's contribution, the court can then determine what a parent's contribution

should be but shall not require a parent to pay more than one-third of the total costs. *Id.* A court sitting in equity has the flexibility to consider the particular facts in a case and apply the law in a way the court believes is fair and equitable. *In re Marriage of Zeliadt*, 390 N.W.2d 117, 120 (Iowa 1986). That is exactly what the district court did in this matter.

Roger takes issue with the district court for not including the availability of student loans in Hannah's contribution. Although the court shall *consider* the availability of loans, the code does not require it to include loans in the calculation of a child's contribution. The Court has not included available student loans in a child's contribution when it is appropriate under the specific facts of a case. *In re the Marriage of Vannausdle*, 668 N.W.2d 885, 889-890 (Iowa 2003). As the district court found in this case, after considering the availability of the unsubsidized loan, "there is no reason for Hannah to incur student debt when she has earned scholarships and her parents have sufficient sums of money earmarked for her education." (App. 133, Amended Order). The parties clearly made a concerted effort to aggressively save for their children's college educations. At the time of the divorce, the parties had saved over $155,000 in 529 College Savings accounts for the benefit of their three children. (App. 8, Partial Stipulation).

It was part of the agreement in the dissolution that these funds were for the children and would not be used for any other purposes or withheld from any of the children. (App. 9, Partial Stipulation). Even if the parties had not saved so aggressively, they each make a sufficient income so that it would not be a hardship to contribute to their daughter's post-secondary education. In fact, Roger earns approximately $33,000 more than Lynn per year making it even less of a hardship on him.

The whole purpose of this code section is to provide a "quid pro quo for the loss of stability resulting from divorce hardships." *In re Marriage of Kupferschmidt*, 705 N.W.2d 327, 335 (Iowa Ct. App. 2005) (citing *Johnson v. Louis*, 654 N.W.2d 886, 891 (Iowa 2002). If the parties had remained married, there is no doubt that the over $60,000 that had been saved, for this child alone, during their marriage would have been applied to the education costs of Hannah. Hannah should not now suffer from the consequences of the divorce because of the acrimony between the parties and her now difficult relationship with her father.

Roger's assertion that there was an additional scholarship available to Hannah in the amount of $500 that was not considered by the district court is just simply incorrect. The "estimated reported scholarship" is the same as

the "Dollars for Scholars" scholarship. Hannah had a duty to report outside scholarships to Iowa State which she did earlier in the year. Once Iowa State received the money from "Dollars for Scholars", it was applied to her bill and clearly identified on her bill. (App. 87, Exhibit 2). Hannah only received a total of $5,525 in scholarships for the academic year.

Roger also argues that the balance of Hannah's bank account and her potential earnings should be considered by the court. Although Hannah had $2,119 in her bank account at the time of the hearing, she will still have to cover many of the "additional expenses" associated with a college education and not accounted for by the district court. The same is true of any work she might do during the school year. At the time of the hearing, Lynn testified that Hannah had a job offer for 5 hours per week at $7.25 per hour. This would add up to approximately $35 per week which as the court noted, "will be minimal and those funds can be used to supplement the somewhat paltry amount the court has included in its calculation for spending money." (App. 133, Amended Order). Roger's assertions about Hannah's earnings are simply too speculative to include or rely on. See *In re Marriage of McDermott,* 2005 WL2216982, at *3 (Iowa Ct. App. 2005).

Roger's assertion that the $750 in child support he paid to Lynn during the summer should also be considered available to Hannah and added to her contribution is unreasonable. Roger agreed to pay this additional amount of support to Lynn and it was meant to compensate Lynn, not Hannah, for the costs of Hannah living at home while she was waiting to attend college. It was not intended to be put towards her post-secondary educational costs.

Even though Roger claims the district court order held "that the child bore no responsibility for payment of her education of any kind" the reality of the order is much different. It is true that most of Hannah's contribution is absorbed by her merit based scholarships but the rest of the costs not paid for by her parents and not accounted for by the district court will be her sole responsibility.

III. LYNN DESERVES APPELLATE ATTORNEY FEES

The appellate court has the discretion to award attorney fees considering the needs of the requesting party, the ability of the other party to pay, and whether the requesting party was obligated to defend the trial court's decision. *In re Marriage of Krone*, 530 N.W.2d 468, 472 (Iowa Ct. App. 1995). Lynn had to bring this action even though the parties clearly

have the funds available to them to pay the post-secondary education subsidy ordered by the court without any additional financial hardship. Roger also makes approximately $33,000 per year more than Lynn. Lynn requests $2,500.00 in appellate attorney fees.

CONDITIONAL REQUEST FOR ORAL ARGUMENT

Appellee, Lynn Larsen, requests that, if Appellant is granted oral argument, that she also be granted oral argument.

CONCLUSION

Lynn believes the post-secondary subsidy entered by the district court was equitable to the parties and should be affirmed in all respects.

Respectfully Submitted,

NEWBROUGH LAW FIRM, LLP
612 Kellogg Ave., P.O. Box 847
Ames, Iowa 50010
Telephone: (515) 232-1761
Fax: (515) 232-8962
E-mail: nfacio@newbroughlaw.com

By: _____
Nicole S. Facio AT0010622

ATTORNEYS FOR PETITIONER/APPELLEE

CERTIFICATE OF COST

I hereby certify that the actual amount paid for printing of the necessary copies of Appellee's Final Brief in final form was the sum of $0.00, exclusive of service tax and postage, and that amount has been actually paid in full by me.

By: _____
Nicole S. Facio

CERTIFICATE OF COMPLIANCE

1. This Brief complies with the type-volume limitation of Iowa R. App. P. 6.903(1)(g)(1) or (2) because this Brief contains 4649 words, excluding the parts of the Brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

2. 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 14 font size and Times New Roman type style.

By: _____ Date: 4/5/17
Nicole S. Facio

CERTIFICATE OF SERVICE AND CERTIFICATE OF FILING

I, Nicole S. Facio, hereby certify that I, or a person acting on my behalf, served the within Appellee's Final Brief on the 5th day of April, 2017, by submitting the document via electronic filing with the Clerk of the Supreme Court. The following participants in the case who are registered with EDMS will be served by EDMS.

Erin M. Carr
Attorney for Appellant

By: _____
Nicole S. Facio