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IN THE IOWA SUPREME COURT

SUPREME COURT NO. 17-2009

STANDARD WATER CONTROL SYSTEMS, INC.,
Plaintiff-Appellee,

v.

MICHAEL D. JONES, CORI JONES,
Defendants-Appellants.

APPEAL FROM THE DISTRICT COURT FOR POLK COUNTY
THE HONORABLE LAWRENCE MCLELLAN, JUDGE

APPELLANTS' FINAL REPLY BRIEF

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II. IOWA'S MECHANIC'S LIEN STATUTE, IOWA CODE CHAPTER 572, DOES NOT INCLUDE "SPECIFIC LANGUAGE" ABROGATING HOMESTEAD RIGHTS."

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REPLY TO APPELLEE'S BRIEF

At its most basic, Standard Water[1] is attempting to subject a homestead to debt for which there is no statutory exception. The homestead statute's language and accompanying case law all demonstrate unequivocally that while Standard Water may collect its $4,900 judgment for waterproofing work because it is subject to the statutory homestead exception (Iowa Code § 561.21(3). It may not, however, collect other funds against Michael and Cori's homestead.

Standard Water first argues that the Court should use the doctrines of judicial estoppel, law of the case, or waiver to hold that Michael and Cori are not entitled to Iowa's statutory homestead protections. (Appellee Br. at 19-26). Standard Water then argues that, in the alternative, Iowa's statutory homestead protections should not apply in this case because, under Standard Water's interpretation, Iowa's mechanic's lien statute apparently includes "specific language abrogating homestead rights," thereby allowing contractors to ignore these homestead protections. *Id.* at 27-36; *First Am. Bank v. Urbandale Laser Wash, LLC*, 894 N.W.2d 24, 29 (Iowa Ct. App. 2017) (quoting *In re Estate of Waterman*, 847 N.W.2d 560, 566-67 (Iowa

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[1] The same defined terms used in Appellant's Brief will be utilized in this Reply Brief.

2014) (holding that reading a limitation on homestead rights into a statute "without the legislature's use of specific language abrogating homestead rights would be contrary to century-old case law that extolls the 'important public purpose of the protections established for the homestead interest.'"). (Appellee Br. at 27-36).

Standard Water's arguments are incorrect. Neither party disputes that the property at issue is Michael and Cori's family homestead and, as such, this homestead is entitled to Iowa Code Chapter 561's homestead protections. (Resist. to Motion to Reconsider/Alternative Motion 9/5/2017 ¶ 31) (App. 346) ("Standard Water stipulates that the Property in this litigation is the Joneses' homestead."). Standard Water's creative collection of common law legal doctrines does nothing to limit these homestead protections. Additionally, the District Court correctly held that Iowa's mechanic's lien statute does not limit Iowa's longstanding homestead protections. (Order 11/12/2017 at 7-8)(App. 380-381). Instead, the District Court erred when it too easily found waiver of the homestead protections.

I. MICHAEL AND CORI ARE ENTITLED TO IOWA'S STATUTORY HOMESTEAD PROTECTIONS.

A. Preservation of Error.

Both parties agree that error has been preserved on the issue of Michael and Cori's right to statutory homestead protections. (Appellee Br. at 17-18).

B. Standard of Review

Michael and Cori disagree with Standard Water's attempt to shift the standard of review from a correction of errors at law to an abuse of discretion. (Appellee Br. at 18-19). The District Court's Ruling on Michael and Cori's Motion to Reconsider/Alternative Motion is, admittedly, not entirely clear as to the exact basis for its decision. (Order 11/12/2017 at 12)(App. 385). The District Court held that Michael and Cori:

> failed to timely raise their homestead rights as a defense. Accordingly, the Jones waived this defense. Judicial estoppel and the law of the case doctrine preclude the raising of this defense at this time. In addition, the court adopts the court's position in *Francksen* where the court denied the defense based upon the principles of res judicata.

Id.

