

**IN THE SUPREME COURT  
IN THE DISTRICT OF WILLIAMS COUNTY  
STATE OF NORTH DAKOTA**

**In The Matter Of The Lyle M. Nelson Estate, Deceased**

<b>Glenn Solberg,</b>	)	<b>Supreme Court Case No.</b>
	)	
<b>Appellant,</b>	)	<b>Case No. 53-20120-PR-00480</b>
	)	
<b>vs</b>	)	
	)	
<b>Lavina Domagala, Senior Vice President</b>	)	
<b>and Trust Officer of First National Bank</b>	)	
<b>and Trust Company, Williston County,</b>	)	
<b>North Dakota, as Personal Representative</b>	)	
<b>of the Estate of Lyle M. Nelson, Deceased</b>	)	
	)	
<b>Appellees.</b>	)	
<hr/>	)	

**APPEAL FROM THE DISTRICT COURT**

**ORDER OF DISMISSAL DATED AUGUST 6, 2014**

**HONORABLE JOSH B. RUSTAD**

**APPELLANT'S BRIEF**

**Glenn Solberg**  
13592 77<sup>th</sup>. St. NW  
Zahl, North Dakota  
Acting In Propria Person  
Telephone: 701-770-0750  
[www.glennsolberg27@gmail.com](mailto:www.glennsolberg27@gmail.com)

**E-MAIL DIRECTIONS**

**NORTH DAKOTA SUPREME COURT**

**GLENN SOLBERG - APPELANT**

**V.**

**ESTATE OF LYLE M. NELSON, ETAL - APPELLEE**

**FIRST E-MAIL - 11 PAGE BRIEF NUMBERED CONSECUTIVELY**

**SECOND E-MAIL OF 53 PAGES OF APPENDIX NUMBERED PAGES**

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## **STATEMENT OF ISSUES**

- 1. Issue One: Did the trial court have a right to dismiss Glenn Solberg's claim for damage against the Lyle M. Nelson Estate and Bar Him from seeking assets in his claim from the Estate of Lyle M. Nelson in his claim?**
- 2. Issue Two: Did the trial court have a right to ignore the demand of Glenn Solberg request for jury trial?**

## **STATEMENT OF CASE**

- 3. Glenn Solberg's Petition For Allowance Of Claim and Restated Claim filed June 10, 2013 with the District Court of Williams County North Dakota.**
- 4. Motion To Dismiss Petition For Allowance Of Claim And To Bar Claim against the Estate of Lyle M. Nelson. This Motion To Dismiss was filed in the District Court by Lavina Domagala, Senior President and Trust Officer of First National Bank and Trust Company of Williston, North Dakota as Personal Representative and filed in the Court on February 27, 2014.**
- 5. Notice of Motion To Dismiss filed on February 27, 2014.**
- 6. Brief In Support Of Motion To Dismiss Petition For Allowance of Claim And To Bar Claim filed on February 27, 2014.**
- 7. Demand For Jury Trial filed April 27, 2014 filed for Glenn Solberg.**
- 8. Order To Dismiss Petition For Allowance Of Claim And To Bar Claim Signed by District Court Josh B. Rustad on August 6, 2014.**
- 9. Notice of Appeal To Supreme Court By Glenn Solberg on October 23, 2014.**
- 10. Trust Agreement Lyle M. Nelson and Lillian H. Nelson.**
- 11. Motion To Extend Appeal to January 5, 2015.**

## **STATEMENT OF FACTS**

**12. Lyle M. Nelson and Lillian H. Nelson (Solberg) were married and became Mr. and Mrs Lyle M. Nelson. Lyle M. Nelson had no children. During their marriage together no children were born. The four children of Lillian H. Nelson (Solberg) were Glenn Solberg, Sharon Solberg Yoder, Bruce Solberg, and Elaine Solberg Olsen.**

