

**APPELLATE COURT CASE NUMBER A12-335**

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**STATE OF MINNESOTA  
IN COURT OF APPEALS**

IN RE THE ESTATE OF:  
JOHN KENNETH RUTT, a/k/a JOHN K. RUTT  
and JOHN RUTT, DECEASED

**APPELLANTS' BRIEF AND APPENDIX**

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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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## LEGAL ISSUES

**I. WHETHER THE TRIAL COURT, IN ITS DECEMBER 21, 2011, ORDER FOR JUDGMENT, ERRED BY APPLYING AN INTEREST RATE OF TEN PERCENT (10%) FROM THE DECEDENT'S DATE OF DEATH ON JUDGMENT NO. 2, AND BY APPLYING AN INTEREST RATE OF TEN PERCENT (10%) ON JUDGMENT NO. 3.**

The Trial Court RULED that "Interest rate to be applied - the interest rate on two portions of the awarded judgments is calculated at ten percent (10%) per annum given the date of entry and amount."

In its Memorandum of the March 31, 2011, Order, and in its December 21, 2011, Order for Judgment, the Trial Court applied an interest rate of ten percent (10%) per annum to Judgment No. 2 from the Decedent's date of death, September 10, 2006, and applied an interest rate of ten percent (10%) per annum to Judgment No. 3.

Most apposite cases and statutory provisions:

*Alpine Glass, Inc. v. American Family Insurance Company*, 789 F.Supp.2d 1148 (D. Minn. 2010)

Minn. Stat. §549.09 (Text of Involved Statute on A.51 of Appendix)  
Chapter 83, Article 2, Section 35 of the 2009 Session Laws. (Text of Involved Session Law on A.54 of Appendix)

**II. WHETHER THE TRIAL COURT, AFTER THE COURT OF APPEALS OCTOBER 12, 2010, DECISION, ERRED IN REFUSING TO HEAR EVIDENCE THAT THE VALUATION OF THE REAL PROPERTY ADOPTED BY THE TRIAL COURT CONTAINED MISTAKES, AND ITS USE OF THAT VALUATION IN DETERMINING THE ACCOUNT RECEIVABLE OWED BY APPELLANT DAVID J. RUTT WOULD CONSTITUTE A HARDSHIP TO HIM AND A WINDFALL TO OTHER HEIRS/DEVISEES.**

The Trial Court RULED that "Re-appraisal of the cabin and lakeshore property--contrary to the position taken by Peter and David, the Court decided that issue as part of its Order dated August 20, 2009, further, the Court of Appeals in affect (*sic*) affirmed that a decision under III and IV

(pages 14-16) of its decision dated September 30, 2010;"

In its Memorandum of the March 31, 2011, Order, and in its December 21, 2011, Order for Judgment, the Trial Court denied Appellant's request for the Trial Court to hear evidence that the valuation by the Trial Court contained mistakes, and would constitute a hardship to Appellant David J. Rutt and a windfall to other heirs/devisees.

**III. WHETHER THE TRIAL COURT ERRED IN REFUSING TO ASSIST IN RESOLVING THE ISSUE OF DISPOSITION OF TANGIBLE PERSONAL PROPERTY.**

The Trial Court RULED "there is no order which mandates the sale of personal property, just in (*sic*) exchange as ordered earlier."

In its Memorandum of the March 31, 2011, Order, and in its December 21, 2011, Order for Judgment, the Trial Court declined to assist in resolving the issue of disposition of tangible personal property.

**STATEMENT OF THE CASE**

This matter was before the Honorable Richard C. Perkins, Judge of District Court, County of Carver, First Judicial District, on February 1, 2011, as the result of the remand from the Court of Appeals decision filed October 12, 2010. ADD.1.

On March 31, 2011, the Trial Court entered an Order formally appointing a successor personal representative. In a Memorandum to the Order, the Trial Court made conclusions regarding "issues presented at the February 1, 2011 hearing and subsequent submissions." ADD.1.

In its Order for Judgment entered December 21, 2011, the Trial Court ordered three (3) judgments against Appellant David J. Rutt, one (1) judgment

against Peter F. Rutt, and one (1) judgment against David J. Rutt and Peter F. Rutt, jointly and severally. ADD.4. In Judgment No. 2 of the Order, the Trial Court applied the ten percent (10%) per annum interest rate from the Decedent's date of death, September 10, 2006, and in Judgment No. 3 of the Order, the Trial Court applied the ten percent (10%) per annum interest rate. ADD.4. By entry of the December 31, 2011, Order for Judgment, the Trial Court gave effect to its conclusions as stated in the Memorandum to the March 31, 2011, Order. A.49.

