

STATE OF MINNESOTA

IN COURT OF APPEALS

Appellate Court No. A05-0222

Terry L. Ittel and Gina L. Ittel,

Appellants,

vs.

Jerome Pietig and Pietig Bros., Inc.,

Respondents,

vs.

Bergstrom Stucco, Inc. and Scherer Bros.,
Lumber Company, and James Noreen
d/b/a Noreen Construction, David Moore, d/b/a Moore
Lathing and d/b/a David Moore Stucco,

Respondents,

**RESPONDENT DAVID MOORE, D/B/A MOORE LATHING AND D/B/A
DAVID MOORE STUCCO'S INFORMAL BRIEF**

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ARGUMENT

Respondent David Moore, d/b/a Moore Lathing and d/b/a David Moore Stucco argues that this Court should affirm the December 7, 2004 Order of the District Court, Gary Larson, Judge of Hennepin County District Court, Fourth Judicial District, County of Hennepin, State of Minnesota wherein the Court granted Respondent Pietig's Motion for Summary Judgment. Respondent David Moore, d/b/a Moore Lathing and d/b/a David Moore Stucco joined in Defendant Pietig's Motion for Summary Judgment.

By Supplemental Order dated January 18, 2005 the Honorable Gary Larson, Judge of Hennepin County District Court, Fourth Judicial District, County of Hennepin, State of Minnesota issued an Order dismissing all claims against Respondent David Moore, d/b/a Moore Lathing and d/b/a David Moore Stucco as well as all of the Respondents in this action.

By Judgment dated February 2, 2005, the District Court entered Judgment on Judge Larson's December 7, 2004 and January 18, 2005 Orders.

In its December 7, 2004 Order, the District Court appropriately found that the Release entered into between Respondent Pietigs and Appellants was a valid Release that precluded the claims brought in this litigation. The court further found that the Release was not in violation of Minn. Stat. § 327A.04 subd. 2.

Respondent David Moore, d/b/a Moore Lathing and d/b/a David Moore Stucco urges this Court to affirm the District Court's ruling in its Orders dated December 7, 2004, January 18, 2005 and the Judgment entered on February 2, 2005 all of which dismissed all claims against Respondent David Moore, d/b/a Moore Lathing and d/b/a David Moore Stucco.

Respondent David Moore, d/b/a Moore Lathing and d/b/a David Moore Stucco submits this informal brief rather than a formal brief as the interests of all Respondents is aligned with respect to seeking this Court's affirmation of the District Court's ruling. In the interest of judicial economy, Respondent David Moore, d/b/a Moore Lathing and d/b/a David Moore Stucco joins in those arguments that will be set forth in that formal brief urging this Court to affirm the District Court's Orders.

DATED: 4/4/05

JARDINE, LOGAN & O'BRIEN, P.L.L.P.

By: Mary P. Rowe

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STATE OF MINNESOTA)
) SS
COUNTY OF WASHINGTON)

Theresa L. McClellan, of the City of Lake Elmo, County of Washington, in the State of Minnesota, being duly sworn, says that on April 4, 2005, she served the annexed *Respondent David Moore, d/b/a Moore Lathing and d/b/a David Moore Stucco's Informal Brief* on:

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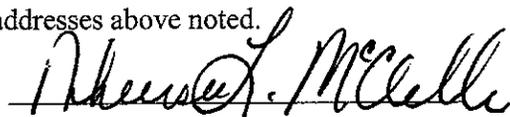
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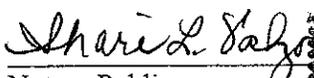
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by mailing a copy thereof directed to said parties at the addresses above noted.



Subscribed and sworn to before me on
April 4, 2005.


Notary Public

