

IN THE SUPREME COURT

STATE OF NORTH DAKOTA

Chris Oden,	Supreme Court No.: 20200187
Appellant,	Grand Forks County
vs.	Civil No.: 18-2019-CV-02752
Minot Builders Supply,	ORAL ARGUMENT REQUESTED
Respondent,	
and	
North Dakota Workforce Safety & Insurance,	
Appellee.	

**BRIEF OF APPELLEE NORTH DAKOTA
WORKFORCE SAFETY AND INSURANCE**

**APPEAL FROM MAY 15, 2020, ORDER VACATING TRANSCRIBED
FOREIGN JUDGMENT DATED MAY 15, 2020
GRAND FORKS COUNTY DISTRICT COURT
NORTHEAST JUDICIAL DISTRICT
THE HONORABLE JOHN A. THELEN**

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STATEMENT OF THE ISSUE

[1] Whether the District Court correctly vacated a Missouri foreign judgment filed in Grand Forks County District Court, under N.D.R. Civ. P. 60(b)(4), which was based on a Stipulation for Settlement entered in February of 2016 when it had been judicially determined Workforce Safety and Insurance (“WSI”) was not a party to the Stipulation for Settlement prior to entry of the foreign judgment in North Dakota.

REQUEST FOR ORAL ARGUMENT

[2] Pursuant to Rule 28(h) of the North Dakota Rules of Appellate Procedure, WSI requests oral argument. This appeal involves issues relating to previously litigated matters and the proper procedure for defending against a foreign judgment that was based on a document that was the subject of a prior action. WSI believes that oral argument will assist the Court in understanding the timeline of the underlying proceedings leading up to the filing of the foreign judgment at issue in this appeal.

STATEMENT OF THE CASE

[3] On November 5, 2019, Appellant Chris Oden (“Oden”) submitted to the District Court, Grand Forks County, an Application for Foreign Judgment. (Appx. 7-10) WSI filed an Objection to that Application. (Appx. 10-13) On February 14, 2020, WSI filed a Motion to Vacate Judgment under N.D.R. Civ. P. 60. (See District Court Docket, Appx. 4) Following briefing and argument on that Motion, the District Court, the Honorable John A. Thelen on May 15, 2020, entered its Order Vacating Transcribed Foreign Judgment. (Appx. 88-92) This appeal followed. (Appx. 93-95)

STATEMENT OF FACTS

[4] Oden sustained a work injury while employed by Respondent Minot Builders Supply Association on May 27, 2010. (Appx. 15) WSI accepted that claim and paid benefits to Oden for disability and medical expenses. (Appx. 15) In May of 2013, Oden filed a claim for compensation in Missouri relating to the same May 27, 2020, work injury. (Appx. 41) Respondent Minot Builders Supply was identified as the Employer relating to that claim. (Ex. p. 41) Oden checked on that form that he was making a claim against the Second Injury Fund. (Appx. 42) In October of 2013, WSI suspended payment of further benefits on Oden's claim pursuant to N.D.C.C. § 65-05-05 because he had filed a claim for workers compensation benefits in Missouri. (Appx. 15)

[5] On February 9, 2019, Oden entered into a Stipulation for Compromise Settlement in the Missouri workers compensation action. (Appx. 54-55) Under the blank for Insurer on the form Stipulation, North Dakota Workforce Safety and Insurance was typed in. (Appx. 54) However, the Stipulation provided that **“[a]ll TTD and medical payments were made under North Dakota law. Missouri coverage is denied by carrier. TTD was paid at \$455.00 per week. Settles any and all Issues.”** (Appx. 54, emphasis supplied) The Stipulation provided for payment of a lump sum of \$30,000 for an “approximate disability of 29.8% of left shoulder at 232 week level.” (Appx. 54)

