

IN THE SUPREME COURT OF THE STATE OF NORTH DAKOTA

John Sadek and Tammy Sadek, as)	Ct. File No. 39-2016-CV-128
surviving parents of Andrew Sadek Dist.)	
on behalf of all heirs-at-law,)	
and the Estate of Andrew Sadek,)	ND Sup. Ct. No. 20220155
)	
Plaintiffs-Appellants,)	
)	
vs.)	
)	
)	
Jason Weber, individually and as a)	
Richland County Sheriff's Deputy and)	
Task Force Officer of the South East)	
Multi County Agency Narcotics Task)	
Force, and Richland County, North Dakota,)	
a political subdivision,)	
)	
Defendants-Appellees.)	

On Appeal from the Order Re: Plaintiffs' Motion for Summary Judgment dated March 16th, 2022, and the Order Granting Defendants' Motion for Sanctions by the District Court of Barnes County, the Honorable Jay Schmitz, presiding.

APPELLANT'S BRIEF

Kristin Angela Overboe (ID #06751)
Overboe Law
4225 38th St. SW, Suite 107
Fargo, ND 58104
(701)282-6111
kristin@overboelaw.com
ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

Table of Authorities	Pg. 3
Statement of the Issues	¶1
Statement of the Case	¶4
Facts of the Case	¶5
Standard of Review	¶15
Law and Argument	¶19
Certificate of Compliance	¶42

TABLE OF AUTHORITIES

Allery v. Whitebull, 2022 ND 140 ¶15, 32
Botner v. Bismarck Parks & Recreation Dist., 2010 ND 95, 782 N.W.2d 662 ¶22
Carroll v. Carroll, 2017 ND 73, 892 N.W.2d 173 ¶15
City of Wahpeton v. Drake-Henne, Inc., 228 N.W.2d 324, 330 (N.D. 1975) ¶32
Darby v. Swenson Inc., 2009 ND 103, 767 N.W.2d 147 ¶17
DCI Credit Servs., Inc. v. Plemper, 2021 ND 215, 966 N.W.2d 904 ¶18
Hamburger v. Hamburger, 2022 ND 154..... ¶16
Hildebrand v. Stoltz, 2016 ND 225, 888 N.W.2d 197 ¶32
Kimball v. Landeis, 2002 ND 162, 652 N.W.2d 330 ¶26
Markgraf, et al. v. Welker, et al., 2015 ND 303, 873 N.W.2d 26 ¶24
Rued Ins., Inc. v. Blackburn, Nickels & Smith, Inc., 543 N.W.2d 770 (N.D. 1996) ¶26
Sadek v. Weber, et al., 2020 ND 194, 948 N.W.2d 820 ¶20, 23

CODES

N.D.C.C. § 32-12.1-03(3)(g) ¶12, 21, 23, 24
N.D.C.C. § 31-11-05(19) ¶19

CIVIL RULES

N.D.R.Civ.P. 11 ¶37, 39, 40
N.D.R.Civ.P. 54(b) ¶33, 34
N.D.R.Civ.P. 56 ¶38
N.D.R.Civ.P. 60(b) ¶32

STATEMENT OF THE ISSUES

[1.] Whether the Courts ruling on the Order Re: Plaintiffs' Motion for Summary Judgment was clearly erroneous.

[2.] Whether the Court erred as a matter of law in determining that there is no case, claim, or cause of action pending before the court upon which any judgment, summary or otherwise, can be rendered.

[3.] Whether the Court abused its discretion in its decision on sanctions under Rule 11(b) against Plaintiffs' counsel.

STATEMENT OF THE CASE

[4.] On May 20th, 2019 the Court issued a Memorandum and Order Re: Defendants' Motion for Summary Judgment directing counsel for Defendants to submit the proposed Judgment of Dismissal in accordance therewith. On May 24th, 2019 this Court issued a Judgment of Dismissal regarding Plaintiff's claims of fraud, deceit and negligence. John and Tammy Sadek, Andrews's parents, appealed the district court's summary judgment, dismissing their claims. The North Dakota Supreme Court affirmed in Sadek, et al. v. Weber, et al., 2020 ND 194, 948 N.W.2d 820. On February 27th, 2022 the Plaintiffs filed a Motion requesting relief under Rule 60 and for summary judgment. Defendant's opposed the Motion and moved for sanctions under Rule 11. A hearing was held on April 21, 2022. The Court denied Plaintiffs' relief, and ordered counsel for Plaintiff's to pay attorney fees to Defendant as a sanction. For the reasons stated in the Court's Order denying the summary judgment motion (R:231), and the additional reasons stated on the record, the court found that the motion was frivolous under the standards of Rule 11(b)(2), i.e., the legal contentions made in the motion for summary judgment were not warranted by existing law nor by a non-frivolous argument for changing existing law. Plaintiff's appeal from the Court's denial and the order for sanctions.

