

ORIGINAL

20080298

SUPREME COURT No 20080298
Walsh County No 08-C-00149

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IN THE SUPREME COURT
STATE OF NORTH DAKOTA

CLERK
SUPREME COURT
FEB 26 2009

Peter John Grzeskowiak
Appellant

v

Nodak Electric Coop, CEO, Board of Directors,
Accounting Dept Appellee

REPLY BRIEF OF APPELLANT *Addendum*

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

FEB 25 2009

STATE OF NORTH DAKOTA

Peter John Grzeskowiak
15750 Co Rd 15
Warsaw ND 58261

TABLE OF CONTENTS

Statement of Issues	1
Statement of the case	1
Statement of Facts	1
Conclusion	4
Affidavit of Service	5
Explanation concerning appendix	

My home was buglarized with most of my medical records, legal papers & the deed to my p $\frac{1}{2}$ roperty were stolen. I don't have the money nor gas to drive to Grafton & have copies made. So if it would please the court, to decide my appeal on the merits. We the People are losing faith in the courts anyway.

Request for judicial notice of mail fraud & 18 USC 1001, Nodak 1st sent me a computer generated estimate of \$175 a month-this billing record is gone & there is a new record of which I did not discover till May 26, 2004 & was again sent thru the US Mail by S Jenson, along with Mr Jenson sending me another copy of the dismissal order, only difference is this lawyers version says DISMISSED with PREJUDICE.

TABLE OF AUTHORITIES

NDCC 28-01-22

2

Abel v Allen 2002 ND 147, 651 NW2d 635 2002

2

STATEMENT OF THE ISSUES

- 1 Why the trial court granted summary judgement on issues within the statute of limitations
- 2 Was the proper statute of limitations applied.

STATEMENT OF THE CASE

1 This is an appeal from a judgement of granting summary judgement to Nodak Elect Coop without the court considering a continuous form of discrimination with every contact with Nodak, the only exception is Lois, She treated me with kindness & respect so this was my only contact person with Nodak

STATEMENT OF FACTS

There has been years of discrimination with every time of contact with Nodak Coop. This abuse has continued even after this lawsuit was filed. I lost all electricity, Nodak was prompt on restoring electricity but ruined my driveway & my area where I grow Alfalfa. I even caught Mr Ford going thru my garage, this is burglary as He never asked permission nor ever stated there would be an entrance INSIDE my closed garage was necessary. My driveway was covered with dirt/clay & then it rained so I could not use my own driveway, then the day of my Fathers funeral I got stuck & all muddy, I was dressed for my Fathers Funeral & was 45 minutes late due to getting all muddy - Oct 2009

I take extreme issue of the discriminatory manner in which I am treated. I wrote Nodak from jail stating I would be released on December 17, 2001. I was then brought to Crookston Mn & informed I would not be allowed to travel to N Dakota till my parole was transferred on April 18, 2002. I had NO phone service at my farm till April 22, 2002. During this time I was trying to clean up the horrible mess & get my plumbing working (After my parole was transferred to ND)

which is very difficult without money. The most of the discrimination is by the lady that answers the phone, Vicki Dalcey, also the one that has told me they never have my meter readings & on Feb 16, 2009 I asked V Dalcey for records concerning my account, She claimed there is no record of my application/contract with Nodak. It was also V Dalcey that refused me copies of what was used to claim no payments on my electric bill. I was finally sent a "computer generated estimate" of \$175 a month of electricity use, late charges. This constitutes UNJUST ENRICHMENT & invokes NDCC 28-01-22, see Abel v Allen, 651 NW2d 635 2002

When I was allowed these computer generated estimates, they cannot claim an amount generated by a computer that is double the amount of the electricity actually used. Now I find in May of 2004, a different set of billing records has been produced, these are not true, nor correct. I had asked for sworn affidavits these are true records, who entered them & who was the person that read the meter on my home meter, summary judgement was granted before I could exposed the depth of theft of money I paid in.

When I showed I had only used \$214 worth of electricity, paid \$240 on my account. I was told by DHane Hafner told me to send in a list of what was damaged. I got an estimate for the plumbing from Vilandre on June 3, 2002 & it was during this time I was trying to get estimates on all the other damages. The entire bathroom is ruined, to fix the floor requires the bathtub to be removed to install new flooring, sheet rock.