## **STATEMENT OF FACTS**

John Kenneth Rutt, a/k/a John K. Rutt and John Rutt, died on September 10, 2006, and was survived by eight (8) children, including Appellants David J. Rutt and Peter F. Rutt and Respondents Carol Breeggemann, JoAnne Ege, Jeanette Hentges, Marsha Markstrom, Rosemary Schmitt, and Paula Corrigan. A.11.

On January 5, 2009, the Personal Representative filed a supplemental Final Account and a Petition to complete settlement of the Estate. A.12. After it held an Evidentiary Hearing on the Final Account, the Trial Court entered an Order on Motions on August 20, 2009, which among other things, directed that the Personal Representative shall file an amended supplemental inventory and final account, and that the supplemental inventory may include as additional estate assets:

(a) An account receivable owed by Appellant David J. Rutt, in the amount of \$13,500.00, to reflect the sale price and value of a 1999 Chevrolet

handicap equipped van, the sale proceeds of which were retained by David J. Rutt;  
and

(b) An account receivable owed by Appellants David J. Rutt and/or Peter F. Rutt, in the amount of \$73,592.00, to reflect funds deposited into an account with Voyager Bank by the Decedent prior to his death, which were "comprised of the \$6,800.00 trailer sale proceeds, \$50,000.00 mortgage withdrawal or 'payment' and \$16,792.00 deposited as part of medical assistance eligibility plan" retained by Appellants; and

(c) An account receivable owed by Appellant David J. Rutt regarding the cabin and lakeshore property in Cass County to reflect \$80,000.00 for the difference between the Court-determined market value and the price paid by Appellant David J. Rutt to the Decedent for real property. A.1, 2.

On October 27, 2009, the Trial Court entered an Order and Judgment approving the personal representative's amended supplemental inventory, awarding attorney's fees against Appellants, and addressing the accounts receivable against Appellants. A.7, 8.

On December 16, 2009, Appellants in this appeal filed a Notice of Appeal of the Trial Court's October 27, 2009, Order and Judgment. Court of Appeals Case No. A09-2336. The Court of Appeals issued an unpublished opinion in connection with that appeal on October 12, 2010. A.10. Among other things, the Court of Appeals in its decision concluded that the Trial Court's "decision to deny additional

evidence was not an abuse of discretion." A.23. The Court of Appeals concluded that the District Court's valuation finding of the lake property "is not clearly erroneous." A.25. The Court of Appeals reversed and remanded the District Court's award of attorney's fees to the Respondents in that appeal. A.25.

On February 1, 2011, the Trial Court held a hearing on the remand and entered an Order on March 31, 2011, entitled "Order of Formal Appointment of Successor Personal Representative." ADD.1. Attached to the Order was a Memorandum with conclusions regarding "issues presented at the February 1, 2011, hearing and subsequent submissions" which included in part:

1. Discharge of McKendrick as personal representative prior to sale of personal property--there is no order which mandates the sale of personal property, just in exchange as ordered earlier;
3. Re-appraisal of the cabin and lakeshore property--contrary to the position taken by Peter and David, the Court decided that issue as part of its Order dated August 20, 2009, further, the Court of Appeals in affect (*sic*) affirmed that decision under III and IV (pages 14-16) of its decision dated September 30, 2010; and
4. Interest rate to be applied - the interest rate on two portions of the awarded judgments is calculated at ten percent (10%) per annum given the date of entry and amount; the lesser rate for the van generated judgment also conforms to law.

ADD.2, 3.

On December 21, 2011, the Trial Court entered an Order for Judgment, wherein it ordered three judgments against Appellant David J. Rutt (Judgment No.

1 re Van, Judgment No. 2 re House, and Judgment No. 4 re Personal Property), one judgment against Peter F. Rutt (Judgment No. 5 re Personal Property), and one judgment against David J. Rutt and Peter F. Rutt, jointly and severally (Judgment No. 3 re Voyager Account). ADD.4. In Judgment No. 2 and Judgment No. 3, the Trial Court applied the ten percent (10%) per annum interest rate. ADD.3. The Order for Judgment also gave effect to the Trial Court's conclusions stated in the Memorandum to the March 31, 2011, Order. A.49.