[6] WSI exchanged correspondence with Oden's Missouri counsel in February and March of 2016, relating to N.D.C.C. § 65-05-05. (Appx. 15-16) On March 8, 2016, WSI sent Oden a Notice of Decision Reversing Decision, Notice of Decision Denying Benefits, seeking reimbursement of amounts paid by WSI on the claim. (Appx. 16)

[7] In July of 2018, WSI commenced an action against Oden for reimbursement of amounts paid on his May 27, 2010, claim under N.D.C.C. § 65-05-05. See Burleigh County District Court, Case No. 08-2018-CV-2953. WSI filed a motion for summary judgment in that action, which was granted by the Court. (Appx. 14-29) The District Court, Burleigh County, held that notwithstanding the fact that WSI's name was placed on the Stipulation for Settlement in the Missouri workers compensation proceeding as "Insurer", WSI was not a party to that proceeding. (Appx. 14-20) The Burleigh County District Court concluded as follows:

[¶48] Oden has continually made assertions both at the hearing and in his briefs that WSI was a party to the Missouri settlement. To that end, Oden directs this Court to the *Stipulation for compromise Settlement* [DE 42] and boldly asserts that the document was "signed by counsel for [WSI]." [Defendant's Suggestions in Opposition to Plaintiff's Motion for Summary Judgment, pg. 4]

[¶49] WSI disputes that it was a party to the settlement and states via affidavit that "WSI did not retain[] counsel in connection with any of the Missouri proceedings and no attorney was authorized on behalf of WSI to compromise WSI's claim for reimbursement in connection with the 2010 claim." [DE 63 – Aff. Green at ¶ 17]

[¶50] While the *Stipulation* lists WSI as the insurer, and Attorney John D. Juryck signed as "attorney for employer/insurer," that simply is not enough to show that WSI was in fact a party to the settlement.

[¶51] "Agency is never presumed, and if an agency relationship is denied, the party alleging agency must establish it by clear and convincing evidence." *Lagerquist v. Stergo*, 2008 ND 138, ¶ 9, 752 N.W.2d 168, 171. "An agent has such authority as the principal actually or ostensibly confers upon the agent.... Ostensible authority is such as the principal intentionally or by want of ordinary care causes or allows a third person to believe the agent possesses." N.D.C.C. § 3-02-02.

[¶52] "An agent's apparently authority results from statements, conduct, lack of ordinary care, or other manifestations **of the principal's consent**, whereby third persons are justified in believing that the agent is acting within his authority." *Hagel v. Buckingham Wood Prod., Inc.*, 261 N.W.2d 869, 875 (N.D. 1977) (emphasis added). "It must rest upon conduct or

communications **of the principal** which reasonably interpreted causes a third person to believe that the agent has authority to act for and on behalf of the principal.” *Id.* (emphasis added).

[¶53] WSI has denied the existence of an agency relationship between itself and Attorney Juryck. The burden therefore shifts to Oden to establish the agency relationship by clear and convincing evidence. Oden urges this Court to find that Attorney Juryck acted with ostensible authority. In order for this Court to find ostensible authority to bind WSI to the Missouri Settlement Agreement, there must be facts in the record to show that WSI, as the principal, made some statement or conducted itself in a manner that would justify Edelman’s and Oden’s belief that Attorney Juryck had authority to settle and sign on behalf of WSI.

[¶54] In support of Oden’s *Motion*, Oden offers an affidavit of his Missouri Counsel. Edelman states that “Mr. Juryck represented to me and my client that he represented . . . North Dakota Workforce Safety & Insurance.” [DE 76 – Aff. Edelman at ¶ 9] There is no affidavit offered by Attorney Juryck. This Court cannot rely upon uncorroborated hearsay statements offered by Edelman.