The District Court's analyses of judicial estoppel, law of the case, and res judicata largely overlap. *Id.* However, the common thread is the District Court's belief that Michael and Cori did not raise their homestead defense within the time period required under Iowa law. *Id.* To determine if this ruling was correct, this Court must interpret Iowa's homestead statute, Iowa Code chapter 561, and determine whether this statute enforces a family's homestead rights so long as the family asserts those rights prior to sheriff's sale of the homestead. Issues of statutory interpretation are reviewed for correction of errors at law. *State v. Stanford*, 474 N.W.2d 573, 575 (Iowa

1991). The appellate court's "ultimate goal is to ascertain and give effect to the intention of the legislature." *Harden v. State*, 434 N.W.2d 881, 884 (Iowa 1989). Therefore, the correct standard of review for the District Court's denial of Michael and Cori's homestead rights under Iowa Code chapter 561 is for errors at law. *Stanford*, 474 N.W.2d at 575; *Harden*, 434 N.W.2d at 884.

C. Standard Water's Legal Theories of Judicial Estoppel, Law of the Case, and Waiver Fail.

Standard Water grasps at three separate legal theories in its argument that Michael and Cori should not receive Iowa Code chapter 561's homestead protections. None of these theories apply in this case.

i. "Judicial Estoppel" Does Not Apply.

"The doctrine [of judicial estoppel] 'prohibits a party who has *successfully and unequivocally* asserted a position in one proceeding from asserting an inconsistent position in a subsequent proceeding.'" *Winnebago Indus., Inc. v. Haverly*, 727 N.W.2d 567, 573 (Iowa 2006) (citations omitted, emphasis added).

Standard Water argues that Michael and Cori should be judicially estopped from the benefits of Iowa's homestead statute based on Michael and Cori's Motion to Set Aside Sale, filed September 1, 2016 ("Motion to Set Aside Sale"). (Appellee Br. at 19); (Motion to Set Aside 09/01/2016)(App. 120-147). Michael and Cori filed their Motion to Set Aside Sale shortly after

successfully appealing and reversing Standard Water's attorney fee award. (Motion to Set Aside 09/01/2016)(App. 120-122). *Standard Water Control Sys., Inc. v. Jones*, 888 N.W.2d 673 (Iowa Ct. App. 2016) ("*Standard Water I*") (decided August 31, 2016). In their Motion to Set Aside Sale, Michael and Cori asked the District Court to set aside Standard Water's initial sheriff's sale on the basis that, regardless of the fact that Standard Water's attempt to collect in excess of the costs of the work and materials supplied from Michael and Cori's homestead violated Iowa's homestead statute, Michael and Cori's recent success in reversing Standard Water's attorney fee award on appeal had the *tangential* effect of altering the total judgment amount that Standard Water was attempting to collect from Michael and Cori's home at sheriff's sale. (Mot. to Set Aside Sale 9/1/2016)(App. 120-122).

To summarize, Standard Water's judicial estoppel argument hinges entirely on convincing this Court that Michael and Cori's Motion to Set Aside Sale "unequivocally" asserted a position that was so "inconsistent" with a later position that this Court should deny Michael and Cori the "important" and "century-old" protections of Iowa's homestead statute. *Winnebago Indus., Inc.*, 727 N.W.2d at 573; *First Am. Bank v. Urbandale Laser Wash, LLC*, 894 N.W.2d 24, 28-29 (Iowa Ct. App. 2017) (quoting *In re Estate of Waterman*, 847 N.W.2d 560, 566-67 (Iowa 2014). Standard Water cannot come close to

satisfying this standard. A review of the procedural history in this case shows that Standard Water cannot, under any reasonable interpretation of Michael and Cori's actions, demonstrate such an unequivocal inconsistency.

