

NO. A11-1732

State of Minnesota
In Court of Appeals

First National Bank,

Respondent,

vs.

Profit Pork, LLC,

Respondent,

Deere & Company,

Respondent,

Schwartz Farms,

Respondent,

New Vision Coop,

Respondent,

Ag Partners, LLC,

Respondent,

Alan J. Ruesch,

Respondent,

Frank Riley,

Respondent,

Land O'Lakes Purina Feed LLC,

Respondent,

Cooperative Elevator Association,

Respondent,

Slater Bros.,

Respondent,

Gary Slater,

Respondent,

Kent Slater,

Respondent,

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BRIEF AND APPENDIX OF RESPONDENT FIRST NATIONAL BANK

| | |
|-----------------------------|---------------------|
| John Slater, | <i>Respondent,</i> |
| Prinsburg Farmers Coop, | <i>Respondent,</i> |
| Alan Ahlers, | <i>Respondent,</i> |
| Chris Kremer, | <i>Respondent,</i> |
| Green Prairie Coop., | <i>Respondent,</i> |
| Wilmont-Adrian Cooperative, | <i>Appellant,</i> |
| Brett Evers, | <i>Respondent,</i> |
| Brett Evers, et al., | <i>Respondents,</i> |
| Alan Ahlers, | <i>Respondent,</i> |
| John Doe, et al., | <i>Respondents.</i> |

BRIEF AND APPENDIX OF RESPONDENT FIRST NATIONAL BANK

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The appendix to this brief is not available for online viewing as specified in the *Minnesota Rules of Public Access to the Records of the Judicial Branch*, Rule 8, Subd. 2(e)(2).

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CONCISE STATEMENT OF LEGAL ISSUES

ISSUE 1:

May Appellant claim a feeder's lien under MINN. STAT. § 514.966, Subd. 4, based on the unpaid retail value of feed?

On cross-motions for summary judgment, the District Court correctly ruled that Appellant could only claim a livestock production input lien under MINN. STAT. § 514.966, Subd. 3, and that Respondent's perfected security interest had priority over Appellant's lien claim.

Apposite Authority:

MINN. STAT. § 514.965 (2010)

MINN. STAT. § 514.966 (2010)

ISSUE 2:

May Appellant maintain certain tort claims against the Respondent where Appellant presented no evidence as to any damages it suffered as a result of Respondent's actions in selling a herd of deteriorating livestock pursuant to Court Order?

On cross-motions for summary judgment, the District Court correctly ruled that Appellant could not maintain tort claims against Respondent where Appellant offered no evidence of damages resulting from Respondent's actions.

Apposite Authority:

Chemlease Worldwide Inc. v. Brace, Inc., 338 N.W.2d 428 (Minn. 1983)

Ford Motor Credit Co. v. Hertzberg, 511 N.W.2d 25 (Minn. App. 1994)

Karlstad State Bank v. Fritsche, 374 N.W.2d 177 (Minn. App. 1985)

STATEMENT OF THE CASE

Respondent adopts Appellant's Statement of the Case as to the procedural matters and otherwise refers to its Statement of the Case previously filed and attached to Respondent's Appendix. R.A. 223.¹ In addition, Respondent has resolved claims asserted by other parties in this litigation. Since commencing this case, Respondent partially paid a priority veterinarian lien claim by Fairmont Veterinary Clinic, LLC. R.A. 18. Respondent has also tentatively agreed to pay a portion of New Vision Cooperative's lien for the retail value of unpaid feed deliveries to the extent New Vision's lien gained priority as a result of New Vision's compliance with statutory notice procedures. *Id.* Except for Appellant and those parties mentioned above, other parties who filed liens or asserted claims against Profit Pork's livestock have not sought further recovery in this action. Appellant remains the only party challenging the priority of Respondent's lien as to the remaining proceeds.²

STATEMENT OF FACTS

Profit Pork, LLC, was a hog producer in and around Murray County, Minnesota. R.A. 13. In January, 2006, Respondent agreed to provide a line of credit to Profit Pork in the amount of \$1,300,000. *Id.* Profit Pork executed and delivered a promissory note to repay amounts advanced on the line of credit and executed a security agreement whereby

¹ "A-___" means Addendum; "A.A." means Appellant's Appendix; and "R.A." means Respondent's Appendix.

² While Respondent and New Vision have a tentative settlement with respect to the extent of New Vision's priority, Appellant's claim to priority would also prime New Vision's claim and therefore Respondent has not paid any proceeds to New Vision.

it granted Respondent a continuing security interest in the personal property owned by Profit Pork, including born and unborn livestock, and all proceeds generated therefrom. R.A. 14; R.A. 22. Respondent perfected its security interest against Profit Pork’s livestock on January 6, 2006, by filing a UCC financing statement at the Minnesota Secretary of State’s Office identifying as collateral “livestock, born or unborn” and “proceeds” thereof. R.A. 14; R.A. 28.

Respondent increased the line of credit to \$2,000,000. *Id.* A change of terms agreement dated December 31, 2009, required Profit Pork to pay the full principal balance owing on the line of credit on March 1, 2010. *Id.* Profit Pork failed to pay the balance owing of \$1,348,320 on March 1, 2010, and also discontinued making regular payments to Respondent at that time. R.A. 15. Respondent declared a default under the terms of the line of credit note and security agreement. *Id.*

Respondent commenced Farmer-Lender Mediation against Profit Pork on May 5, 2010, as required by Chapter 583.26, *et seq.*, of the Minnesota Statutes, and gave notice to Profit Pork’s known creditors. *Id.* Following the June 14 mediation session, the attending parties agreed that Respondent should seek bids for the purchase of Profit Pork’s livestock located in Minnesota. *Id.* Profit Pork kept its livestock at various barns owned by Frank Riley, Alan Ahlers, Brett Evers, Chris Kremer, and Mark Slater. *Id.* On June 21, Respondent presented the following bids to the mediation group:

| Bid | Bidder | Terms | Total Price |
|--------------|-----------------|---|--------------------|
| 1 A.A. 45 | Lynch Livestock | Purchase of livestock at the Kremer, Riley, Ahlers, and Evers barns, but not the Slater barn. Arrangements by buyer would be made with barn owners to | \$597,960.00 |

| | | | |
|--------------------------|---------------------------|--|--------------|
| | | continue growing and feeding at existing sites. | |
| 2 A.A. 46 | Slater Farms | Purchase of livestock in Slater barn, where the livestock already cared for by Slater Farms. | \$56,000 |
| 3 A.A. 47 | Southeast Marketing, Ltd. | Purchase of livestock at the Kremer, Riley, Ahlers, and Evers barns, but not Slater barn. Livestock would remain on Kremer, Riley and Ahlers sites, but livestock on Ever's site would transfer. | \$457,500.00 |
| 4 A.A. 48 | New Horizon Farms | Purchase of all livestock and continue growing and feeding at existing sites. | \$601,345.25 |
| 5 A.A. 49- A.A. 51 | The Parks Companies | Purchase of all livestock and move livestock from current barns. | \$485,996.00 |
| 6 A.A. 52- A.A. 54 | The Parks Companies | Purchase of all livestock and continue growing and feeding at existing sites. | \$578,361.75 |