I made numerous phone calls with licensed contractors, of which most know I am a carpenter & refused to come out unless I paid \$300, of which I didn't have \$300, Nodaks attempt to shift responsibility upon me to get estimates was just more abuse. Vreeland Const did come out & once he saw

it was I, Peter wanting the estimate he turned around & left. All the time lost, STRESS trying to get estimates for the damage caused by Nodak just so they could save money. Almost every year I go broke thru January & February due to car insurance, home heating & electric bills, again every year Nodak refuses to apply my Capital Credits, demands payment in full with late fees, I am forced to apply to Red River Community Action, Nodak has sent false computerized billing estimates so I was denied assistance, I called Lois & She said all my meter readings were there.

So instead of applying my Capital credits, Nodak again gets unjust enrichment by the way of late fees, if the Capital credits were applied as stated in the ByLaws, none of this ongoing abuse would occur.

As to the determination of when I was aware of or should have known, this could only apply as to when I was told the contractors demanded a fee for the estimates & this was all thru the month of June 2002, as for the unjust enrichment I ask the court to apply NDCC 28-01-22.

The reasoning is I paid my electric bill & they denied electrical service, refused to return the over billing, refused to return the late fees, refused to return the money for the off peak heat, refused to apply my capital credits.

As to these lawyers claim I was sleeping on my rights. I tried to get Nodak to do the right thing, I tried to get estimates. I tried to get my over payments returned. I tried most everything till I got sick. High Fructose Corn Syrup is toxic to me, I was so sick, I gave up & thought I was dying, the alleged doctors were worthless & did nothing except start me on meds that made me sicker & sicker, Celebrex, Vioxx, then a deadly combo of Bextra with Ibuprofen. I didn't find out HFCS was the cause till I had hip surgery & drank Cranberry juice, which is loaded with HFCS & I was sick for a whole year till I had to stop eating all

HFCS, which is in almost every processed food. Your body can't process this type of sugar, nor burned as an energy source so HFCS is then passed to Your liver that can only store this as fat, which leads to obesity, heart disease & diabetes. HFCS also causes the build up of uric acid, & this is what causes arthritis. I was sick & living in pain compounded with the continued abuse by Nodak caused me to sink deeply into depression. Hip screaming in pain then having to carry water up from the basement causes of Nodaks greed the sump pump had froze out, along with the plumbing lines till the new toilet was installed, the plumber was kind enuf to solder all the leaks, of which still let go from time to time.

If this had ocured during summer time without the massive destruction of my home, then a 4yr stat of limits would apply from the date of restored service, this action has a cumulative effect of unjust enrichment, destruction of private property, false billing records, computer generated estimates, shifting the burden on me to get damage estimates, psychological abuse of a disabled adult.

SERVICE IS PERFECTED

Service was perfected upon Gary Ford, supervisor in the County of venue venue, ND R Civ Pro-Rule 4 (D) upon a domestic corporation by delivering' a copy to a superindent, Mr Ford is the supervisor of all daily affairs of his crew, his crew or 1 of the members is responsible for the criminal destruction of my home.

CONCLUSION

Due to Nodak trying to shift the liability to me on getting damage estimates, false billing, numerous late fees by not applying my capital credits, refusing to return overpayments, refusing to return off peak meter charges, refusing to make my home whole constitutes unjust enrichment to invoke 28-01-22, also for discrimiantion & psychological abuse

which was multiplied by my being sick from high fructose corn syrup. The dates in this reply date are true & correct. I am not trying to fudge fudge any facts nor any form of deception. I tried to get estimates as Nodak/Duane asked.

As Nodaks by & thru the lawyers have opened the door as to the Discovery Rule as to when I learned or should have known-this should be applied as to when I was unable to pay for the estimates.

If there are any matters not properly raised before the lower court, I again ask for a remand to fully develop a proper record or I ask the court to apply S Ct R-35 for a full & proper determination of the issues. I also ask the Court to remove Clerk Miller from any more obstructing my access to the courts..

This is a true & correct statement made under the penalty of telling the Truth. This estimate written by Vilandre was after I showed Nodak I never used \$175 worth of electricity in any 1 month period-this was when Duane Hafner told me to submit estimates for loss. I tried. This also concerns of Nodak falsifying the billing record, A true & correct copy shall be served by prepaid us mail upon S Jensen 401 Demers Ave Ste 500, PO Box 5849 Grand Forks, ND 58206. I received their brief on Feb 14, 2009 in my rural mail box-same day I talked with clerk Miller.



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