## ARGUMENT

**I. IN ITS DECEMBER 21, 2011, ORDER FOR JUDGMENT, THE TRIAL COURT ERRED BY APPLYING AN INTEREST RATE OF TEN PERCENT (10%) FROM THE DECEDENT'S DATE OF DEATH ON JUDGMENT NO. 2, AND BY APPLYING AN INTEREST RATE OF TEN PERCENT (10%) ON JUDGMENT NO. 3.**

Minn. Stat. §549.09 pertains to interest on verdicts, awards, and judgments.

Prior to August 1, 2009, the interest rate on judgments or awards was the same regardless of the amount of the judgment or award. In 2009, the statute was amended to establish different interest rates based upon whether the judgment was \$50,000 or less, or was more than \$50,000. Chapter 83, Article 2, Section 35 of the 2009 Session Laws.

The effective date of the section was "August 1, 2009, and applies to judgments and awards finally entered on or after that date." Subdivision 1(c)(1) provides that on judgments and awards of \$50,000 or less, "the interest shall be

computed as simple interest per annum" which rate "shall be based on the secondary market yield of one year United States Treasury bills calculated on a bank discount basis as provided in this section." Subdivision 1(c)(2) provides that the interest rate on judgments and awards over \$50,000 "shall be ten percent per year until paid."

Minn. Stat. §549.09, Subdivision 1(b) addresses "preverdict, preaward, or prereport interest on pecuniary damages" and provides that "damages" shall be computed "from the time of commencement of the action or a demand for arbitration, or the time of a written notice of claim, whichever occurs first, except as provided herein."

In the Order for Judgment entered on December 21, 2011, the Trial Court applied an interest rate of ten percent to Judgment No. 2 from the Decedent's date of death, September 10, 2006, and applied an interest rate of ten percent to Judgment No. 3. Judgment No. 2 arose from the Trial Court's establishment of an account receivable of \$80,000.00 in its Orders entered on August 20, 2009, and October 27, 2009. A.2. This account receivable was against Appellant David J. Rutt for the difference between the Court-determined market value and the price paid by David J. Rutt to Decedent for the cabin and lakeshore property. *Id.* Judgment No. 3 arose from a Court-established account receivable of \$73,592.00 comprised of three claims against Appellants David J. Rutt and Peter F. Rutt. *Id.*

**A. Interest on Judgment No. 2 should not accrue from September 10, 2006, the date of Decedent's death.**

Under Minn. Stat. §549.09, Subd. 1(b), interest shall accrue "from the time of commencement of the action or a demand for arbitration, or the time of a written notice of claim, whichever occurs first, except as provided herein." In the instant case, Decedent died on September 10, 2006, and the Court adopted the date of death as the date from which interest should accrue.

While it is true that a probate estate comes into existence on the date of death, the purpose of a probate proceeding is to administer the payment of debts and transfer of assets of the decedent. At the time of commencement of the probate estate in the instant case, the personal representative had no plans to pursue a claim against Appellant David J. Rutt regarding the transfer of the cabin and lakeshore property.

Notice of the "claim" against Appellant David J. Rutt was not given to him by the personal representative until the close of the Court's evidentiary hearing held on March 24, 26, and April 7, 2009. A.18. Prior to that time, the Personal Representative had not challenged the transfer to Appellant David J. Rutt of the Decedent's cabin and lakeshore property.

This means that notice of the claim was not given to Appellant David J. Rutt until April 2009, approximately 32 months, or 2.75 years, **after** the date of accrual of interest established by the Trial Court. It is unreasonable and unfair to use the

date of commencement of the probate estate as the trigger date for commencing pre-judgment interest in the instant case.

In most circumstances, the person against whom a claim is being brought will have written notice of the claim no later than the date of commencement of the action. The statute refers to "whichever occurs first" because it is possible that written notice of a claim may be given prior to commencement of an action. In the instant case, however, Appellant David J. Rutt had no written notice of a claim at the time of commencement of the probate estate because the personal representative, the fiduciary with the power to bring such a claim, had no plans to bring a claim regarding the transfer of the cabin and lakeshore property. The personal representative did not decide to bring such a claim until 2.75 years later.