When Michael and Cori decided to appeal Standard Water's judgment, their goal was not to simply delay or otherwise limit the sheriff's sale of their home; instead, their goal was to reduce or eliminate Standard Water's judgment, regardless of whether Standard Water's collection attempts were appropriate. *See Standard Water I*. There was no need for Michael and Cori to raise their homestead rights in the first appeal, because the sole focus on appeal was whether the *amount* of Standard Water's judgment was proper, not whether Standard Water's attempts to collect its judgment were proper. *See Standard Water I*. Similarly, when Michael and Cori filed their Motion to Set Aside Sale, they were simply notifying the District Court that regardless of whether Standard Water acted properly by attempting to collect from Michael and Cori's home, a tangential consequence of Michael and Cori's success in reversing Standard Water's award on appeal was to reduce the judgment that Standard Water was attempting to collect from Michael and Cori's homestead and, similarly, to reduce the amount that Standard Water claimed was necessary to redeem the home. (Motion to Set Aside 09/01/2016)(App. 120-122). This decision to alert the District Court to a tangential consequence of

Michael and Cori's appeal is perfectly consistent with Michael and Cori's assertion that Iowa law does not allow Standard Water to collect its attorney fees through a sheriff's sale of Michael and Cori's family home, and under no reasonable interpretation can it be said that this decision constituted an "unequivocal" inconsistency such that Michael and Cori should be denied "important" and "century-old" homestead protections. *Winnebago Indus., Inc.*, 727 N.W.2d at 573; *First Am. Bank*, 894 N.W.2d at 28-29. Therefore, Standard Water's argument regarding judicial estoppel fails.

ii. "Law of the Case" Does Not Apply.

Standard Water claims that this Court's previous appellate ruling "plainly affirmed" Michael and Cori's alleged waiver of their homestead rights. (Appellee Br. at 24). This is, undoubtedly, news to this Court, because neither party has ever brought the issue of Michael and Cori's homestead rights to this Court's attention prior to the present appeal. *See Standard Water I* and *Standard Water Control Sys., Inc. v. Jones*, No. 17-0854, 2018 WL 73933 (Iowa Ct. App., Feb. 7, 2018) (*Standard Water II*").[2] Instead, this case is procedurally identical to *Bahl v. City of Asbury*, where the Iowa Supreme Court held that the "law of the case" doctrine did not apply because the

[2] Application for Further Review pending.

appellate court in a prior appeal was "not asked to determine" the disputed issue and, therefore, had not addressed the disputed issue, meaning the disputed issue had not yet become the "law of the case." 725 N.W.2d 317, 320-22 (Iowa 2006). Therefore, Standard Water's argument regarding law of the case fails.

iii. "Waiver" Does Not Apply.

There are several glaring problems with Standard Water's waiver argument. In this case, the District Court too easily found waiver of the homestead right despite the clear case law and statutory language required to waive homestead rights. Standard Water points the Court to various stages in the litigation where Michael and Cori did not explicitly discuss their homestead rights. (Appellee Br. at 10-17). However, this is irrelevant: as addressed in Appellant's Brief, Iowa law's only timing requirement for asserting a family's homestead rights is that the family must raise those homestead rights prior to the sheriff's sale of their home, and Michael and Cori undoubtedly complied with this requirement. *Scheffert v. Scheffert*, No. 12-2147, 2013 WL 5508538 (Iowa Ct. App. Oct. 2, 2013); *Francksen v. Miller*, 297 N.W.2d 375 (Iowa 1980).

Standard Water rebuts this argument by concluding, without explanation, that Michael and Cori's "reading of [*Scheffert* and *Francksen*] is

too narrow." (Appellee Br. at 25). In *Francksen*, the court explained: "The record of the foreclosure suit shows defendant did not assert his homestead claim until after the sheriff's sale. The trial court held the claim was untimely and refused to set the sale aside. No appeal was taken from that adjudication. Therefore, under *Dodd*, defendant is precluded from raising a homestead defense in the present action …." 297 N.W.2d at 377 (citing *Dodd v. Scott*, 46 N.W. 1057, 1058 (Iowa 1890)). Under any reasonable interpretation, *Francksen*'s only timing requirement for homestead rights is that a party assert its homestead rights prior to sheriff's sale.