[¶55] This Court finds it hypocritical that Oden chastise WSI for not offering an affidavit of Attorney Juryck to deny the agency relationship, when Oden did not offer an affidavit of Attorney Juryck to support Oden’s claim. Oden also contends that WSI “presents only their version as to Mr. Juryck’s authority by way of the affidavit from NDWSI counsel.” [Defendant’s Reply Brief ¶ 15] This Court deems the affidavit of Anne Jorgenson Green to be competent admissible evidence, unlike the affidavit of Edelman. Green’s affidavit does not consist of hearsay statements. Rather, Green, as counsel for WSI, states that WSI did not retain counsel in connection with the Missouri settlement, and no attorney was authorized to settle WSI’s claim for reimbursement. [DE 63]

[¶56] There is simply no evidence in the record before this Court to support ostensible authority. Even taking Edelman’s statements into consideration, that Attorney Juryck made representations that he had the power to sign on WSI’s behalf, there is no testimony or evidence before this court that conduct or communications of WSI, as the principal, would reasonably induce a third person to believe there is an agency relationship. Attorney Juryck’s supposed statements or conduct are not enough to create ostensible authority. There must have been some conduct or statement on WSI’s part. The record before this Court does not indicate that WSI, as the principal, made any such indications that would induce Edelman and Oden to believe an agency relationship existed. Oden relies on a bare, unsupported allegation that WSI was a party to the Missouri Settlement

Agreement based simply on its name appearing on the fact of the documents.

[¶57] “[A]n essential element of an accord and satisfaction is an agreement evidencing the parties’ mutual assent.” *Peterson v. Ramsey Cty.*, 1997 ND 92, ¶ 10, 563 N.W.2d 103. **There was no mutual assent because WSI was not a party to the settlement. Therefore, WSI cannot be bound by the Missouri Settlement Agreement.**

(Emphasis supplied.) (Appx. 26-28) On August 9, 2019, Oden filed an appeal of that decision to this Court. See Supreme Court Docket No. 20190242, Appx. 84-87.¹

[8] On July 26, 2019, after the Burleigh County District Court had ruled WSI was not a party to the Missouri Stipulation for Settlement, Oden’s Missouri counsel moved for entry of a judgment on that Stipulation against Minot Builders and WSI. (Appx. 56-62) Judgment was entered in the Circuit Court of Dunklin County, Missouri, on July 30, 2019. (Appx. 64-68)

[9] On November 5, 2019, Appellant Chris Oden (“Oden”) submitted to the District Court, Grand Forks County, an Application for Foreign Judgment. (Appx. 7-10) The Foreign Judgment sought to be docketed was that from Dunklin County, Missouri. (Appx. 9), based on the “Stipulation for Compromise Settlement entered into by the parties in connection with Injury Number 10-044619 of the Missouri Division of Workers’ Compensation on February 9, 2016.” (*Id.*)

[10] On November 29, 2019, WSI submitted an Objection to Application for Entry of Foreign Judgment. (Appx. 10) WSI then filed a Motion to Vacate the Foreign Judgment against it under N.D.R. Civ. P. 60. (Appx. 4) After briefing and arguments, the District Court granted WSI’s Motion on May 15, 2020. (Appx. 88-92) The District Court reasoned as follows:

¹ A decision on that appeal is pending before this Court.

[¶5] The foreign judgment out of Missouri was entered pursuant to a purported agreement involving the assent of WSI. On June 7, 2019, in Burleigh County District Court, the Hon. James S. Hill determined that WSI could not be bound by the Missouri Settlement Agreement because WSI was not a party to the settlement. See State of North Dakota by Workforce Safety & Insurance v. Chris Oden, 08-2018-CV-2953, Docket ID #78, ¶ 57. Judgment in that file was entered accordingly on June 12, 2019. See Docket ID # 85. An appeal of Judge Hill's decision was filed on August 15, 2019. Docket ID #88. The Supreme Court has not yet ruled on that appeal. The foreign judgment out of Missouri was filed in this case on November 6, 2019. Clearly, the Missouri foreign judgment filed in this case was filed after Judge Hill determined that WSI cannot be bound by the Missouri Settlement Agreement and prior to our Supreme Court making a determination as to whether or not Judge Hill's decision on that issue would be affirmed or reversed. Therefore, Judge Hill's Order and the Judgment entered based on his order was in effect at the time the Missouri foreign judgment was registered in this state and continues to be in effect at this time.