Assuming, *arguendo*, that the \$80,000 account receivable on which Judgment No. 2 is based is a correct amount, the Trial Court has, thus, improperly included 2.75 years of pre-judgment interest in its December 21, 2012, Order for Judgment with respect to Judgment No. 2 therein. Clearly, pre-judgment interest should not begin to accrue until April 7, 2009, the date on which Appellant David J. Rutt first had written notice of a claim regarding transfer of the cabin and lakeshore property.

- B. With respect to Judgment No. 3, the Trial Court may not combine the three claims which comprise the total account receivable against Appellant David J. Rutt and Appellant Peter F. Rutt in order to exceed the \$50,000 threshold needed to apply the ten percent interest rate.**

Judgment No. 3 in the Trial Court's December 21, 2011, Order for Judgment arose out of the Trial Court's creation (in its August 20, 2011, Order on Motions) of an account receivable in the total amount of \$73,592.00 as an additional estate asset. A.2. Paragraph 1(b) of the Court's Order provides:

- (b) \$73,592.00, which represents funds of Decedent deposited into an account with Voyager Bank, the same having been retained by David J. Rutt and/or Peter F. Rutt; this total is **comprised of** the \$6,800.00 trailer sale proceeds, \$50,000.00 mortgage withdrawal or "payment" and \$16,792.00 deposited as part of medical assistance eligibility plan; this amount shall be listed as an account receivable due the estate from David J. Rutt and Peter F. Rutt, joint and several. (Emphasis added.)

Clearly, the total of \$73,592.00 was "**comprised of**" three claims, each of which was \$50,000.00 or less. Thus, the correct interest rate to be applied under the statute in the instant case is "simple interest per annum . . . based on the secondary market yield of one year United States treasury bills." Minn. Stat. §549.09, Subdivision 1(c)(1).

This inability to aggregate multiple claims to cross the \$50,000 threshold value of Subdivision 1(c)(2) was recognized in *Alpine Glass, Inc. v. American Family Insurance Company*, 789 F.Supp.2d 1148 (D. Minn. 2010). In the *Alpine* case, the U.S. District Court, District of Minnesota, rejected the arbitrator's use of the ten percent interest rate on the basis that each underlying claim was separate and none of the claims met the \$50,000.00 threshold. *Id.* at 8-9.

**II. THE TRIAL COURT, AFTER THE COURT OF APPEALS OCTOBER 12, 2010, DECISION, ERRED IN REFUSING TO HEAR EVIDENCE THAT THE VALUATION ADOPTED BY THE TRIAL COURT CONTAINED MISTAKES, AND ITS USE OF THAT VALUATION IN DETERMINING THE ACCOUNT RECEIVABLE OWED BY APPELLANT DAVID J. RUTT WOULD CONSTITUTE A HARDSHIP TO HIM AND A WINDFALL TO OTHER HEIRS/DEVISEES.**

In its decision filed October 12, 2010, the Court of Appeals reviewed Appellants' request to submit additional evidence in response to the personal representative's change in position, specifically, to pursue a claim against Appellant David J. Rutt regarding the transfer of the cabin and lakeshore property. The Court of Appeals concluded that "the district court's decision to deny additional evidence was not an abuse of discretion." A.23.

In the October 12, 2010, decision, the Court of Appeals also reviewed Appellant David Rutt's contention that the valuation of the cabin and lakeshore property was erroneous because he had "argued to the district court that the home is worth less than the appraised value, citing the lower value assigned by taxing authorities and the difficulty of appraising lake property in northern Minnesota." A.24. The Court of Appeals concluded that "the district court's valuation finding is not clearly erroneous." A.25.

The Court of Appeals reversed the attorney-fee judgment against Appellants and remanded the case for further proceedings, "which may include amendment of the final accounting to reflect the attorney-fee award." A.25. At the remand hearing held on February 1, 2011, Appellant David J. Rutt's then-counsel informed

the district court that a "mistake" was made on the value of the cabin adopted by the Court in the 2009 Orders. T.4.

In a subsequent submission to the district court, Appellant's then-counsel further explained that Appellant had an "additional appraisal dated as of May 5, 2005 which showed a significantly reduced value." A.34. She further reported that two qualified appraisers had reviewed the appraisal used by the Court. Appellant's then-counsel reported that one of the appraisers would state that "mistakes that were made in the 2005 appraisal, which were apparent on the face of the appraisal." A.34-35.