In *Scheffert*, the homestead owner actually consented to summary judgment partitioning his homestead. 2013 WL 5508538 at *1. A court-appointed referee then sold the property. *Id.* After the sale, the homestead owner finally objected and asserted his homestead rights. *Id.* In other words, this case does nothing to change *Francksen*'s requirement that a family is entitled to its homestead rights so long as they assert those rights prior to sheriff's sale.

In this case, the District Court vacated the first sheriff's sale, meaning the parties were "placed in the positions they held prior to" the first sheriff's sale (i.e. the parties were placed in the position where no sheriff's sale had taken place). (Order 9/28/2016)(App. 155-159)(vacating sheriff's sale);

(Order 3/24/2017)(App. 183)(clarifying that in light of the vacated sheriff's sale, "[i]f a sheriff's sale is to occur Standard will need to initiate a new one in accordance with the requirements under Iowa law); *In re Marriage of Lenz*, No. 02-1022, 2003 WL 21458484 at *5 (Iowa Ct. App. June 25, 2003) (holding that by vacating the decree, the parties are placed in the positions they held prior to the entry of the decree). Therefore, Iowa's only timing requirement was that Michael and Cori assert their homestead rights prior to Standard Water's scheduled sheriff's sale of Michael and Cori's home on August 22, 2017. (Special Execution 6/6/2017)(App. 190-192). Michael and Cori raised their homestead rights well in advance of the sheriff's sale scheduled for August 22, 2017, and the record reflects that the property was, in fact, their homestead.

On September 20, 2016, Michael and Cori filed a pleading referring to the subject property as their "homestead." (Reply Sppt. Mot. to Set Aside Sale 9/20/2016, ¶ 6)(App. 150). On August 10, 2017, Michael and Cori filed their Motion to Vacate the pending sheriff's sale on the basis of Michael and Cori's homestead rights. (Mot. to Vacate 8/10/2017)(App. 193-198). Furthermore, on the day scheduled for the sheriff's sale, Cori Jones attempted to tender $4,900 to redeem the property (i.e. the amount of Standard Water's judgment that constitutes compensation for waterproofing work and that is,

therefore, recoverable against Michael and Cori's homestead). (Aff. of Cori Jones 8/22/2017)(App. 322-323).

Michael and Cori undoubtedly raised their homestead rights on multiple occasions prior to Standard Water's sheriff's sale of Michael and Cori's homestead on August 22, 2017. This satisfied Iowa's only timing requirement for formally asserting a family's homestead rights. The District Court erred by holding otherwise.

II. IOWA'S MECHANIC'S LIEN STATUTE, IOWA CODE CHAPTER 572, DOES NOT INCLUDE "SPECIFIC LANGUAGE" ABROGATING HOMESTEAD RIGHTS."

A. Preservation of Error.

Michael and Cori disagree that error has been preserved on Standard Water's argument based on the legislative history of Iowa Code section 561.21(3). "Nothing is more basic in the law of appeal and error than the axiom that a party cannot sing a song to us [the appellate court] that was not first sung in trial court." *State v. Rutledge*, 600 N.W.2d 324, 325 (Iowa 1999). Standard Water's newly raised interpretation of Iowa Code section 561.21(3)'s legislative history has not been preserved for review as an alternative ground to affirm the District Court. (Appellee Br. at 32-36). Standard Water did not raise this argument before the District Court, meaning this argument was not preserved for review. (Resist. Mot. to

Reconsider/Alternative Motion 9/5/2017) (App. 336-356) (no discussion of legislative history or Standard Water's interpretation of legislative history); (Resist. 12/11/2017)(App. 406-409) (no discussion of legislative history or Standard Water's interpretation of legislative history).