[¶6] WSI argues that by filing the Missouri foreign judgment in this jurisdiction, know it to be unenforceable against WSI, and thereafter arguing that said foreign judgment should not be vacated, petitioner is attempting to re-litigate an issue already decided by Judge Hill in 08-2018-CV-2953. WSI argues that such is in essence prohibitive res judicata because to allow the Judgment to continue to be registered is in direct conflict with Judge Hill's decision that the Missouri Settlement Agreement upon which the Judgment is based is not binding on WSI. The court agrees. Even though Judge Hill's decision on that issue is on appeal, the pendency of that appeal does not preclude the District Court from giving res judicata effect to Judge Hill's decision because such is a firm and stable one, and the last word of the rendering court; a final judgment. Judge Hill's decision was not tentative or provisional or contingent and represented the completion of all steps in adjudication by the court concerning that particular claim. The filing of the appeal on Judge Hill's decision does not foreclose res judicata as it does not vacate the judgment entered based on Judge Hill's decision.

[¶7] Petitioner asks this court to postpone making a ruling concerning WSI's motion to vacate until our Supreme Court renders a decision concerning the appeal. This court sees no reason to do so. The petition was well aware at the time he registered the Missouri foreign judgment in this jurisdiction. It is disingenuous for the petitioner to ask this court to overlook the fact that the Missouri foreign judgment is presently unenforceable, and should not have been filed in this jurisdiction or any jurisdiction in this state, and instead wait for a Supreme Court decision on the issue before making a decision. Especially so when petitioner knew that the foreign judgment was

unenforceable at the time that it was filed. This court sees no reason to put a stamp of approval on petitioner's efforts in that regard.

[¶8] When considering a motion to vacate a judgment under Rule 60(b)(4) as void the court's "sole task is to determine the validity of the judgment, and a court has no discretion whether to grant the motion." Monster Heavy Haulers, LLC v. Goliath Energy Services, LLC, 2016 ND 176 ¶ 11, 883 N.W.2d 917. If the judgment is void, "the motion must be granted as a matter of law." Id. As noted above, the issue of whether or not WSI was a party to, and bound by the Stipulation for Settlement that forms the basis for the transcribed Missouri foreign judgment filed in this action was litigated and determined not to be binding on WSI. The Missouri foreign judgment entered in this case is therefore void and unenforceable against WSI and must be vacated.

(Appx. 90-91) Oden file this appeal from that Order. (Appx. 93-95)

LAW AND ARGUMENT

I. SCOPE OF REVIEW ON APPEAL.

[11] This appeal relates to a review of a District Court's Order granting a Motion to vacate a foreign judgment under N.D. R. Civ. P. 60(b)(4). This Court's review of motions under Rule 60(b)(4) is plenary. Roe v. Doe, 2002 ND 136 ¶ 6, 649 N.W.2d 566. Unlike other motions under Rule 60(b), when considering a motion to vacate a judgment under Rule 60(b)(4) as void, the District Court's "sole task is to determine the validity of the judgment, and a court has no discretion whether to grant the motion." Monster Heavy Haulers, LLC v. Goliath Energy Services, LLC, 2016 ND 176 ¶ 11, 883 N.W.2d 917. "[I]f the judgment is void, the motion must be granted as a matter of law." Id., citing Roe v. Doe, 2002 ND 136 ¶ 6. A judgment entered without subject matter jurisdiction is void. Roe v. Doe, 2002 ND 136 ¶ 6, citing McKenzie County Social Service Bd. v. C.G., 2001 ND 151 ¶ 10, 633 N.W.2d 157.