The bidders visited the barns holding the livestock and inspected herd quality and health. *See* A.A. 45, A.A. 47, A.A. 48. As noted by New Horizon Farms, LLP, "some of this inventory has been badly neglected both for health treatments and vaccinations." The Evers Farm had "an inventory that appears to be going downhill quickly." *Id.*

Respondent informed the mediation group that it intended to accept the Lynch Livestock and Slater Farms bids, unless Respondent received a better offer before the sale. R.A. 15; A.A. 55. Profit Pork and its principals who guaranteed Profit Pork's debt agreed that Respondent could arrange a sale for the highest and best price. R.A. 15. Respondent had the right to recover possession and dispose of the livestock under the security agreement. *Id.*

On June 22, 2010, Respondent mailed a notice of disposition by private sale to Profit Pork, the guarantors, and all other known creditors potentially claiming an interest

in the finishing hogs, as determined from a UCC search. R.A. 5; R.A. 9. Respondent filed a motion in Murray County District Court to approve the proposed sale of the 7,843 head of finishing hogs, free and clear of all other liens, encumbrances and interests. R.A. 16; A.A. 13. Any valid liens claimed against the livestock would apply in equal force, and with the same priority, against the sale proceeds. R.A. 16.

In support of the sale motion, Respondent submitted an affidavit indicating the following facts:

- The estimated market value of the livestock was \$600,000.00. R.A. 4.
- Respondent conducted two mediation sessions with Profit Pork and its principals; numerous other creditors attended the mediation session. *Id.*
- The attending parties at mediation agreed that Respondent should seek bids to purchase the livestock. *Id.*
- Respondent met with Profit Pork's principals who agreed that Respondent should sell the herd through a combination of bids, or to a higher bidder if one later became available. *Id.*
- Respondent marketed the sale of the livestock and there had been an adequate response. R.A. 5.
- Profit Pork had sold livestock in the weeks prior to the sale motion but the buyer issued checks payable to Respondent and a number of other creditors. Those creditors refused to endorse the checks and this further impaired Profit Pork's liquidity to continue servicing its herd. R.A. 6.

- Profit Pork represented it had no further funds to feed the livestock, pay for veterinarians, or pay for barn rent or any associated costs. *Id.*
- Respondent estimated in the week before the sale that it would have to advance \$40,000 simply to purchase feed. Accrued barn rent for the herd totaled approximately \$115,000. *Id.*
- Respondent concluded “there is no funding available and the herd health and quality of the [livestock] is at risk if a sale is delayed. One of the recent bidders conducted a full inspection of the herd for sale and found that there were 1,324 head of culls out of the 7,843 head, which is a very large rate of poor quality hogs. If a sale is not quickly consummated, the quality of the herd will continue to decrease.” R.A. 7.

On June 28, 2010, the District Court approved Respondent’s sale motion.³ A.A.

17. The District Court specifically found that:

[Respondent] may foreclose its security interest and sell, lease or otherwise dispose of [the livestock] in accord with Article 9 of Minnesota’s version of the Uniform Commercial Code. The Court finds that such disposition may take place through private sale anytime after June 28, 2010. The Court also finds that the sales notice served by [Respondent] complied with Sections 610 through 615 of Article 9 of the UCC found in Minnesota Statute Chapter 336.9. Given the nature of the [livestock] and the need to preserve [the livestock] through prompt disposition, [Respondent’s] notice of

³ Appellant opposed the sale motion and appeared at the hearing to voice its objections in open court. The District Court questioned whether Appellant would continue providing feed to the livestock. Appellant said it would not. As noted in the District Court Order which is on appeal, Profit Pork’s “creditors refused to assume any additional risk in support of its hog operations – necessitating a swift sale of the hog inventory.” A – 19.

private sale that it mailed to Profit Pork, LLC, its co-obligors indebted to [Respondent], and other creditors of Profit Pork, LLC on June 22 or otherwise faxed or delivered after that date, were sent in a commercially reasonable period of time prior to any sale occurring after June 28, 2010.

A.A. 19.

On June 29, 2010, Respondent sold the livestock for \$656,960. A.A. 55. The sales proceeds derived from livestock living in the following barns:

| <u>Barn</u> | <u>Head</u> | <u>Sales Price</u> |
|---------------|-------------|--------------------|
| Kremer | 2,170 | \$184,716 |
| Riley | 2,357 | \$238,609 |
| Ahlers | 1,047 | \$120,635 |
| Evers | 1,070 | \$ 54,000 |
| Slater (Mark) | 1,164 | \$ 59,000 |

R.A. 16; A.A. 45, 46, and 55.

Respondent paid certain proceeds to those barn owners caring, keeping, and feeding the hogs, including Slater, Ahlers, Riley, and Kremer (but not Evers). R.A. 16. Respondent holds remaining sales proceeds in escrow, which total roughly more than \$500,000.⁴ *Id.* As of the date Respondent filed its motion for summary judgment in this case, January 14, 2011, Profit Pork owed principal of \$1,206,618.86 on the line of credit.

R.A. 15.

⁴ In addition to these proceeds, Respondent also received two checks in the amount of \$13,550.79 (from hogs raised at the Riley barn) and \$16,964.17 (from hogs raised at the Ahlers and Evers barns) from John Morrell & Co. on account of earlier sales. R.A. 16-17.