STATEMENT OF THE FACTS

[5.] Defendant Jason Weber is a deputy with the Richland County Sheriff's Office and a member of the South East Multi-County Agency Narcotics Task Force ("SEMCA").

Richland County is Weber's employer and a participating agency in SEMCA. In 2013 Andrew Sadek was a student at the North Dakota State College of Science.

[6.] In April 2013, two confidential informants purchased small quantities of marijuana from Andrew Sadek on two occasions. On November 21, 2013, officers searched Sadek's dorm room and found a marijuana grinder. At the time of the search, Weber informed Sadek about the felony charges he could face for the two April 2013 marijuana deliveries and told him he could either take the charges or sign up to work as a confidential informant.

[7.] On November 22, 2013, Sadek met with Weber to discuss becoming a confidential informant. During the interview Weber told Sadek that he was facing two felony charges and one misdemeanor charge. Weber told Sadek the felony charges could result in up to 40 years in prison and a "good possibility" existed he would get some prison time if he did not act as a confidential informant. Weber stated "a lot of this could go away" in exchange for his work as a confidential informant. Sadek agreed to work as a confidential informant, signing a Cooperating Individual Agreement. Weber told Sadek it was important for him not to tell anyone, including other law enforcement, that he was working as an informant.

[8.] By January 2014 Sadek did three controlled buys of marijuana from two people, but subsequently lost contact with Weber. In April 2014, Weber contacted Sadek, stating that he would pursue the felony charges on the April 2013 drug sales unless Sadek lined up additional buys and that Sadek should ask around if he did not know anyone wanting to buy marijuana. Weber gave Sadek a deadline of May 1, 2014, to get the next deal done.

[9.] On May 1, 2014, Sadek was reported missing. On June 27, 2014, a body was found in the Red River, later identified as Sadek. When his remains were found, his backpack was tied to him and was full of rocks. The coroner determined Sadek died of a gunshot

wound to the head, but the range of fire was not determined. No determination was made whether the cause of death was homicide, suicide or accidental.

[10.] The Sadeks sued Weber and Richland County, asserting claims of deceit and negligence. They alleged his death was directly related to his role as a confidential informant. Weber and Richland County moved for summary judgment seeking dismissal of the claims.

[11.] The district court granted summary judgment in favor of Weber and Richland County and dismissed the case. The court concluded summary judgment was proper on the Sadeks' claims for deceit because the alleged misrepresentation was a prediction of a future event and was not actionable as a matter of law. The court also granted summary judgment on the Sadeks' negligence claims, concluding no evidence established the Defendants' conduct proximately caused Andrew Sadek's death.

[12.] In granting summary judgment on the negligence claims, the district court held triable issues of fact existed on both whether Weber and Richland County owed a duty of care to Andrew Sadek under N.D.C.C. § 32-12.1-03(3)(g) (providing for potential liability of a political subdivision or its employee under circumstances in which a "special relationship" can be established between the political subdivision and the injured party), and on the applicable standard of care in deciding whether Weber's actions in recruiting and supervising Andrew Sadek as a confidential informant constituted negligence or gross negligence. The district court concluded summary judgment was proper because no evidence created a triable issue of fact about whether Andrew Sadek's death resulted from the Defendants' alleged negligence in assessing the dangers posed to him as a confidential informant, and in training, warning, and supervising him in that role. The court essentially

concluded no evidence established the Defendants' conduct proximately caused Andrew Sadek's death.

[13.] The Sadeks appealed from the order granting summary judgment. Because a consistent judgment was entered, the North Dakota Supreme Court treated the Sadeks' appeal as one from the judgment.