For example, the "comparables" in the appraisal used by the Court "were on different lakes, which affects the value of the property, and all of the lots had greater lakeshore, the primary basis for valuing a lake home, than the Rutts' property--167 feet, 158 feet, and 118 feet of lakeshore, versus 100 feet of lakeshore at the Rutts'." A.35. In addition, the comparable houses were "considerably newer than the property in the Estate--the Rutt house was built in 1973, while Comparable Number One was built in 1983, Comparable No. 2 was built in 1981, and Comparable No. 3 was built in 1979." *Id.*

By informing the Court that the valuation it adopted contained mistakes, Appellant David J. Rutt was not ignoring the Court of Appeals ruling that the Trial Court's valuation of the cabin and lakeshore property was not clearly erroneous. Similarly, he was not ignoring the Court of Appeals ruling that the Trial Court did

not abuse its discretion in denying additional evidence. Rather, Appellant was informing the Court that there was evidence of mistakes, which in the interest of fairness and justice should be brought to the Court's attention for review and consideration. This was information which directly related to the correctness of the valuation adopted by the Court.

The district court would not entertain the evidence by stating that it was "not going to readdress something that has been decided and passed upon by the Court of Appeals." T.4-5. In the Memorandum in its March 31, 2012, Order, the Court referred to Appellant's request as wanting "Re-appraisal of the cabin and lakeshore property" and stated the Court had "already decided that issue." ADD.3. In the 2009 Orders, the Court adopted a value of the cabin and lakeshore property based on the Court's own motion by using an appraisal prepared in connection with securing a home equity line of credit in 2005. A.34.

At the remand hearing and in the submissions in connection therewith, Appellant David J. Rutt was not requesting "re-appraisal" but was bringing to the Court's attention that the appraisal adopted by the Court contained mistakes, which one appraiser would state "were apparent on the face of the appraisal." *Id.* Given that the Court in the 2009 evidentiary hearing had on its own motion adopted a value from just one appraisal, the Court should not have concluded that Appellant David J. Rutt was attempting "re-appraisal" but, rather, was bringing to the Court's attention mistakes in the appraisal it had used, which gave the Court the

opportunity to review the valuation issue **before** final judgment was entered.

The district court should have allowed evidence of the mistakes in the appraisal it used to establish the value of the cabin and lakeshore property. As Appellants' counsel argued in her February 23, 2011, submission to the Court, use of an appraisal that contained mistakes "resulted in a very high valuation which David would not have paid for the cabin." A.35. Thus, the Court's refusal to hear evidence of mistakes in the appraisal it used created a hardship to Appellant.

In the February 23, 2011, submission to the district court, Appellant's then-counsel also argued that "If the account receivable method is used based on the May 5, 2005 appraisal, the daughters will be receiving a windfall that I do not believe was intended." *Id.* Since the daughters will receive substantially more than the property was actually worth, they will receive a windfall. It would be unjust for the daughters to retain such a benefit. The hardship to Appellant and windfall to the daughters could have been avoided had the district court simply been willing to hear evidence of the mistakes in the appraisal it used to establish the value of the cabin and lakeshore property.

As also noted by Appellant's then-counsel in her February 23, 2011, submission to the Court, "the Court of Appeals stated David made no complaint that he could not pay the amount due or that it was unduly burdensome." A.36. Counsel then argued that "Before that statement was made, there had been no forum to present the facts that this 'remedy' is unduly burdensome and that David

cannot make the payment."

It was at the conclusion of the evidentiary hearing when the personal representative asked for leave to amend the inventory to include as an additional asset the cabin and lakeshore property that had been transferred to Appellant. The Court then denied Appellant's request for time for discovery and to submit additional evidence. Thus, Appellant had no forum to "complain" that he could not pay the amount or that it was unduly burdensome. As Appellant's counsel requested in the submissions following the remand hearing, the district court should have allowed evidence of the hardship upon Appellant. Instead, it used the October 12, 2010, Court of Appeals decision as an excuse to avoid further proceedings, however just and appropriate they might be.