Appellant's claim arises from feed it sold to Profit Pork from 2008 through 2010. R.A. 18. Unlike New Vision,⁵ Appellant never provided a lien-notification statement to Respondent. *Id.* Appellant's account history shows charges for procuring and delivering various mixes of commercial feed to Profit Pork.⁶ A. 59 – 68; R.A. 77-108. Appellant's invoices charge by the pound or bushel for the feed product. *Id.*

In addition to producing and delivering feed, Appellant claims that it also “provided nutritionist services for Profit Pork, employed a record keeping system that tracked the swine performance records of Profit Pork, and provided a stage feeding program for Profit Pork's livestock to adjust feeding parameters as the livestock increased in size.” A.A. 36. A review of Appellant's 565-page account history starting from August 2008 fails to reveal any charges related to these services. R.A. 58. The District Court reviewed Appellant's entire 565-page account history and concluded that it was “unable to identify a single explicit charge for ‘nutritionist services,’ ‘record keeping services,’ or services related to the ‘stage feeding program.’” A-14. The District Court

⁵ New Vision allocated its claim for unpaid feed deliveries to the following barns: Ahlers - \$81,780.31; Riley - \$110,667.41; Evers - \$71,098.15; Ruesch - \$29,909.40. Respondent challenged the New Vision lien claim with respect to the deliveries to the Evers and Ruesch barns. R.A. 17. None of the livestock sold by Respondent came from the Ruesch barn. *Id.* New Vision's lien notification statement did not identify delivery of feed to the Evers barn. *Id.*; R.A. 50. The proposed settlement involves payment of those proceeds which derived from livestock housed at the Ahlers and Riley barns.

⁶ Respondent includes a sample of Appellant's invoices in the Appendix which are representative of all the invoices produced by Appellant. The remaining 500 pages of invoices are in the record, attached to the Third Affidavit of Mychal A. Bruggeman. R.A. 109

found that, “instead, the account history generally details charges for feed, feed ingredients, drugs and minerals supplied to Profit Pork.” *Id.*

New Vision submitted an affidavit stating the services provided by Appellant are the “same services any other feed provider provides, including New Vision Coop,” and:

The record keeping and performance tracking performed by Wilmont-Adrian Cooperative constitute a stage feeding program that all feed providers offer. Additionally, the nutritionist services described by Wilmont-Adrian Cooperative are not unique. Feed providers supply rations based on the weight of the livestock. These rations must change as livestock grow as the nutrition needs of the livestock change as livestock grows. All feed providers offer this service.

R.A. 73.

Since it began delivering feed in 2008, Appellant received payments from Profit Pork totaling \$3,080,084.59. R.A. 58. In approximately six months prior to the sale of Profit Pork’s hog herd, Appellant charged \$44,054.66 for procuring feed. R.A. 76. None of those invoices itemize for nutritionist or other incidental services. *Id.* The invoices also show in the lower left-hand corner where feed would be delivered.. *Id.*; R.A. 87-107. It appears that in 2010, Appellant mostly delivered feed to the Evers site. *Id.* Livestock inventory generally turns over approximately every five to six months. R.A. 17. Feed supplied to the various barns prior to January, 2010, generally would not have been fed to the livestock sold by Respondent. *Id.*

Appellant first recorded a UCC financing statement on June 21, 2010 claiming a feeder’s lien against Profit Pork’s livestock. R.A. 229. Appellant sent a letter claiming a feeder’s lien to Respondent on June 22, 2010. A.A. 59.

ARGUMENT

The Court should affirm the District Court's entry of summary judgment in favor of Respondent against Appellant and its dismissal of Appellant's claims in this action. This case involves Minnesota's Livestock Lien Statute (the "Livestock Lien Statute"). Under the Livestock Lien Statute, a party who sells livestock production inputs, a term which includes feed, may claim a lien in the amount of the unpaid retail value of the input. The Livestock Lien Statute provides structure, expectations, and procedures for lenders and feed suppliers of livestock producers to resolve their competing interests in livestock when a producer experiences economic challenges. Preeminent among such procedures is a notification process whereby a supplier provides formal notice to the lender of unpaid feed bills and seeks a commitment from the lender to pay feed costs where the borrower cannot. The lender can accept the invitation and advance further funds to continue supplying feed. If the lender declines the invitation, the supplier will know where it stands. If the lender fails to respond, the supplier can prime the lender's security interest for the unpaid amount for existing and future feed deliveries.

In this case, Respondent had a first-filed perfected security interest in the livestock which predated any interest claimed by Appellant. Appellant supplied feed to Profit Pork, LLC, but did not provide formal notification of a livestock production input lien to Respondent. Without giving notice, Appellant cannot prime Respondent's lien.

After Respondent began mediation with Profit Pork, LLC, and its creditors, Appellant filed a claim for a feeder's lien, which is a lien reserved for contributions incurred by people who service the livestock by storing, caring for, treating, and feeding

the livestock. In this case, the barn owners who provided these services to Profit Pork qualify as feeders, and Respondent paid these claims at the time it sold the livestock because feeder's liens generally take priority over the claims of lenders and feed suppliers. Appellant claims it is more than a feed supplier because of incidental services it provided in connection selling feed. Appellant's characterization of its activities simply subdivides into further detail the process by which it sells feed.

Appellant's claim for the unpaid retail value of feed places triggers the livestock production input prong of the Livestock Lien Statute. Over 500 pages of invoices reviewed by the District Court demonstrate that Appellant's claim is for supplying feed. The District Court correctly concluded that even if Appellant factors incidental services into the feed charge, the Appellant's claims remain based on the unpaid retail value of its feed, and therefore can only claim a livestock production input lien. As a result, Respondent has a superior lien claim against the livestock proceeds.

Appellant's tort claims fail as they rely on Appellant establishing a priority lien, which it cannot. Appellant failed to demonstrate specific damages it suffered when Respondent arranged for the sale of Profit Pork's livestock herd. At the time, Profit Pork no longer had capital to operate and feed the herd. Respondent took several steps to maximize the recovery of the herd. Respondent paid or intends to pay certain proceeds to those lien claimants who rightfully could claim priority over Respondent's lien including perfected veterinarians, barn owners and operators, and feed suppliers who gave proper notification. To further hold Respondent liable to a claimant who ignored statutory procedures would undermine the structure of the Livestock Lien Statute and create

uncertainty in its application. Such uncertainty would impair future lenders' confidence and ability to take swift and responsible action with respect to deteriorating livestock herds operated by an insolvent producer.