[14.] On February 27th, 2022, Plaintiffs filed a Motion for Relief under Rule 60 and for Summary Judgment. The Court denied Plaintiff's motion. Defendant's filed a motion for sanctions under Rule 11(b). The Court granted the motion for sanctions. Plaintiff's appeal from the Order re: Plaintiff's Motion for Summary Judgment, and the Order re: Defendants' Motion for Sanctions.

STANDARD OF REVIEW

[15.] The standard of review on appeal from the denial of relief under Rule 60(b) is whether the district court "abused its discretion in ruling that sufficient grounds for disturbing the finality of the judgment were not established." Allery v. Whitebull, 2022 ND 140 (quoting Carroll v. Carroll, 2017 ND 73, ¶ 8, 892 N.W.2d 173).

[16.] The court's decision to deny relief under N.D.R.Civ.P. 60(b) will not be overturned on appeal absent an abuse of discretion. Hamburger v. Hamburger, 2022 ND 154, ¶5 (citing Krizan v. Krizan, 1998 ND 186, ¶ 13, 585 N.W.2d 576).

[17.] The court abuses its discretion when it acts arbitrarily, unconscionably, or unreasonably, or when its decision is not the product of a rational mental process leading to a reasoned determination. Darby v. Swenson Inc., 2009 ND 103, ¶ 12, 767 N.W.2d 147.

[18.] A court abuses its discretion when it acts in an arbitrary, unreasonable, or unconscionable manner, or when it misinterprets or misapplies the law. DCI Credit Servs., Inc. v. Plemper, 2021 ND 215, ¶ 7, 966 N.W.2d 904.

LAW AND ARGUMENT

[19.] In this case, the Court concluded that there is no case, claim or cause of action pending by pointing to labels such as: “dismissed” by the district court, and “affirmed” by the supreme court. According to the maxims of jurisprudence, to aid in interpretation, the law respects form less than substance. N.D.C.C. § 31-11-05(19).

[20.] The District Court ruled that the case was dismissed because there was no way to prove causation. (R:249:5:23-25). The Supreme Court held that “insufficient evidence establishes that the Defendants’ conduct proximately caused the death of Andrew Sadek.” Sadek, et al. v. Weber, et al., 2020 ND 194, ¶28, 948 N.W.2d 820. In other words the evidence, even if insufficient, establishes proximate cause.

[21.] According to the Court’s original ruling, which was affirmed by the North Dakota Supreme Court, the Judgment was denied by the district court on the defendants’ contention that they owed no duty of care to Andrew as a matter of law, or that Weber’s conduct in recruiting and supervising Andrew as a confidential informant did not constitute gross negligence, or reckless, willful or wanton misconduct. (R:190:8:¶15). The district court specifically made findings that “triable issues of fact exist as to whether Jason Weber and Richland County owed a duty of care to Andrew under N.D.C.C. §32-12.1-03(3)(g), and as to the applicable standard of care in determining whether Weber’s actions in recruiting and supervising Andrew as a confidential informant constituted negligence and/or gross negligence. (R:190:8:¶15). The Court correctly concluded that “triable issues

of fact ... exist in regard to whether Weber and Richland County breached a duty of care to Andrew.” (R:190:15:¶26).

[22.] Generally, “[w]hether a breach of a duty is the proximate cause of an injury depends on the facts and circumstances of each case.” *Id.* (citing Botner v. Bismarck Parks & Recreation Dist., 2010 ND 95, ¶10, 782 N.W.2d 662. Proximate cause is usually a question of fact. *Id.* at ¶24. However, “issues of fact may become questions of law if reasonable persons could reach only one conclusion from the facts.” *Id.*