II. THE DISTRICT COURT PROPERLY VACATED THE MISSOURI FOREIGN JUDGMENT BASED ON A STIPULATION THAT WSI WAS NOT A PARTY TO.

[12] Oden's first argument is that the District Court's decision to vacate the Missouri foreign judgment violates the Full Faith and Credit Clause of the United States Constitution. The only support for that argument in his Brief to this Court is a quote from Brossart v. Jahnke, 2020 ND 98, 942 N.W.2d 856. However, Oden's quote from Brossart leaves out language pertinent to the issue in this appeal as follows:

However, we have recognized foreign judgments **are not entitled to full faith and credit under circumstances such as** when they are rendered in violation of due process in the rendering state, *see* Gray v. N.D. Game & Fish Dep't, 2005 ND 204, ¶ 18, 706 N.W.2d 614, **when the rendering court lacks jurisdiction**, *see* Darling & Co. v. Burchard, 69 N.D. 212, 284 N.W. 856, 898 (1939), or when the judgment is procedure through fraud in the rendering state, *see* Shary v. Eszlinger, 45 N.D. 133, 176 N.W. 938, 942-43 (1920).

Brossart, 2020 ND 98 ¶ 28, emphasis supplied. Similarly, this Court in Fredericks v. Eide-Kirschmann Ford, Mercury, Lincoln, Incorporated, 462 N.W.2d 164, 167 (N.D. 1990), stated that “[e]very foreign judgment, of whatever nature, in order to be entitled to any effect, must have been rendered by a court having jurisdiction of the cause . . .” (Emphasis supplied, quoting Hilton v. Guyot, 159 U.S. 113, 16 S. Ct. 139, 40 L.Ed. 95 (1895)). In addition, contrary to arguments advanced by Oden, there is no distinction made in Rule 60 for vacating judgments whether they are from foreign jurisdictions or judgments entered in North Dakota that are transcribed to a different county. N.D. R. Civ. P. 60(b)(4) and the case law interpreting that rule provides that if a judgment was entered in an action where there was no jurisdiction over the party against whom judgment was rendered, the District Court has no discretion and the judgment must be vacated. Eggl v. Fleetguard, Inc., 1998 ND 166 ¶ 4, 583 N.W.2d 812.

[13] The issue of whether WSI was a party to and bound by the Stipulation for Settlement that forms the basis of the transcribed Missouri foreign judgment in this action was litigated and determined in Workforce Safety and Insurance v. Oden, Burleigh County District Court Case No. 08-2018-CV-02953, Supreme Court Docket No. 20190242. Judge Hill's decision in the Burleigh County action that placing WSI's name on a Stipulation is "not enough to show that WSI was in fact a party to the settlement." (Appx. 26) If WSI was not a party to that proceeding, the Missouri workers compensation division could not exercise jurisdiction over WSI. There is, therefore, no violation of the Full Faith and Credit provision of the Constitution. That decision is res judicata. See Ohio Cas. Ins. Co. v. Clark, 1998 ND 153 ¶ 23, 583 N.W.2d 377 (noting res judicata prohibits relitigation of issues raised in prior action between the same parties that were resolved by a final judgment in a court of competent jurisdiction). Because WSI is not bound by the Missouri Stipulation entry of a Judgment pursuant to that Stipulation against WSI is void. The District Court properly so held.

[14] In State v. Harrison, 2001 ND 99, 627 N.W.2d 153, the State brought an action alleging the Department of Social Services had paid for medical services. *Id.* ¶ 5. In an attempt to avoid payment the defendant asserted that a Tribal Court judgment had been entered concluding that Benson County Social Services and the North Dakota Department of Human Services were not entitled to any portion of a settlement. *Id.* ¶ 4. The district court held in Harrison that in order for a foreign judgment to be recognized as a matter of comity, jurisdiction of the foreign court may be presumed. *Id.* ¶ 15. However, in order for a foreign court order or judgment to be recognized, that foreign court must have had personal and subject matter jurisdiction. *Id.* ¶ 16. This Court held that because the foreign