I. Applicable Standard for Appellate Court's Review

In reviewing cross-motions for summary judgment, this Court has to decide whether there are any genuine issues of material fact and whether the District Court erred in its application of the law. *See Wiederholt v. City of Minneapolis*, 581 N.W.2d 312, 314 (Minn. 1998). Rule 56.03 of the Minnesota Rules of Civil Procedure provides in pertinent part that summary judgment:

[S]hall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that either party is entitled to judgment as a matter of law.

MINN. R. CIV. P. 56.03.

No genuine issues of fact exist where "the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party." *DLH, Inc. v. Russ*, 566 N.W.2d 60, 69 (Minn.1997) (quotation omitted). The nonmoving party must present specific facts showing that there is a genuine issue for trial. *Id.* at 70-71. "The mere existence of a scintilla of evidence in support of the [nonmoving party's] position will be insufficient; there must be evidence on which the jury could reasonably find for the [nonmoving party]." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 252, 106 S.Ct. 2505, 2512, 91 L.Ed.2d 202 (1986). One of the principal purposes of summary judgment is to dispose of

factually unsupported claims or defenses. *See Celotex Corp. v. Catrett*, 477 U.S. 317 (1986).

II. The District Court Correctly Concluded That Respondent's Perfected Security Interest Has Priority Over Any Interest in the Livestock Proceeds Claimed by Appellant

The District Court correctly resolved this case based on a straight-forward application of the Livestock Lien Statute to the undisputed facts presented by the parties during the cross-motions for summary judgment. Appellant failed to present evidence to sustain a claim. The District Court declined Appellant's request to interpret the Livestock Lien Statute in a way to disable the legislative mandate that a feed supplier serve notice to a secured lender of a lien based on the unpaid retail value of feed.

A. Minnesota's Livestock Lien Statute

Generally, Respondent would have priority in the livestock proceeds by perfecting its security interest before any other party. MINN. STAT. § 336.9-322(a) (providing that priority among competing security interests and agricultural liens is governed by first-in-time of filing). Nonetheless, Minnesota enacted the Livestock Lien Statute whereby providers of agricultural goods and services can gain priority over liens filed prior in time. MINN. STAT. § 336.9-322(g) (stating a "perfected agricultural lien on collateral has priority over a conflicting security interest in or on the same collateral if the statute creating the agricultural lien so provides.")

Minnesota's Livestock Lien Statute is found at MINN. STAT. § 514.965, *et. seq.* The statute creates four types of liens: veterinarian liens, breeder's liens, feeder's liens, and livestock production input liens. This case involves feeder's liens and livestock

production input liens. All liens attach “to the livestock serviced by the agricultural lienholder, and products and proceeds thereof to the extent of the price or value of the service provided.” MINN. STAT. § 514.966, Subd. 5.

A feeder’s lien arises for any “person” that “(1) stores, cares for, or contributes to the keeping, feeding, pasturing, or other care of livestock, including medical or surgical treatment and shoeing, and (2) does so in the ordinary course of business, at the request of the owner or legal possessor.” MINN. STAT. § 514.966, Subd. 4(a). “A feeder’s lien is a lien upon the livestock for the price or value of the storage, care, or contribution, and for any legal charges against the same paid by the person to any other person.” *Id.*, Subd. 4(b). A feeder’s lien becomes effective on the date services and contributions are first provided. *Id.* at Subd. 4(c). A holder of a feeder’s lien must perfect the lien within 60 days after the last date feeding services are provided by filing a UCC financing statement with the Secretary of State’s Office. *Id.* at Subd. 6(a) & (c). A feeder’s lien takes priority over all competing liens, other than a perfected veterinarian lien. *Id.* at Subd. 8(c) & (d).

A livestock production input lien is available to a “supplier furnishing livestock production inputs in the ordinary course of business...for the unpaid retail cost of the livestock production input.” MINN. STAT. § 514.966, Subd. 3(a). A “livestock production input” is defined as “feed and labor used in raising livestock.” MINN. STAT. § 514.965, Subd. 8. “Feed” is defined as “commercial feeds, feed ingredients, mineral feeds, drugs, animal health products, or customer-formula feeds used for feeding livestock, including commercial feed as defined in section 25.33.” *Id.*, Subd. 6. A “supplier” means a “person furnishing agricultural production inputs.” *Id.*, Subd. 11.

A livestock production input lien is effective “when the agricultural production inputs are furnished by the supplier to the purchaser.” MINN. STAT. § 514.966, Subd. 3(a). “The livestock production input lien may not exceed the amount, if any, that the sales price of the livestock exceeds the greater of the fair market value of the livestock at the time the lien attaches or the acquisition price of the livestock.” *Id.* A supplier must perfect a livestock production input lien within 60 days after the last date that it furnished a livestock production input by filing a financing statement with the Minnesota Secretary of State’s Office. *Id.*, Subd. 6(d).

A holder of a livestock production input lien has two means to obtain priority over a lender’s perfected security interest. First, the supplier can gain priority if its lien became effective before the lender gave value to the debtor. *Id.*, Subd. 8(i). In this case, Respondent gave value in 2006, prior to when Appellant first began delivering feed in 2008. Appellant cannot gain priority under the first prong.

Second, the supplier can gain priority if the lender fails to timely respond to service of a proper lien notification statement. *Id.*, Subd. 8(h). The supplier must strictly comply with the form and service requirements of a lien notification statement in order to gain priority through this method. *Minnwest Bank, M.V. v. Arends*, 802 N.W.2d 412, 419 (Minn. App. 2011). The supplier must deliver the lien notification statement by certified mail or other verifiable method to the lender in an envelope marked “IMPORTANT-LEGAL NOTICE.” MINN. STAT. § 514.966 *Id.* Subd. 3(b). The lien-notification statement must disclose the following:

- (1) The name and address of the lender that is to receive notification;
- (2) The name and address of the supplier claiming the lien;
- (3) A description and the date or anticipated date or dates of the transaction and the retail cost or anticipated costs of the livestock production input;
- (4) The name and address of the person to whom the livestock production input was furnished;
- (5) The name and address of the owner of the livestock, the location where the livestock will be raised, and a description of the livestock; and
- (6) A statement that products and proceeds of the livestock are covered by the livestock input lien.

Id., Subd. 3(c).