[23.] The issue on summary judgment was whether there was a triable issue of fact as to causation. The Court concluded that there was *not* a triable issue of fact as to whether Andrew’s death resulted from the defendants’ alleged negligence in assessing the dangers posed to Andrew as a confidential informant, and in training, warning, and supervising him in that role. (R:190:16:¶27). Summary judgment was granted “because the plaintiffs cannot prove the essential element of proximate causation as a matter of law.” (R:190:19:¶35). The Supreme Court held that “insufficient evidence establishes that the Defendants’ conduct proximately caused the death of Andrew Sadek” as a matter of law. Sadek v. Weber, 2020 ND 194, ¶28, 948 N.W.2d 820. The reason proximate cause is established is because under N.D.C.C. § 32-12.1-03(3)(g) the Defendants’ owed a duty of care by nature of their “special relationship” in recruiting and supervising Andrew as a confidential informant. Under N.D.C.C. § 32-12.1-03(3)(g), a “public duty” does not include *action* of the political subdivision or employee when a “special relationship” can be established between the political subdivision and the injured party. While normally, a political subdivision may not be held liable for injury or damages directly or indirectly caused by a breach of a public duty under N.D.C.C. § 32-12.1-03(3), that is not the case

when a “special relationship” exists, such as the one in this case. There was no dispute that a special relationship existed under N.D.C.C. §32-12.1-03(g). Evidence was not necessary to prove causation by the nature of Andrew’s relationship with SEMCA. The Court was correct in concluding that no triable issue of fact exists regarding proximate cause. Andrew signed SEMCA’s confidential informant Agreement. (R:79). The agreement provided that Andrew could not use any illegal drugs, and that he could not engage in any transaction in illegal drugs except under SEMCA’s supervision. (R:190:5:¶10). SEMCA provided only limited guidance to Andrew on undercover methods; it did not inform or train Andrew on the hazards of undercover narcotics work, nor did SEMCA oversee or document Andrew’s activities other than during an actual controlled buy. (R:190:6:¶11).

[24.] Normally, summary judgment is inappropriate if the court must draw inferences and make findings on disputed facts to support the judgment. Markgraf, et al. v. Welker, et al., 2015 ND 303, 873 N.W.2d 26. In this case, the Court drew several inferences to which no one objected. The district court correctly recognized SEMCA had a duty by the nature of their “special relationship.” N.D.C.C. § 32-12.1-03(3)(g) provides for potential liability of a political subdivision or its employee under circumstances in which a “special relationship” can be established between the political subdivision and the injured party. It is undisputed that there was a “special relationship” between Andrew Sadek and Defendants. “Public duty” does not include action of the political subdivision or a political subdivision employee under circumstances in which a special relationship can be established. *Id.* A special relationship is demonstrated if all of the following elements exist:

1. Direct contact between the political subdivision and the injured party.

2. An assumption by the political subdivision, by means of promises or actions, on an affirmative duty to act on behalf of the party who allegedly was injured.
3. Knowledge on the part of the political subdivision that inaction of the political subdivision could lead to harm.
4. The injured party's justifiable reliance on the political subdivision's affirmative undertaking, occurrence of the injury while the injured party was under the direct control of the political subdivision, or the political subdivision action increases the risk of harm.

N.D.C.C. § 32-12.1-03(3)(g)(1)-(4).

[25.] The Court made findings on each element. As to the first element, the Court made findings that Weber initiated direct contact with Andrew as an agent of Richland County. (R:190:13:¶24). As to the second element, the Court made findings that Weber's promises and actions support a reasonable inference that the defendants assumed an affirmative duty to act on Andrew's behalf. (R:190:14:¶24). Weber promised Andrew favorable treatment if he worked with SEMCA. Id. He told Andrew that he was subject to SEMCA's rules and supervision in all matters relating to illegal drugs, but at the same time made Andrew responsible for arranging controlled buys. Id. The Court concluded that "one can reasonably infer that Weber assumed a duty to protect Andrew from foreseeable or common hazards of engaging in such work." Id. As to the third element, the Court made findings that "Weber's knowledge that Andrew could be harmed if he was not properly trained or supervised in conducting illegal drug transactions is readily inferred from Weber's training, experience, and deposition testimony. Id. As to the fourth element, the Court made findings that "the evidence also supports an inference favorable to the plaintiffs

that the actions of Weber and Richland County in using Andrew as a confidential informant increased the risk of harm to him.” Id.

[26.] “Whether a breach of a duty is the proximate cause of an injury depends on the facts and circumstances of each case...” Rued Ins., Inc. v. Blackburn, Nickels & Smith, Inc. 543 N.W.2d 770, 773 (N.D. 1996). “To warrant a finding that a person’s conduct is the proximate cause of an injury, the injury must be the natural and probable result of the conduct and must have been foreseen or reasonably anticipated by that person as a probable result of the conduct.” Kimball v. Landeis, 2002 ND 162, ¶7, 652 N.W.2d 330.