**III. THE TRIAL COURT ERRED IN REFUSING TO ASSIST IN RESOLVING THE ISSUE OF DISPOSITION OF TANGIBLE PERSONAL PROPERTY.**

In submissions to the district court in connection with the remand hearing held on February 1, 2011, Appellants' then-counsel requested the Court's assistance with resolving the disposition of the tangible personal property. A.27, A.28, A.30-33. Decedent's sons and daughters had gone through a bidding process, which became problematic, and resulted in a rebidding process. Since part of the relief resulting from the remand hearing was the proposed discharge of Mary McKendrick as personal representative, Appellant's then-counsel argued that

disposition of the tangible personal property should be resolved, and suggested an auction for the property "still at the lake home." A.27.

In another submission, Appellants' then-counsel informed the Court:

I cannot tell from the various letters and e-mails who is claiming what property (see my email to Philip Krass dated January 10, 2011, Mr. Krass' email to me dated January 10, 2011, Jeanette's email dated January 10, 2011, and Mr. Krass' email to me dated January 11, 2011). These summarize the current state of ownership of the personal property and show it as being very uncertain.

A.28. The district court's response to Appellants' request was stated in the conclusions in the Memorandum to the district court's March 31, 2011, Order: "there is no order which mandates the sale of personal property, just in (*sic*) exchange as ordered earlier." In other words, the district court simply refused its assistance in resolving the disposition of the tangible personal property.

The district court's refusal to assist was inappropriate given that the probate proceeding was a formal, supervised proceeding with a history of acrimony and litigation between the Decedent's sons and daughters. As further evidence of the difficulty in disposing of the personal property, the property was still not disposed of at the end of 2011, which resulted in the Court ordering Judgment No. 4 against Appellant David J. Rutt and Judgment No. 5 against Peter F. Rutt. ADD.4

## CONCLUSION

I. A. The Trial Court erred by applying an interest rate of ten

percent (10%) from the Decedent's date of death on Judgment No. 2. It is unreasonable and unfair to use the date of commencement of the probate estate as the trigger date for commencing prejudgment interest in the instant case. Notice of the claim against Appellant David J. Rutt was not given to him by the personal representative until the close of the Court's evidentiary hearing on April 7, 2009, approximately 2.75 years after the date of commencement. Prejudgment interest should not begin to accrue until April 7, 2009.

B. With respect to Judgment No. 3, the Trial Court may not combine the three claims which comprise the total account receivable against Appellant David J. Rutt and Appellant Peter F. Rutt in order to exceed the \$50,000 threshold needed to apply the ten percent interest rate. Thus, the correct interest rate to apply is simple interest per annum based on the secondary market yield of one year United States treasury bills.

II. When the Appellant informed the Court of mistakes in the appraisal upon which the Court based its valuation of the cabin and lakeshore property, the district court should have allowed Appellant David J. Rutt to present evidence of the mistakes. Use of an appraisal that contained mistakes resulted in a very high valuation, which Appellant would not have paid for the cabin. The district court should have allowed evidence of the hardship upon Appellant and the windfall to the other heirs/devisees.

III. The district court's refusal to assist in resolving the disposition of the

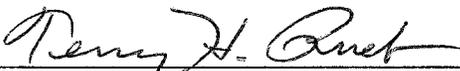
tangible personal property was inappropriate given that the probate proceeding was a formal, supervised proceeding with a history of acrimony and litigation between the Decedent's sons and daughters.

**Appellants respectfully request that the Trial Court's ruling be reversed as outlined herein.**

Respectfully submitted,

**RUEB & KARL LAW OFFICE**

Dated: 05-07-12

  
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IN COURT OF APPEALS

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In Re the Estate of:  
John Kenneth Rutt, a/k/a  
John K. Rutt and John Rutt,  
  
Deceased.

**CERTIFICATION OF BRIEF LENGTH**

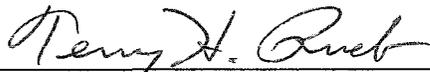
Trial Court File No. 10-PR-06-104  
Appellate Court Case No. A12-335

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I, Terry H. Rueb, counsel for Appellants, hereby certify that the Appellants' Brief conforms to the requirements of Minn. R. Civ. App. P. 132.01, Subds. 1 and 3, for a brief produced with a proportional font. The length of the Brief is 4,175 words. This Brief was prepared using Word Perfect for Windows 5.2, and contains 13-point Times New Roman.

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Dated: 05-07-12

  
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