A lender must respond to a lien notification statement within ten days by issuing either: (1) a letter of commitment for part or all of the amounts claimed in the lien notification statement; or (2) a written refusal to issue a letter of commitment. *Id.* Subd. 3(d). If the lender responds with a letter of commitment the supplier may not claim a lien, but if the lender responds with a refusal, the supplier's lien rights are not otherwise affected. *Id.*, Subd. 3(e). If the lender does not respond to the lien notification statement within the ten-day period, the supplier's livestock production input lien gains priority over any security interest of the lender. *Id.* Subd. 3(f). In this case, Appellant did not serve a lien notification statement, and cannot gain priority under the second method.

B. The District Court Correctly Concluded That Appellant's Sole Recourse is a Livestock Production Input Lien and Not a Feeder's Lien

The District Court correctly concluded that Appellant's claim derives from the unpaid retail cost of feed and Appellant's recourse under the Livestock Lien Statute is a livestock production input lien. In resolving this issue the District Court considered the structure of the agricultural lien statute and how it specifically provides for feed suppliers. The District Court also relied on the specific facts offered by Appellant which showed its claim arose from the unpaid retail cost of feed, and not from services provided in connection with contributing to the storing, caring or the feeding of the livestock.

As a matter of statutory interpretation, the District Court correctly ruled that Appellant cannot claim a feeder's lien through supplying feed. The goal of statutory interpretation is to ascertain and apply the intent of the legislature. MINN. STAT. § 645.16 (2010); *Weiler v. Ritchie*, 788 N.W.2d 879, 884 (Minn. 2010). The starting point in statutory interpretation is to review the plain language of the statute, and where that language on its face is clear and unambiguous, it is not proper to go beyond the language of the statute in its interpretation. *Village of Tonka Bay v. Commission of Taxation*, 64 N.W.2d 3 (Minn. 1954); *In re Molly*, 712 N.W.2d 567 (Minn. App. 2006). In determining the meaning of a particular provision, this Court should read that particular provision "in context with other provisions of the same statute." *ILHC of Eagan, LLC v. Cnty. Of Dakota*, 693 N.W.2d 412, 419 (Minn. 2005); *Glen Paul Court Neighborhood Ass'n v. Paster*, 437 N.W.2d 52, 56 (Minn. 1989). In assessing the plain language of the statute, the Court should construe undefined words and phrases in the statute according to

the rules or grammar and according to their common and approved usage unless doing so would be inconsistent with the manifest intent of the legislature. MINN. STAT. § 645.08(1); *Summers v. R & D Agency, Inc.*, 593 N.W.2d 241 (Minn. App. 1999).

The Court may resort to additional canons of statutory construction where the plain language is ambiguous. MINN. STAT. § 645.16 (2010); *Premier Bank v. Becker Dev., LLC*, 785 N.W.2d 753, 759 (2010). Where general and specific provisions of the law are in conflict, specific provisions must control. MINN. STAT. § 645.26; *Countryside Village v. City of North Branch*, 442 N.W.2d 304, 307 (Minn. 1989); *Fuller v. City of Mankato*, 80 N.W.2d 9, 12-13 (Minn. 1956). When interpreting the statute, the Court should give effect to all its provisions, and not one word, phrase or sentence should be deemed superfluous, void or insignificant. *Fish v. Commissioner of Minnesota Dept. of Human Services*, 748 N.W.2d 360 (Minn. App. 2008); *ILHC of Eagan, LLC v. County of Dakota*, 693 N.W.2d 412 (Minn. 2005).

Appellant's claim is for the unpaid retail value of feed, a livestock production input, which the statute specifically provides may be secured by a livestock production input lien. Appellant argues that supplying feed is a "contribution" to the "feeding" of livestock and that it should be able to claim a feeder's lien for the value of the feed. The Legislature's decision, however, to specifically adopt provisions relating to supplying feed requires the Court to apply those specific provisions to the extent they conflict with Appellant's reliance on general language in the feeder's lien provision. Here, the production input lien provisions and the feeder's lien provisions conflict because the Legislature enacted notification provisions for the benefit of lenders with respect to

livestock production input liens. The Legislature did not provide equal notification requirements for feeder's liens. To uphold the legislative enactment of the notification requirements, the Court cannot permit Appellant to claim a "feeder's lien" for the unpaid retail value of the feed it delivered based on Appellant's argument that by supplying feed Appellant "contributed" to the "feeding of the livestock." To do so would exalt general language over the specific rules in the Livestock Lien Statute, and defeat the detailed notice requirements created by the Legislature to govern relations between secured lenders and feed suppliers.

The structure of the Livestock Lien Statute further differentiates claimants by the services or goods they provide in the "ordinary course of business." Cases involving similar statutory liens define the normal course of business of a company as the typical business activity engaged in by that company. *Conseco Loan Finance Co. v. Boswell*, 687 N.W.2d 646, 651 (Minn. App. 2004) (landlord may not claim storage lien for abandoned property because landlord was not in the business of storing property). Here, Appellant is not a barn owner or operator, or a caregiver -- it is a feed supplier, and it derives its revenue from selling feed. Appellant's invoices charge for the pound or bushel of feed. As stated by Appellant as well as by New Vision, feed suppliers offer certain services in addition to selling feed, but the purpose of those services relates to selling feed. Appellant's invoices and account histories demonstrate that Appellant derives its income from selling and delivering feed, which enables Appellant to claim livestock production input liens when it follows the statutory requirements.