[27.] Based upon the arguments presented, this court concluded summary judgment was proper because no evidence created a triable issue of fact about whether Andrew Sadek’s death resulted from the Defendants’ alleged negligence in assessing the dangers posed to him as a confidential informant, and in training, warning, and supervising him in that role.

The Order on Plaintiff’s Motion for Relief

[28.] Plaintiff’s moved for relief from the Judgment under Rule 60 and for summary judgment on February 27th, 2022. Plaintiffs’ alleged that the action was still pending. The District Court denied Plaintiffs’ relief and noted that the following:

[29.] On May 24, 2019 the Court entered a document in this file entitled, “Judgment of Dismissal,” the concluding paragraph which states:

“That no costs or disbursements shall be taxed by either party to this litigation, which is now concluded as all claims of the Plaintiffs have been dismissed pursuant to the May 20, 2019, Order [granting Defendants’ Motion for Summary Judgment].” [R:193:2].

[30.] On October 7, 2020, the Clerk of the North Dakota Supreme Court filed an opinion authored by the Hon. Justice Daniel J. Crothers, joined by Chief Justice Jenson, and Justices McEvers and Tufte, which concludes with this sentence: “The Judgment is

affirmed.” [R: 202:¶33]. It is noted that the Hon. Justice Gerald W. VandeWalle filed a dissenting opinion. Id. The same day, the Clerk of the North Dakota Supreme Court filed a document in this file entitled, “Judgment,” which states, [I]t is ORDERED AND ADJUDGED that the judgment of the District Court is AFFIRMED.” [R:203:¶3].

[31.] Following Plaintiffs’ recent motion, the District Court ruled that these documents establish beyond the need for argument that there is no case, claim or cause of action pending before this court upon which any judgment, summary or otherwise, can be rendered. (R:231:2:¶3).

[32.] Under Rule 60(b) on motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

N.D.R.Civ.P. 60(b); Allery v. Whitebull, 2022 ND 140, ¶ 6. See also Hildebrand v. Stoltz, 2016 ND 225, ¶ 16, 888 N.W.2d 197; and City of Wahpeton v. Drake-Henne, Inc., 228 N.W.2d 324, 330 (N.D. 1975)). Here, the District Court is under the mistaken belief that there is no case, claim or cause of action pending upon which any judgment, summary or otherwise, can be rendered.

[33.] Under N.D.R.Civ.P. Rule 54(b), if an action presents more than one claim for relief, whether as a claim, counterclaim, crossclaim, or third-party claim, or if multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than

all, claims or parties only if the court expressly determines that there is no just reason for delay. Id. Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities. Id.

[34.] Here, the Judgment of Dismissal is not certified under Rule 54(b), nor does it direct entry of a final judgment as to one or more, but fewer than all, claims. If it had done so, the Court would have expressly determined that “there is no just reason for delay.” Id. That was not done in this case. Therefore, under Rule 54(b), any other decision, regardless of what it’s labeled (i.e. Judgment of Dismissal), does not end the action as to any of the claims, and may be revised any time before the entry of a judgment adjudicating all the claims and all the parties’ rights and liabilities.

Rule 11 Sanctions

[35.] In an Order re: Defendants’ Motion for Sanctions, the district court sanctioned Plaintiffs’ counsel “for the reasons stated in the Court’s Order denying summary judgment motion (R:231), and the additional reasons stated on the record, the court found that the motion was frivolous under the standards of Rule 11(b)(2).

[36.] Under Rule 11(b)(2) of the North Dakota Rules of Civil Procedure, by presenting to the court a pleading, written motion, or other paper, whether by signing, filing, submitting, or later advocating it, an attorney certifies that to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances the claims, defenses, and other legal contentions are warranted by existing

law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law.

[37.] The Court abused its discretion by misapplying Rule 11. The Defendant filed the Motion for Rule 11 Sanctions “concomitantly” with their Response to Plaintiff’s Motion. Under the North Dakota Rules of Civil Procedure, a motion for rule 11 sanctions “must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). N.D.R.Civ.P. 11(c)(2). The Defendant should not have filed a motion for Rule 11 sanctions with the pending motion because it must be made separately. The Defendant did not describe the specific conduct that allegedly violates the rule.