**13. Lillian H. Nelson died testate on February 1, 2003. Lyle M. Nelson died on May 8, 2012 which was 9 years later. Prior to their deaths, they merged their two common estates into a Trust Agreement on December 17, 2002. After this Trust Agreement, her assets were no longer available to Glenn Solberg as promised by Lillian H. Nelson (Solberg).**

**14. The Petition filed by Glenn Solberg against the Lyle M. Nelson Estate was based upon these facts and the fact that he has never been given the 100 acres of mineral rights his mother left to him.**

**15. Lillian H. Nelson (Solberg) also had a stroke before her death and could not see. Many later estate documents and agreements were signed for her by her husband, Lyle M. Nelson, who signed for as her Attorney In Fact.**

**16. It is the belief of Glenn Solberg that the 100 mineral acre rights he was promised, and the right to purchase part of her lands, are under the control of the Trust established by Lyle M. Nelson and Lillian H. Nelson before they both died. The heirs of Lillian H. Nelson (Solberg) have been receiving some payments from the Trusts Estate and will continue to receive them until the last child dies.**

## **LAW AND ARGUMENT**

**17. ISSUE ONE: Did Glenn Solberg have a right to file a claim against the Estate of Lyle M. Nelson's assets for claims made to him by his mother? After the marriage of Lillian H. Solberg to Lyle M. Nelson, all of their common assets left to Glenn Solberg in his mother's will, prior to her new marriage, were later merged into a new Trust Agreement between Lyle M. Nelson and Lillian H. Nelson (Solberg).**

**18. The short answer to this argument by Glenn Solbergs is plainly, Yes! He should be given the right to challenge where and how the assets of both families were used and invested. He should also be able to see if they all were distributed equally and fairly by the Fiduciary, First National Bank and Trust Company of Williston, North Dakota.**

**19. Glenn Solberg is asking the Court to consider the fact that when Lillian H. Nelson (Solberg) and Lyle M. Nelson married and formed a new family, they merged most of their assets together. Many of the obligations and promises Lillian made in her will were in a state of flux and had not been fulfilled when her second marriage occurred. When the Solberg and Nelson families merged both of their Estates of similar size and value, all of these assets were now common, as all were placed under a Trust Agreement in the event of the deaths of Lyle M. Nelson, or Lillian H. Nelson, or any of the four children of Lillian H. Nelson (Solberb), as Lyle M. Nelson had no children of his own. The Trust was to guarantee both sides of the two families that equal and proper distribution of the estate would occur at the death of the**

surviving parent or step parent. Glenn Solberg states that this is not the case! He states that, involved in this merger from other lands, were the 100 acres of minerals he never received as promised by his mother from her will, and then, after her new marriage, these assets seemed to be lost in the shuffle. Her stroke, and going blind, with her husband having to act as her Attorney In Fact, did not help matters.

20. The Court simply accepted the position of the Brief prepared for the Estate of Lyle M. Nelson which stated that Glenn Solberg did not have any claims upon which relief could be based in accordance with the North Dakota Rules of Civil Procedure 12 (b)(6).

**ARGUMENT ISSUE ONE:**

21. The District Court dismissed the claim made by Glenn Solberg, which he filed against the Estate of Lyle M. Nelson, in the District Court Probate Action No. 53-2012-PR-00480. The dismissal was based upon a claim filed February 27, 2014 by the Personal Representative for the Estate of Lyle M. Nelson, also the Senior Vice President and Trust Officer of the First National Bank and Trust Company, which is the Trustee of the Trust Estate of Lyle M. Nelson and Lillian H. Nelson.