Appellant claims that the District Court improperly rendered its decision by adding an element to the feeder's lien in that a person claiming a feeder's lien has to "raise" or otherwise have "day-to-day care" for the livestock. While the terms "raise" and "day-to-day care" are not included in the description of those services in the feeder's lien provision, they properly describe the overall context of the feeder's lien provision. The terms "storing," "caring," or "contributing to the keeping, feeding, pasturing or other care of the livestock" of the livestock describe the activities of a person having responsibility for possessing the livestock and performing routine functions to care for the livestock. Appellant cannot demonstrate it is a person whose activities of supplying feed fall within the category of a type of routine caregiver.⁷

Appellant asserts it was a "feeder" because it was involved in every step of the feeding process, which is inconsistent with the facts offered by Appellant. Appellant was not involved in the beginning of the feeding process, the ordering of the feed. Profit Pork ordered the feed and determined for itself the "certain level of ration based on the age of the pig and Profit Pork's particular needs." A.A. 35. Appellant's tasks

⁷ Section 25.33, Subdivision 18 of the Minnesota Statutes defines a "contract feeder" as "a person who as an independent contractor, feeds commercial feed to animals, pursuant to a contract whereby such commercial feed is supplied, furnished, or otherwise provided to such person and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product." Appellant has not attempted to peg itself within this definition of a "contract feeder," and could not since Appellant was the party who supplied, furnished or otherwise provided feed to those parties who otherwise fed the livestock. The definition of a contract feeder further recognizes the difference between a feeder and a feed supplier.

contributed to making feed in rolling and mixing the grain to prepare based on “Profit Pork’s particular request” *Id.* (emphasis added). Appellant mixed a variety of ingredients, including corn, soybean meal, minerals, and antibiotics to make the “mixed feed” that it ultimately delivered and invoiced to Profit Pork. A.A. 36. Because the Livestock Lien Statute broadly defines “feed” as “commercial feeds, feed ingredients, mineral feeds, drugs, animal health products, or customer-formula feeds used for feeding livestock,” the statute contemplates that the cost or value of the feed sold to the livestock producer already incorporates the mixing process. *See* MINN. STAT. § 514.965, subd. 6. The mixing of the ingredients into feed itself is not a “contribution” to the feeding of the livestock.

Appellant delivered feed into “bulk storage tanks located at the livestock production facilities that contained hogs owned by Profit Pork,” but delivery was the end of Appellant’s involvement in the feeding process. A.A. 36. As noted in the Affidavit of Steve Lais, “the growing locations of Defendant Profit Pork’s hogs employed automated auger and self-feeder technology to feed the livestock at various facilities.” R.A. 72. Thus, the growers who cared for and stored livestock employed machines that contributed to the feeding. Appellant has not claimed that it owned or operated any of those machines or affiliated buildings, maintained the machines, or paid for the machines.⁸

⁸ The barn owner who owns, operates and maintains the feeder machines likely passes the costs of operating those machines onto the livestock owner, and estimates these amounts into the barn rent. If rent is unpaid, costs ultimately derived from owning and operating the machines become secured by a feeder’s lien.

Appellant further asserts that it “contracted for nutritionist services for Profit Pork, employed a record keeping system that tracked swine performance records of Profit Pork’s livestock, and provided a stage feeding program for the livestock to adjust feeding parameters as the livestock increased in size.” A.A. 38. Appellant’s account history provides no itemized charges for these items.⁹ Appellant admits that it “does not bill separately for these services because the charges for these services are included in the amount charged for the feed.” A.A. 39. Appellant’s incidental and unaccounted for services do not transform the retail value of the feed itself into a \$600,000.00 worth of feeder’s services.¹⁰ As correctly determined by the District Court, Appellant’s claim remains the unpaid retail cost of the feed supplied, and Appellant can only claim a livestock production input lien.

Appellant claims that the reference in the feeder’s lien provision to “medical or surgical treatment” services suggest that veterinarians can claim two separate liens, and therefore so can feed suppliers who “contribute” to the “feeding” of the livestock.

⁹ With respect to nutritionist and similar services, Appellant offered no evidence to show which barn location benefited from the services, the value of those services beyond the feed cost, and whether it perfected its lien within 60 days after it last performed services. Appellant’s invoice history provided no details in this respect. R.A. 58

¹⁰ In any event, Appellant overstates its lien claim. The Livestock Lien Statute limits the amount of the lien to the livestock serviced or its proceeds. MINN. STAT. § 514.966, subd. 5. Thus, Appellant can only claim a lien for the value it provided to the specific livestock sold in June, 2010. It cannot claim a lien against those proceeds for charges incurred for feed provided to other livestock that was not part of that sale. Appellant’s invoices for 2010 (which include invoices for the six months prior to the sale) show feed deliveries totaling \$44,054.66 mostly to the Evers barn.

Appellant further argues that because no other party but a licensed veterinarian can legally perform “medical or surgical treatment,” the Legislature intentionally provided two levels of recourse to veterinarians and therefore feed suppliers should receive similar treatment. In support of this assertion, Appellant cites Section 156.10 of the Minnesota Statutes, which criminalizes the practice of veterinary medicine without a license.

The argument is unpersuasive, and relies on a faulty premise because the law permits non-veterinarians to practice certain medical and surgical procedures. As noted in the Section 156.12 of the Minnesota Statutes, the practice of veterinary medicine “shall not be construed to include the dehorning of cattle and goats or the castration of cattle, swine, goats and sheep, or the docking of sheep.” A – 34. By statute, non-veterinarian caregivers can perform certain medical and surgical services, and therefore there is a basis for the Legislature to include these services in the list of services secured by a feeder’s lien.

There would be little harm if veterinarians could also claim a feeder’s lien since it is of lower priority than a veterinarian’s lien, but remains prior to the claims of feed suppliers and lenders. On the other hand, allowing a feed supplier to claim a feeder’s lien for the retail value of the feed supplied could give that supplier priority over a lender without requiring that supplier to comply with the notification requirements of the Livestock Lien Statute. Such interpretation would defeat the Legislature’s detailed notification provisions. This Court must give effect to the entire Livestock Lien Statute and cannot eliminate entire provisions of that statute.

The Livestock Lien Statute creates two tracks, one for those whose claims are based primarily on supplying feed, which is the livestock production input track, and the other for those who provide services in caring and storing for or otherwise contributing to the keeping, feeding, pasturing or other care of the livestock. Appellant's claim for a feeder's lien for the retail value of the feed provided, without complying with the notice requirements of the livestock production input portion of the statute, would render moot, unnecessary, and superfluous the entire subdivision of the Livestock Lien Statute related to livestock production inputs. To avoid such a result, this Court must therefore affirm the District Court's Order finding that Appellant's recourse is a livestock production input lien and that Appellant's claim is subject to the priority of Respondent's lien.

III. The District Court Correctly Dismissed the Tort Claims Brought Against Respondent

The District Court correctly dismissed Appellant's tort claims against Respondent based on violations of the UCC because Appellant made no showing in this litigation with respect to damages. Appellant also failed to establish a perfected priority lien, which pushes its lien claim to the end of the line. Similarly, Appellant failed to demonstrate facts warranting a remedy for conversion or unjust enrichment.

