

March 2, 2020

**Via North Dakota Supreme Court E-filing Portal**

Clerk of North Dakota Supreme Court  
600 E. Boulevard Avenue, Department 180  
Bismarck, ND 58505-0530

Re: Sorum, et al. v. State of North Dakota, et al.  
Supreme Court Case No. 20190203  
District Court Case No. 09-2018-CV-00089  
Our File No. 90789.001

Dear Clerk of the North Dakota Supreme Court:

Pursuant to Rule 28(k) of the North Dakota Rules of Appellate Procedure, that permits notification of citation to supplemental authority, please find the following supplement authorities, which became relevant and came to the attention of the Defendants, Appellants and Cross-Appellees (the "Defendants")<sup>1</sup> after the filing of the Reply Brief of Plaintiffs, Appellees, and Cross-Appellants Marvin Nelson, et al. and the Reply of Plaintiff Sorum Appellee, and Cross-Appellant:

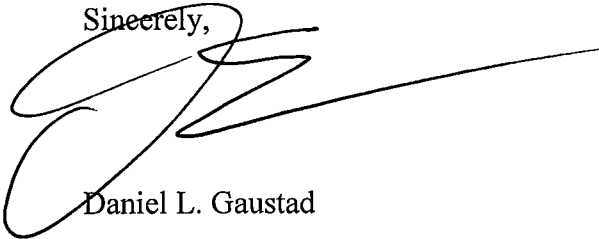
- Olson v. One 1999 Lexus MN License Plate No. 851LDV VIN: JT6HF10U6X0079461, 924 N.W.2d 594 (Minn. 2019)
- McCaughtry v. City of Red Wing, 831 N.W.2d 518 (Minn. 2013)
- Fields v. Dep't of Early Learning, 434 P.3d 999 (Wash. 2019)
- State v. McCuiston, 275 P.3d 1092 (Wash. 2012) (en banc)
- City of Redmond v. Moore, 91 P.3d 875 (Wash. 2004) (en banc)
- Washington State Republican Party v. Washington State Pub. Disclosure Comm'n, 4 P.3d 808, 828, n.14 (Wash. 2000) (en banc)
- In re Det. of Turay, 986 P.2d 790 (Wash. 1999), as amended on denial of reconsideration (Dec. 22, 1999) (en banc)
- State of Md. v. Baltimore Radio Show, 338 U.S. 912 (1950)
- Evans v. Stephens, 544 U.S. 942 (2005) (Justice Stevens, regarding the denial of writ of certiorari)

<sup>1</sup> State of North Dakota, the Board of University and School Lands of the State of North Dakota, the North Dakota Industrial Commission, the Hon. Douglas Burgum, in his official capacity as Governor of the State of North Dakota, and the Hon. Wayne Stenehjem, in his official capacity as Attorney General of North Dakota.

The supplemental authority is provided because of arguments made, for the first time at Paragraphs 4-5 of the February 27, 2020 Reply Brief of Plaintiffs, Appellees, and Cross-Appellants Marvin Nelson, et al. and in Paragraphs 1-3 of the February 27, 2020 Reply of Plaintiff Sorum Appellee, and Cross-Appellant, that are directed at arguments presented by Defendants in their November 20, 2019 opening brief at Paragraph 34 and their February 14, 2020 reply brief at Paragraph 2.

If you have any questions or concerns regarding this matter, please do not hesitate to contact me

Sincerely,

A handwritten signature in black ink, appearing to be 'D. Gaustad', with a long horizontal line extending to the right.

Daniel L. Gaustad

cc: Terrance W. Moore (via NDSC E-Filing Portal)  
Fintan L. Dooley (via NDSC E-Filing Portal)  
Paul Sorum (via NDSC E-Filing Portal)  
Paul Foster (via NDSC E-Filing Portal)  
Craig Smith (via NDSC E-Filing Portal)  
Wayne Stenehjem, Attorney General (via E-mail)  
Matt Sagsveen, Solicitor General (via E-mail)  
Troy Seibel, Chief Deputy Attorney General (via E-mail)  
Mark Hanson (via E-mail)  
Karlene Fine (via E-mail)  
Lynn Helms (via E-mail)



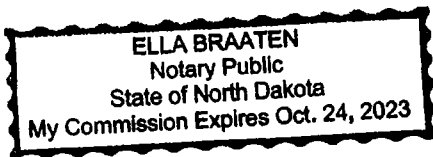
Joseph M. Barnett: [jbarnett@hjlawfirm.com](mailto:jbarnett@hjlawfirm.com)  
Fintan L. Dooley: [findooley@gmail.com](mailto:findooley@gmail.com)  
Paul Sorum: [paul.sorum61@gmail.com](mailto:paul.sorum61@gmail.com)  
Paul Foster: [pforster@crowleyfleck.com](mailto:pforster@crowleyfleck.com)  
Craig Smith: [ccsmith@crowleyfleck.com](mailto:ccsmith@crowleyfleck.com)

[¶3] Served by U.S. Mail:

N/A

  
\_\_\_\_\_  
Jen O'Hara

[¶4] Subscribed and sworn to before me in Grand Forks County, North Dakota, this 2<sup>nd</sup> day of March, 2020.



  
\_\_\_\_\_  
Notary Public, North Dakota