[38.] Here, Rule 11 sanctions were not appropriate because the legal contentions are warranted by existing law. As stated previously, the Judgment for Dismissal in this case was not certified. The case was not fully adjudicated on the motion and claims are still pending. While claims are still pending and no final judgment has issued, the court may reconsider any interlocutory order under 54(b). If summary judgment is not rendered on the whole action, the court shall, to the extent practicable, determine what material facts are not genuinely at issue under N.D.R.Civ.P. 56(d)(1). The Court is required to do this by examining the pleadings and evidence and by interrogating the attorneys. Id. (R:204). It then shall issue an order specifying what facts are not genuinely at issue. Id. The facts so specified must be treated as established in the action. Id. The Court properly followed Rule 56(d)(1), and entered an interlocutory memorandum and opinion.

Reasonableness of Attorney Fees

[39.] The district court, after considering the requirements of Rule 11(c)(1) and 11(c)(4) made findings that an award of reasonable attorney’s fees and cost to defendants’ counsel

in the amount of \$1,750 is sufficient to deter repetition of the conduct violating Rule 11(b)(2) by plaintiffs' counsel and others similarly situated. (R:240:2:¶4).

[40.] The Court's findings do not specifically state what actions taken by Plaintiffs' counsel violated Rule 11(b). The Court does not make findings under Rule 1.5(a) of the North Dakota Rules of Professional Conduct to determine the reasonableness of the attorney fees. The Court abused its discretion because the findings do not adequately explain the court reasons for its decision.

[41.] WHEREFORE, the Appellants' pray for the following relief:

- a. Reverse and remand the Order re: Plaintiff's Motion for Summary Judgment;
- b. Remand with directions enter a final judgment on liability under N.D.R.Civ.P Rule 54(b);
- c. Reverse the Order for sanctions against Plaintiffs' counsel under N.D.R.Civ.P. 11(b); alternatively remand for findings regarding the specific actions that violated Rule 11(b);

[42.] I, Kristin Angela Overboe, the attorney for the appellant, Jennifer Gwilliams, certify that this brief complies with Rule 32(a)(8)A) of the North Dakota Rules of Appellate Procedure, as it contains 17 pages.

[43.] Dated this 16th day of August, 2022.

/s/ Kristin Overboe
Kristin A. Overboe (ND #06751)
4225 38th St. SW, Suite 107
Fargo, ND 58104
T: (701) 282-6111
kristin@overboelaw.com
ATTORNEY FOR APPELLANTS

IN THE SUPREME COURT OF THE STATE OF NORTH DAKOTA

John Sadek and Tammy Sadek, as surviving parents of Andrew Sadek Dist.)	Ct. File No. 39-2016-CV-128
on behalf of all heirs-at-law,)	
and the Estate of Andrew Sadek,)	ND Sup. Ct. Case No. 20220155
)	
Plaintiffs-Appellants,)	
)	
vs.)	Certificate of Service
)	
)	
Jason Weber, individually and as a)	
Richland County Sheriff's Deputy and)	
Task Force Officer of the South East)	
Multi County Agency Narcotics Task)	
Force, and Richland County, North Dakota,)	
a political subdivision,)	
)	
Defendants-Appellees.)	

1. I, Kristin A. Overboe, state, pursuant to Rule 5(f) of the North Dakota Rules of Civil Procedure, that I am an attorney licensed in the State of North Dakota. I further state that:
2. On the 16th day of August, 2022, I sent by electronic mail a true and correct copy of the following:
 - 1. Appellants' Brief**
 - 2. Certificate of Service.**
3. Copies of the foregoing were sent by electronic mail to the following address:

Corey Quinton
cquinton@fisherbren.com

Jenna Bergman
jbergman@fisherbren.com
4. To the best of my knowledge, the above listed address is the actual address of the party

intended to be served or his attorney.

Dated this 16th day of August, 2022.

/s/ Kristin A. Overboe

Kristin A. Overboe

(ND ID #06751)

4225 38th St. SW., Suite 107

Fargo, ND 58104

(701) 282-6111

kristin@overboelaw.com

Attorney for Plaintiffs-Appellants