A. The District Court Correctly Dismissed Appellant's Claim That Respondent Violated the Uniform Commercial Code

The District Court dismissed Appellant's claim that the Respondent violated the Uniform Commercial Code in selling Profit Pork's livestock. The District Court held that Appellant alleged no damages with respect to Respondent's acts, relying on *Chemlease Worldwide, Inc. v. Brace, Inc.*, 338 N.W.2d 428, 437 (Minn. 1983), which held, "once the

debtor establishes that the sale was commercially unreasonable *because of failure to give commercially reasonable notice of sale* and alleges an amount of loss incurred, it seems to us reasonable to require the secured party to prove that the debtor suffered less or no loss by disposition.” (emphasis added).¹¹ *Chemlease* further states, “once the secured party makes a *prima facie* case indicating that the debtor did not suffer the damage alleged, the burden of persuasion but not the burden of proof would shift to the debtor.” Further, “allegations that a better price could theoretically have been obtained at a different time or through a different method of sale alone are insufficient to raise a factual issue as to commercial reasonableness.” *Ford Motor Credit Co. v. Hertzberg*, 511 N.W.2d 25, 27 (Minn. App. 1994). A creditor conclusively establishes commercial reasonableness to the extent it sold the collateral “otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.” MINN. STAT. § 336.9-627(b)(3). Further, comments to Section 627 of Article 9 of the UCC state that the action in the list under Section 627(b) by which a creditor can conclusively establish commercial reasonable is “not required or exclusive.” MINN. STAT. § 336.9-627, Comment 4.

The District Court correctly applied the Minnesota Supreme Court’s holding in *Chemlease Worldwide* because Appellant’s allegations with respect to damages were conclusory, theoretical and never supported by specific calculations or facts

¹¹ Respondent emphasizes certain words from *Chemlease Worldwide* which were words the District Court omitted when it quoted from *Chemlease Worldwide*. A - 21. As noted below, the District Court previously found that Respondent’s notice of sale was reasonable under the circumstances.

demonstrating that Respondent failed to reasonably maximize recovery. As found by the District Court, Respondent's priority claim on the date of the sale exceeded \$1.2 million, nearly twice the amount recovered on the sale of livestock. A-21. Appellant failed to provide a reasonable theory supported by plausible facts to demonstrate that Respondent could have doubled the net livestock sale. Respondent offered hard evidence of six separate bids from five livestock producers which valued the herd as a whole at around \$600,000. Respondent established a *prima facie* case that its conduct did not damage Appellant.

Although the District Court dismissed Appellant's claim against Respondent on this issue, the District Court commented that Respondent did not establish a *prima facie* case that it disposed of the livestock in a commercially reasonable manner. Respondent disagrees with this finding. At the summary judgment hearing, Respondent primarily relied on the District Court's prior order approving the sale of livestock, which specifically stated that:

The Court also finds that the sales notice served by [Respondent] complied with Sections 610 through 615 of Article 9 of the UCC found in Minnesota Statute Chapter 336.9. Given the nature of the [livestock] and the need to preserve [the livestock] through prompt disposition, [Respondent's] notice of private sale that it mailed to Profit Pork, LLC, its co-obligors indebted to [Respondent], and other creditors of Profit Pork, LLC on June 22 or otherwise faxed or delivered after that date, were sent in a commercially reasonable period of time prior to any sale occurring after June 28, 2010.

As noted in Section 336.9-627(c) of the Minnesota Statutes, "a collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved (1) in a judicial proceeding."

Appellant argued to the District Court that in order to show a *prima facie* case, Respondent had to provide detailed evidence of how it marketed the livestock, whether it obtained an appraisal, and evidence as to the market price of similar hogs in the area, and cites *Karlstad State Bank v. Fritsche*, 374 N.W.2d 177, 181 (Minn. App. 1985). *Karlstad State Bank*, however, does not mandate a secured creditor to obtain these items prior to a sale, but rather *Karlstad State Bank* states that “the issue of whether a sale is commercially reasonable is a question of fact.” *Id.* at 181; MINN. STAT. § 336.9-627, Comment 4.

Appellant’s main thrust is not that the value obtained by the sale was inadequate at the time, but that Respondent should have waited several months until the livestock was fully grown.¹² A.A. 60. To the extent it disagreed with moving forward with the sale Appellant had an opportunity to persuade the District Court at the time of the sale motion. Further, under MINN. STAT. § 336.9-625(a), “if it is established that a secured party is not proceeding in accordance with this article, a court may order or restrain collection, enforcement, or disposition of the collateral on appropriate terms or conditions.” The District Court approved the sale in consideration of this factor and found that the livestock health necessitated the sale. Respondent believes that the sale order establishes commercial reasonableness in this case given the facts and circumstances present.

¹² During the mediation in this case, the Minnesota Legislature amended the Livestock Lien Statute and created a temporary livestock production input lien which allows for a supplier to furnish livestock production inputs after the commencement of farmer-lender mediation. *See* MINN. STAT. 514,966, Subd. 3a; A – 28. A supplier can prime a lender’s lien against the livestock which receives feed during the first 45-days of the mediation. *Id.* Subd. 3a(c).

Lastly, the District Court failed to credit several factors which validated the price received by Respondent as well as evidence from which the District Court could infer Respondent otherwise sold the livestock “in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition” or otherwise find that Respondent made a *prima facie* showing of commercial reasonableness. MINN. STAT. § 336.9-627(b)(3). First, Respondent contacted other livestock producers to solicit bids and received six bids from five livestock production companies in the matter of a week.¹³ This is not the case where Respondent privately sold the livestock to a party without any marketing, or accepted a lower bid in the face of a better offer. *See, e.g., Hertzberg*, 511 N.W.2d at 27 (holding where seller knew of a better offer than the accepted price, obligor raised an issue of fact as to whether seller sold the collateral in a commercially reasonable manner). Similar to an appraiser, several different producers inspected the livestock and placed competitive bids which were generally around \$600,000 in value.

Second, Respondent discussed the bids with Profit Pork’s principals, and, as co-obligors potentially responsible for any deficiency, they agreed to sell the livestock for the best and highest offer based on the bids received by Respondent. They indicated that Profit Pork had no ability to continue caring for the livestock. Moreover, even when Profit Pork sold livestock in the weeks prior to the sale, certain creditors refused to sign the checks, which escalated Profit Pork’s liquidity crisis.