Standard Water cannot advance the legislative history argument as an alternative grounds to affirm. Nevertheless, the alternative grounds must be grounds upon which "any proper basis appears in the record for a trial court's judgment, even though it is not one upon which the court based its holding." *Grefe & Sidney v. Watters*, 525, N.W.2d 821, 826 (Iowa 1994) (citing *Collins v. State*, 477 N.W.2d 374, 376 (Iowa 1991); *Galloway v. Bankers Trust Co.*, 420 N.W.2d 437, 441 (Iowa 1988)). Since the legislative history argument was not one presented to the District Court—therefore "not in the record for the trial court's judgment"—the argument is not preserved as an alternate grounds to affirm. *Id.* Even if this Court were to address the merits of the argument, as discussed more fully below, the limited legislative history does not support Standard Water's interpretation of Iowa Code section 561.21(3).

B. Standard of Review.

Both parties agree that the standard of review for the District Court's interpretation of Iowa Code chapter 572 is for correction of errors at law. (Standard's Brief at 27); *State v. Stanford*, 474 N.W.2d 573, 575 (Iowa 1991).

C. The Legislative History of Iowa Code Section 561.21(3) Fails to Support Standard Water's Position.

Iowa Code section 561.16 states, "The homestead of every person is exempt from judicial sale where there is no special declaration of statute to the contrary." Iowa Code section 561.21 provides a limited list of debts that are exempted from section 561.16 and that may be collected from a homestead, including debts "for work done or material furnished *exclusively* for the improvement of the homestead." Iowa Code § 561.21 (2017) (emphasis added). The parties and the District Court appear to agree that these homestead protections prohibit a judgment debtor from collecting attorney fees from a homestead, because attorney fees do not constitute "work done or material furnished exclusively for the improvement of the homestead." Iowa Code §§ 561.16, 561.21(3); (Order 11/12/2017 at 7-8)(App. 380-381); Appellee Br. at 29. The only question is whether Iowa's mechanic's lien statute, Iowa Code chapter 572, somehow alters this homestead protection.

Courts will not read a statute to infringe on homestead rights "without the legislature's use of specific language abrogating homestead rights." *First Am. Bank v. Urbandale Laser Wash, LLC*, 894 N.W.2d 24, 29 (Iowa Ct. App. 2017). Michael and Cori explained in their Appellant Brief that Iowa Code chapter 572 does not alter the homestead statute's prohibition on collecting for items other than work and materials from a homestead, because Iowa Code

chapter 572 does not include "specific language abrogating homestead rights" in such a manner. (Appellant Br. at 24-27). In response, Standard Water quotes just one sentence from Iowa Code chapter 572. (Appellee Br. at 32). This sentence reads in its entirety: "in an action to enforce a mechanic's lien, a prevailing party may be awarded reasonable attorney fees." *Id.* (quoting Iowa Code § 572.32). Standard Water then jumps to the logically incomprehensible conclusion that this sentence means "that attorney fees awarded *must* be a part of a judgment *in rem* that attaches to the foreclosed property." (Appellee Br. at 32).

It is difficult to determine how Standard Water could conclude that section 572.32 constitutes "specific language abrogating homestead rights." Section 572.32 can be read in perfect harmony with Iowa's homestead statute without limiting the homestead statute's "important" and "century-old" protections. *Winnebago Indus., Inc. v. Haverly*, 727 N.W.2d 567, 573 (Iowa 2006); *First Am. Bank*, 894 N.W.2d at 28-29 (quoting *In re Estate of Waterman*, 847 N.W.2d 560, 566-67 (Iowa 2014). A party could foreclose a chapter 572 mechanic's lien against many types of properties that do not qualify as homesteads, such as commercial properties, second homes, residential storage buildings, etc. In mechanic's lien cases involving these types of properties, Iowa's homestead statute has no effect on Iowa Code

section 572.32's attorney fee provision. It is only in cases involving a homestead that Iowa Code section 572.32's attorney fee provision gives way to Iowa Code chapter 561's clear statutory protections for a family's homestead. Therefore, Standard Water's belief that section 572.32's fee shifting mechanism somehow demonstrates that attorney fees are always recoverable in mechanic's lien cases (even in cases involving a family's homestead under Iowa Code chapter 561) is incorrect.