court order was entered where the Tribal Court had not acquired jurisdiction over the State of North Dakota, it was not an order appropriate for recognition. *Id.* ¶ 16. The Harrison, action is directly applicable here. The Missouri workers compensation division and the Missouri Circuit Court did not have jurisdiction over the State of North Dakota/WSI because WSI was not a party to any Stipulation entered into in the Missouri workers compensation proceeding. Thus, there is no valid basis for the Judgment against WSI and the District Court properly voided that Judgment.

[15] Furthermore, on the issue of whether the Burleigh County District Court decision is entitled to res judicata effect, the cases relied upon by Oden, when read in their entirety in fact support WSI's position. In Westman v. Dessellier, 459 N.W.2d 545 (N.D. 1990) the question of whether Westman was an employee at the time of his injury was the subject of a decision by the then Workers Compensation Bureau. *Id.* Westman also had filed a personal injury action. *Id.* The Bureau's decision on employee status of Westman was appealed to the District Court. *Id.* This Court specifically addressed whether the District Court in the personal injury action should have accorded res judicata effect of the Bureau's decision, even though it was on appeal. On that issue, this Court stated as follows:

When the district court granted summary judgment in this case, it had already affirmed the Bureau decision on employment status and compensability. A prior decision of the Bureau is res judicata as to these same issues in a suit at law to recover for the same injury, whether the effect is to defeat the suit or to defeat a defense to the suit. 3 A. Larson, Workmen's Compensation Law § 79.72(d). Although Westman immediately appealed to this Court from the judgment of the district court affirming the Bureau's decision, the pendency of that appeal did not preclude the district court from giving res judicata effect to the Bureau decision because the Bureau decision was "a firm and stable" one, the "last word" of the rendering court, a final judgment. Restatement (Second) of Judgments § 13 comment a (1982).

When res judicata is in question, a judgment ordinarily is considered final if it is not "tentative, provisional, or contingent and represents the completion of all steps in the adjudication of the claim by the court, short of any steps by way of execution or enforcement...." Id., at comment b

Under the better view, a judgment that is otherwise final remains final despite the taking of an appeal unless the appeal is actually a trial de novo. Id., at comment f. Finality is not affected by either an appeal which operates as a stay of execution or enforcement of the judgment appealed from or by the granting of an actual stay pending the appeal from that judgment. Id. Compare with Southern Pacific Com. Co. v. American Telephone & Telegraph Co., 740 F.2d 1011 (D.C. Cir. 1984) [pendency of appeal does not foreclose res judicata effect if filing of appeal does not vacate judgment]. The fact that an appeal is pending bears on the question whether preclusive effect should be "presently decided" by the trial court in the subsequent matter or postponed until the proceedings related to the judgment appealed from have been concluded. Restatement (Second) of Judgments § 13 comment f. The trial court appropriately postponed decision of the questions in this case until the appeal of the workers compensation decision was concluded. However, because that workers compensation decision was neither tentative nor provisional nor contingent, the trial court erred in failing to give it res judicata effect, when it ultimately considered the issues in the case before it. Nevertheless, the trial court reached the same conclusions as the Bureau did on the issues of employment status and compensability. We affirmed the Bureau conclusions in Westman v. Workers Comp. Bureau, 459 N.W.2d 540 (N.D. 1990). A correct result reached by the trial court will not be set aside on appeal merely because the trial court assigned an incorrect reason for its decision if the result is the same under the correct law and reasoning. First Nat'l Bank of Belfield v. Burich, 367 N.W.2d 148 (N.D. 1985).