¹³ As demonstrated on the checks paid to Respondent, the purchasers of the livestock operate in Waucoma, Iowa (in northern Iowa) and Rushmore, Minnesota (in southwest Minnesota). A.A. 55.

Third, time was of the essence because of the deteriorating health of the herd. Respondent also discussed the matter with Profit Pork's creditors, and out of over a dozen creditors only Appellant has formally claimed that Respondent acted imprudently. The District Court approved the abbreviated notice provided by Respondent in light of the facts and circumstances which showed increasing peril to Profit Pork's living collateral.

Considering the factors above, Respondent established a *prima facie* record that its disposition of the livestock was commercially reasonable.

B. The District Court Correctly Dismissed Appellant's Conversion Claim

Appellant does not have a valid conversion claim. A conversion results from a party's "exercise of dominion over the goods which is inconsistent with and in repudiation of the owner's right to the goods or some act done which destroys or changes their character or deprives the owner of possession permanently or for an indefinite length of time." *Bloomquist v. First National Bank of Elk River*, 378 N.W.2d 81, 86 (Minn. App. 1986). Further, conversion is an "act of willful interference with [the personal property] of another done without lawful possession." *See Christensen v. Milbank Ins. Co.*, 658 N.W.2d 580, 585 (Minn. 2003), *citing Larson v. Archer-Daniels Midland Co.*, 32 N.W.2d 649, 650 (Minn. 1948). The Minnesota Supreme Court in *Christensen* recently cited with approval the Restatement (Second) of Torts § 223 cmt. b. which addresses the intent requirement for a conversion. *See Christensen* at 586. As stated in the Restatement:

It is not necessary that the actor intend to commit what he knows to be a trespass or conversion. It is, however, necessary that his act be one which he knows to be destructive of any outstanding possessory right, if such there be.

As an initial matter, Appellant must first prove it has some interest in property that Respondent interfered with. Appellant's attempt to establish a feeder's lien fails in this regard per the reasons previously discussed, Appellant failed to provide notice of a livestock production input lien.

In addition, the District Court correctly found that Respondent acted with lawful justification in selling the livestock after receiving permission from the District Court to do so. Appellant has failed to provide sufficient facts to meet the basic elements of a conversion on the part of Respondent.

C. The District Court Correctly Dismissed Appellant's Claim for Unjust Enrichment

Appellant's claim for unjust enrichment lacks merit. A claim for unjust enrichment generally has three elements: (1) the defendant knowingly received or obtained something of value; (2) the defendant was not entitled to receive it; and (3) the circumstances are such that it would be unjust for the defendant to retain it. *ServiceMaster of St. Cloud v. GAB Business Services, Inc.*, 544 N.W.2d 302, 306 (Minn. 1996). To prevail on a claim, Appellant must show more than simply that the Respondent benefitted from the efforts or obligations of others. *ServiceMaster*, 544 N.W.2d at 306. *First Nat'l Bank of St. Paul v. Ramier*, 311 N.W.2d 502, 504 (Minn. 1981). Appellant must further prove that the defendant was "unjustly" enriched in the sense that it profited as a result of illegal, unlawful, unconscionable, or immoral conduct,

or as a result from fraudulent inducement. *ServiceMaster*, 544 N.W.2d at 306; *Ramier*, 311 N.W.2d at 504; *Schumacher v. Schumacher*, 627 N.W.2d 725, 729-30 (Minn. App. 2001).

Appellant fails to provide any evidence that Respondent acted illegally, unlawfully, unconscionably, or immorally. There is also no evidence that Respondent ever committed fraud or induced Appellant into its current position. When assessing an equitable count such as unjust enrichment, Appellant's own actions in the case should also be considered. Appellant could have provided a lien notification statement, and sought either some degree of protection as did New Vision.

The existence of a clear statutory remedy available to Appellant defeats its unjust enrichment claim. Unjust enrichment is an equitable remedy, and generally equitable remedies are unavailable to a plaintiff where there is an adequate legal remedy that the plaintiff could pursue. *Borom v. City of St. Paul*, 184 N.W.2d 595, 598 (Minn. 1971); *Michael-Curry Cos. V. Knutson Shareholders Liquidating Trust*, 423 N.W.2d 407, 410 (Minn. App. 1988). Equitable claims are available, "only upon a showing of the inadequacy of any legal remedy." *Zimmerman v. Lasky*, 374 N.W.2d 212, 214 (Minn. App. 1985). Here, Appellant had the ability to assert a legal remedy in the form of a livestock input production lien but failed to timely pursue that remedy. Appellant's failure to pursue that remedy did not result from any action by Respondent. As correctly noted by the District Court, Appellant and Respondent "were in the same boat drifting down the river of Profit Pork's financial woes...each party is responsible for the terms

and conditions of its respective credit arrangement with Profit Pork and the risks associated therewith.”

As a result of the above, the Court should affirm the District Court’s dismissal of an unjust enrichment claim.

CONCLUSION

Similar to the Uniform Commercial Code, the Livestock Lien Statute provides specific rules which govern commercial rights and remedies as between lenders and feed suppliers. Parties must strictly comply with those rules in order to obtain the benefits thereunder. In this case, the Court can apply those rules in a straight-forward matter, which results in dismissal of Appellant’s claims, and a finding that Respondent’s lien enjoys priority over Appellant’s claim against the livestock proceeds. The District Court correctly applied these rules and Appellant makes no further showing on appeal to require reversal or remand. This Court should therefore affirm the District Court’s Order of March 29, 2011.

Dated: February 14, 2012

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ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded pursuant to *MINN. STAT. Sec. 549.211, Subdivision 1*, to the party against whom the allegations in this pleading are asserted.

Dated: February 14, 2012



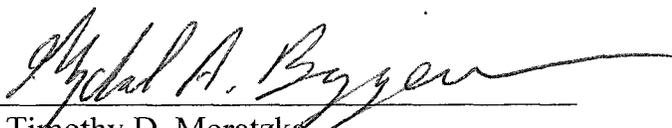
Mychal A. Bruggeman

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the type-volume limitations of Minn. R. App. Pro. 132.01, subds. 1 and 3, contains 8,734 words and was prepared using Microsoft Office Word 2007.

Dated this 14th day of February, 2012.

MACKALL, CROUNSE & MOORE, PLC

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