Standard Water's argument regarding chapter 572 abrogating homestead rights under chapter 561 is meritless. Standard Water's argument is meritless because it flunks the basic test of statutory construction. Chapter 572 does not contain language which provides for the waiver of homestead rights. Iowa R. App. P. 6.904(3)(*m*) (2017) ("the court searches for legislative intent as shown by what the legislature said, rather than what it should or might have said"); *First Am. Bank*, 894 N.W.2d at 29 (exception to homestead statute must be authorized by specific language abrogating homestead rights). Indeed, as the District Court stated "this court can find no language in [c]hapter 572 that could be interpreted as "a special declaration of statute to the contrary…" (Order 11/12/2017 at 8)(App. 381).

Standard Water additionally directs this Court to two cases for the proposition that, in certain situations, a party may execute against a

homestead. (Appellee Br. at 32) (citing to *In re Keane*, 7 B.R. 844 (Bankr. N.D. Iowa 1980) and *Moffitt v. Denniston & Partridge Co.*, 294 N.W. 731 (Iowa 1940)). These cases are irrelevant because, once again, Michael and Cori have never disputed the general proposition that a judgment creditor may execute against a homestead to recover certain debts, subject to Iowa Code section 561.21's statutory limits on the types of recoverable debts. The only relevant issue in this case is whether Standard Water may execute against a homestead specifically to recover *attorney fees*. The answer is "no," and *Keane* and *Moffitt* do not change (or even address) this issue.

Standard Water cites to several additional cases in an attempt to demonstrate an inconsistency between those cases and Iowa's limits what types of claims may be recovered against a family's homestead. (Appellee Br. at 31-32). However, each of these cases is perfectly consistent with Iowa Code section 561.21(3)'s limits on a contractor's ability to recover from a homestead.

In *Rohlin Const. Co. v. Lakes, Inc.*, a contractor brought a mechanic's lien action to recover unpaid amounts due for blacktopping a commercial parking lot. 252 N.W.2d 403, 404 (Iowa 1977). Similarly, in *Deerfield Constr. Co. v. Crisman Corp.*, a contractor brought a mechanic's lien action based on disputes regarding a Lowe's Home Improvement Center. 616

N.W.2d 630, 631 (Iowa 2000). The subject properties in these cases were not family homesteads; and, therefore, these cases offer no guidance on Iowa's homestead protections. *Rohlin Const. Co.*, 252 N.W.2d at 404; *Deerfield Constr. Co.*, 616 N.W.2d at 631.

In *S. Hanson Lumber Co. v. Lakes, Inc.*, attorney fees were not at issue. 111 N.W.2d 681, 683-87 (Iowa 1961). There is no mention of attorney fees, and the contractor was not attempting to collect attorney fees from a homestead. *Id.* This holding in no way addresses whether an attorney fee judgment is recoverable from a homestead.

Noticeably absent from Standard Water's cited cases is any case in which a homestead was sold to satisfy a mechanic's lien claimant's attorney fee judgment despite the homestead owner asserting homestead rights prior to sheriff's sale. This is unsurprising, because no such Iowa case exists, and Iowa Code sections 561.16 and 561.21(3) could hardly be clearer: a judgment debtor cannot recover attorney fees from a family's homestead. Iowa Code chapter 572 does not include "specific language" altering this protection.

Finally, conspicuous by its absence, is any discussion from Standard Water that its construction of chapter 572 is consistent with the strong public policy which provides that homestead protections are for the benefit of society as a whole—not individual homeowners. *First Am. Bank*, 894 N.W.2d at 27.

The argument is not advanced because it cannot be. Iowa courts and those courts interpreting Iowa law have consistently noted the homestead statute is for the protection of the public. *Id.* "The purpose of homestead statutes is to provide a margin of safety to the family, not only for the benefit of the family, but for the public welfare and social benefit which accrues to the State by having families secure in their homes." *In re Estate of Waterman*, 847 N.W.2d 560, 566-67 (Iowa 2014) (internal quotation marks omitted). "Recognizing the important public purpose of the protections established for the homestead interest, we construe our homestead statute broadly and liberally to favor homestead owners." *Id.* at 567; *see also In re Wipperling*, 286 B.R. 106, 108 (Bankr. N.D. Iowa 2002) ("The law regarding improvements to a homestead should be construed liberally in favor of the debtor so as to effect the purpose and policy of the homestead statutes.") (citing *Am. Sav. Bank of Marengo v. Willenbrock*, 228 N.W. 295, 298 (1929)).