Id. at 547 (emphasis supplied). The "better view" then was as the District Court determined, that being to give res judicata to the Burleigh County District Court decision, even though it was pending before this Court on appeal. (Appx. 91)

[16] Similarly, in Hystad v. Mid-Con Exploration Co., 489 N.W.2d 571 (N.D. 1992), Oden misconstrues the holding in that case. In Hystad, there was no question that the same parties in the civil action were those covered by the Industrial Commission's Order. That is the important distinction between Hystad and this action. In this action,

Oden's arguments that approval by the Missouri workers compensation division of the stipulated settlement is res judicata is again nothing more than a collateral attack on Judge Hill's decision entered in the Burleigh County District Court action. Judge Hill held that WSI was not a party to the Stipulation that forms the basis of the foreign judgment in this case. In this action, WSI submitted further evidence of that fact in the form of a sworn deposition transcript relating to the Missouri proceeding by the attorney that acknowledged he did not represent WSI. See Exhibit 1 to WSI's Response to Petitioner's Motion to Vacate Judgment, Docket ID # 43. (Appx. 5) The District Court properly rejected Oden's arguments on these issues.

[17] Finally, Oden's argument that the Stipulation pre-dates WSI's collection action in Burleigh County and thus the "ministerial documentation of the substantive decision which was filed in Missouri" makes it entitled to res judicata effect instead of the Burleigh County action, must be rejected. If this was Oden's position that could have and should have been argued in the Burleigh County District Court action. Instead of doing that, as the District Court recognized, Oden was well aware that Judge Hill had issued an Order that WSI is not bound by the Missouri Settlement Agreement when he took the steps to register a Missouri judgment and transcribe it to North Dakota. (Appx. 91) The District Court stated it was "disingenuous" for Oden to ask the Court to "overlook the fact that the Missouri foreign judgment is presently unenforceable, and should not have been filed in this jurisdiction or any jurisdiction in this state, and instead wait for a Supreme Court decision on the issue before making a decision." (Appx. 91) The District Court saw no reason to "put a stamp of approval on petitioner's efforts" in light of the knowledge the judgment was unenforceable when it was filed. This Court should also not

approve of Oden's actions in entering Judgment in Missouri three years after a Stipulation was entered into and after it was known a North Dakota Court had held WSI was not a party to that proceeding, and then transcribing a known unenforceable judgment to a Court in North Dakota. Based on this Court's plenary review of the facts of this case and application of the law, the District Court properly vacated the foreign judgment entered in Grand Forks County.

CONCLUSION

[18] For the foregoing reasons, WSI requests that this Court affirm the District Court's Order vacating the Missouri foreign judgment entered against WSI dated May 15, 2020.

DATED this 3rd day of November, 2020.

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CERTIFICATE OF COMPLIANCE

The undersigned, as attorney for the Appellee, North Dakota Workforce Safety and Insurance, in this matter, and as the author of the above Brief, hereby certifies, in compliance with Rule 32(a)(7) of the North Dakota Rules of Appellate Procedure, that the Brief of Appellant was prepared with proportional typeface and the total number of pages in the above Brief totals 17.

DATED this 3rd day of November, 2020.


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<p>Chris Oden,</p> <p>Appellant,</p> <p>vs.</p> <p>Minot Builders Supply,</p> <p>Respondent,</p> <p>and</p> <p>North Dakota Workforce Safety and Insurance,</p> <p>Appellee.</p>	<p>Supreme Court No. 20200187</p> <p>Grand Forks Co. Civil No.: 18-2019-CV-02752</p> <p>AFFIDAVIT OF ELECTRONIC SERVICE</p>
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Melany J. Strendin, being first duly sworn on oath, deposes and says that she is of legal age, is a resident of Moorhead, Minnesota, not a party to nor interested in the action, and that she served the attached:

on the following:

VIA E-MAIL to each person above named at the above e-mail address.


Melany J. Strendin

for me on November 3, 2020.

Brenda Bull
Notary Public

cc.: Jennifer Fender, ND WSI
Emp. Acct. No.: 1228667
Nilles File No.: 19-400.016