22. They supervised all investments and the manner in which these investments were made. In the motion made to the Court on February 27, 2014, by the Personal Representative of the Lyle M. Nelson and Lillian H. Nelson Trust, Glenn Solberg's claims were declared as being invalid, primarily from a statement the attorneys on behalf of the Probate

Estate of Lyle M. Nelson made as a basis for the dismissal of the claim of Glenn Solberg. The statement was made that the Estate of Lyle M. Nelson never did at any time have any control over property that Glenn Solberg was asking in his claim against the Lyle M. Nelson Estate. From 2002 until 2012, when Lyle died, the Trusts Assets formed in December of 2002 were controlled by the common estate of Lyle M. Nelson, as Lillian H. Nelson died in 2003. To say that the Estate of Lyle M. Nelson had no control over merged assets back in 2002 is not true! Appendix Page 31 - Mineral Trust

23. The attorneys for the Estate of Lyle M. Nelson apparently made the Court believe that all of the assets of two massive estates were kept completely separate, and that no mixing of common assets were the result of the marriage. A short while after Lyle M. Nelson and Lillian H. Solberg married, all of the assets of Lillian H. Solberg (Nelson), including mineral rights, lands, farming vehicles, equipment, cash and other investments did not stay in the hands of Lillian H. Nelson (Solberg), as this allegation would make the court think. Glenn Solberg has never received any of these assets in the way of 100 mineral acre rights. He believes that the minerals rights promised to him as an inheritance from his mother and father in fact ended up in the combining of the Lyle M. Nelson and Lillian H. Nelson

24. It is the contention of Glenn Solberg that the mineral rights of his father, Sidney R. Solberg, passed on to Lillian H. Solberg, became part of the new Trust Agreement which was to include the forming of a new Mineral Trust, within the existing trust by the Trustee, First National

**Bank and Trust Company, Williston, North Dakota, which was never formed however, all of their common mineral acres were included in this Trust Agreement. They were signed into the Trust by Lyle M. Nelson and Lillian H. Nelson on December 17, 2002. Appendix Page 44 -48 Mineral Deed**

**25. The District Court dismissed the claim of Glenn Solberg on August 6, 2014, stating Glenn Solberg could not present any set of facts or claims that relief could be based upon. The Court cited Rule 12 (b)(6) N.D.R. Civ P as its grounds for dismissal. Legal sufficiency is set forth in *Rose v. United Equitable Insurance Company*, 632 N.W.2d 429, 434, (N.D. 2001). “It should appear beyond any doubt that Claimant can prove no set of facts in support of his claim which would entitle him to relief.” It is also recognized in *Johnson & Maxwell, Ltd v. Lind*. 288 N.W.2d 763, 765 (N.D. 1980). The problem with these cases is they have a two-edged sword.**

**26. Glenn Solberg can prove beyond a doubt, with a number of sets of facts that support his claims against the Estate of Lyle M. Nelson, and even against the First National Bank & Trust Company in Williston, North Dakota, for their management of the Lyle M. Nelson and Lillian Nelson Trust Agreement and it's position as a fiduciary, dealing as the Trustee of the mineral acres owned by Lyle M. Nelson and Lillian H. Nelson (Solberg) at her death.**

**ARGUMENT TWO:**

**27. All Glenn Solberg needs is the right to try his case before a jury of his peers. This will give him the ability to subpoena witnesses, cross examine witnesses, implement vital discovery, have a hearing to examine research**

transfers of recorded mineral legal documents, and find out once and for all where the 100 acres of minerals went that were willed to him, and also to find out why a second mineral trust was not established as it was supposed to have been, as outlined in the Trust Agreement signed on December 17, 2002. The Court ignored a request for a jury trial filed with the Court by Glenn Solberg on April 7, 2014, ten days after the Personal Representative of the Lyle M. Nelson Estate filed a motion to dismiss in the District Court. The Court violated the Constitutional Rights of the Petitioner and his right to a jury trial with equal protection of the 7<sup>th</sup>. and 14th Amendments of United States Constitution. The District Court dismissed the claim of Glenn Solberg on August 6, 2014, stating that Glenn Solberg could not present any set of facts or claims that relief could be based upon. The Court once again cited Rule 12 (b)(6) N.D.R. Civ P as its grounds for dismissal, stating that Glenn Solberg had no grounds for a claim relief could be based upon.