Michael and Cory argued to the District Court regarding the strong public policy in support of homestead rights. (Reply Sppt. Motion Vacate Writ 08/17/2017 at 2; and Reply Plf. Resist. Mot. Vacate and Alt. Mot. 09/12/2017 at 2-3)(App. 312; 358-359). It follows, therefore, that because the public is affected by the alleged waiver by Michael and Cory of their homestead rights, the concept of waiver should be strictly and narrowly

construed. *In re Wipperling*, 286 B.R. at 108 (citing *Am. Sav. Bank of Marengo*, 228 N.W. at 298. Standard Water has failed to meet this test and the District Court erred in so finding.

CONCLUSION

This case began as a $5,400 dispute regarding waterproofing work. It has now been transformed into an attempt by Standard Water to sell Michael and Cori's family homestead at sheriff's sale for a final judgment amount of $4,900 on just material and work, but including funds well in excess of that amount. The Iowa legislature envisioned this exact situation when it enacted a statutory framework that prohibits contractors from recovering any funds in excess of the work and materials supplied to the homestead. IOWA CODE §§ 561.16, 561.21 (2017).

Standard Water tries to paint itself as the victim of an unfair statutory scheme, (Appellee Br. at 32), but in reality, Standard Water had multiple tools at its disposal for collection, including the option to bring a standard breach of contract action against Michael and Cori for an *in personam* judgment. Standard Water instead chose to bring a mechanic's lien action for an *in rem* judgment against Michael and Cori's family homestead. As a result, Standard Water's election to proceed with a mechanic's lien for an *in rem* judgment against Michael and Cori's homestead subjected itself to Iowa's clear

prohibition on recovery of funds in excess of the work or material supplied to the homestead. After choosing to sue Michael and Cori for an *in rem* judgment against Michael and Cori's homestead, Standard Water cannot now reasonably object to Iowa's "'important'" and "century-old" statutory protections for Michael and Cori's homestead. *First Am. Bank*, 894 N.W.2d at 29 (quoting *In re Estate of Waterman*, 847 N.W.2d at 567).

This Court should vacate the District Court's ruling and hold that Iowa Code chapter 561 prohibits Standard Water from collecting anything beyond the amount of the work and materials supplied to the homestead from its *in rem* judgment on the homestead.

Respectfully submitted,

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CERTIFICATE OF COST

The undersigned hereby certifies that the cost of printing the foregoing Appellant's Final Reply Brief is $ 0.00

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Final Reply Brief was served upon the attorneys of record listed below by electronic filing and electronic delivery to the parties via the EDMS system on May 14, 2018, pursuant to Iowa R. App. P. 6.901(1), (8) (2017) and Iowa R. Elec. P. 16.315(1)(*b*) (2017).

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CERTIFICATE OF FILING

The undersigned hereby certifies that the foregoing Appellants' Final Reply Brief was filed with the Iowa Supreme Court by electronically filing the same on May 14, 2018, pursuant to Iowa R. App. P. 6.901(1), (8) (2017) and Iowa R. Elec. P. 16.302(1) (2017).

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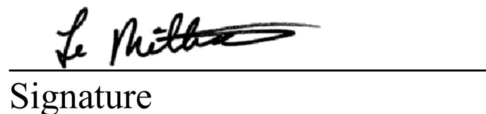
CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that:

This forgoing Final Reply Brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(*d*) and 6.903(1)(*g*)(1) or (2) because this brief has been prepared in a proportionally spaced typeface using Times New Roman in 14 pt and contains 4,291 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(*g*)(1).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Date