28. The ability to subpoena witnesses, cross examine witnesses, implement vital discovery, have hearings to examine research transfers of recorded mineral legal documents, to examine Trust Bank Records to find out where the 100 acres of minerals went that were willed to him have gone, and to see if proper distribution of these assets are being properly paid to the heirs of the Trust Agreement, can be achieved by the granting of a jury trial. It is the right of American Citizen to have a jury trial to prove their case. It is also the right of every American to be treated fairly under the law and to be given due process of law.

**CONCLUSION**

**29. Is it reasonable to assume that in a marriage, where 2000 acres of land, mineral acre rights, farming rights, vehicles, cash, stocks, farming equipment, and other assets in question were merged and put into a Trust Agreement, that the Trust still holds mineral rights that belongs to Glenn Solberg? Just one example of a claim relief could be based upon!**

**Date of Signature: January 4, 2015**



**GLENN SOLBERG, APPELLANT**  
**13592 77<sup>TH</sup>. Street NW**  
**Zahl North Dakota 58856**  
**701-770-0750**  
**[glennsolberg27@gmail.com](mailto:glennsolberg27@gmail.com)**

**FILED ELECTRONICALLY TO CLERK OF THE SUPREME COURT**  
**E-FILED ON JANUARY 4, 2015**  
**[supclerkofcourt@ndcourts.gov](mailto:supclerkofcourt@ndcourts.gov)**

**NOTICE TO: APPELLEES ON JANUARY 4, 2015**

**Copy of Brief and Appendix E-mailed To:**

**MCKENNETT FORSBERG-VOLL & GJOVIC. P.C.**  
**Attorneys for the Estate**  
**314 First Avenue East**  
**P.O. Box 1366**  
**Williston, North Dakota 58802-1366**  
**(701)577-6771**  
**E-Mail Address: [ron@mckennettlaw.com](mailto:ron@mckennettlaw.com)**

Beth Harrison  
Deputy Clerk  
North Dakota Supreme Court

**Supreme Court Case No. 20140377 - Estate of Nelson**

**You have the mailing receipts of the following parties  
that were served my brief sent by USPO priority mail on  
January 8th by Glenn Solberg:**

Elaine Solberg Olson  
3013 N. Colorado Drive  
Bismarck, ND 58503

Gloria Dei Lutheran Church  
1821 9th Ave. West  
Williston, ND 58801

Dakota Boys Ranch of Minot  
6301 19th Ave. NW  
Minot, ND 58701

United Lutheran Church of Zahl  
P.O. Box 14  
Zahl, ND 58856

Heritage Center of Williston  
18 Main  
Williston, ND 58801

James Memorial Preservation Society (Old Library)  
P.O. Box 1714  
621 1st Ave West  
Williston, ND 58801

Veterans and Friends of Old Armory  
P.O. Box 2275  
Williston, ND 58801

Sharon Solberg Yoder

3231 Fieldcrest Dr.  
Sacramento, CA 95821-6115

Eric Olson  
Samuel Olson  
Adam Olson  
c/o Claire & Elaine Olson  
3013 N. Colorado Drive  
Bismarck, ND 58501

Tracy Solberg Willette  
10493 Harvest Green Way  
Las Vegas, NV 89135

Angela Solberg  
5605 Sierra Road  
Knoxville, TN 37912

Russell Solberg  
c/o Glenn Solberg  
13592 77th St. NW  
Zahl, ND 58856

Ronald Paul Kallemeyn  
314 1st Ave. E.  
P.O. Box 1366  
Williston, ND 58802-1366

Bruce Solberg  
840 Park Place  
Williston, ND 58801

Ronald Kaleymn's brief was emailed to him Saturday  
1/10/15.

Dated this 12th day of January 2015

          /S/          

Glenn Solberg, pro-se

