

APPENDIX

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7. Index of Appendices List the description of each document that is included in the appendix beside the appropriate appendix letter. Mark the bottom of the first page of each appendix with the appropriate designation, e.g., "Appendix A." See Rule 14.1 pertaining to the items to be included in the appendix. RULE 14.1 (c) The table of contents shall include the items contained in the appendix. B. State Courts- If you are asking the Court to review a decision of a state court, the decision of which review is sought should be designated Appendix A.

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- **Order 2: ORDER DENYING MOTION FOR RECUSAL July 5, 2023 (Appendix A(2))**
- **Order 3: ORDER DENYING MOTION TO CHANGE VENUE July 5, 2023 (Appendix A(3))**
- **Order 4: ORDER STAYING DEADLINES July 20, 2023 (Appendix A(4))**
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APPENDIX A

IN THE SUPREME COURT OF IOWA

No. 23-1276

Polk County No. LACL155681

ORDER

**LATRESSA RAILBACK,
Plaintiff-Appellant,**

vs.

**CITY OF DES MOINES, JOSHUA
RALEIGH, STATE OF IOWA,
KIMBERLY REYNOLDS, JEFFEREY
LESTER, SCOTT SANDERS,
DANA WINGERT, FRANKLIN
COWNIE, CHRIS JOHANSEN,
NEIGHBOORHOOD INSPECTIONS
DIV. and DES MOINES POLICE
DEPARTMENT,
Defendants-Appellees.**

This matter comes before the court, McDonald and May, JJ., and Zager, S.J., upon the appellees—State of Iowa and Kimberly Reynolds—motion to strike the appellant's proof brief as noncompliant, and the appellee's—City of Des Moines—motion to dismiss. The appellant resists both motions.

On November 27, 2023, this court directed the appellant to file a proof brief and designation of appendix that substantially comply with the rules of appellate procedure within 14 days. The appellant was advised that failure to comply with the court's order would result in dismissal of the appeal. On December 13, the appellant filed a proof brief that does not comply with the rules of appellate procedure in many respects. *See Iowa Rs. App. P. 6.903(1), (2), 6.904(4).* Upon consideration, the motion to strike is granted. The motion to dismiss is also granted. *See Iowa R. App. P. 6.1202(6).*

Copies to:

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400 Robert D. Ray Drive
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Stanley Jay Thompson
Attorney General's Office
Special Litigation Division
Hoover State Office Building
Des Moines, IA 50319

Des Moines Police Department
25 E. 1st Street
Des Moines, IA 50309

Neighborhood Inspections Div
602 Robert D Ray Dr 2nd Flr
Des Moines, IA 50309

Latressa Railback
3423 SW 8th St
Des Moines, IA 50315

Polk County Clerk of Court



IOWA APPELLATE COURTS

State of Iowa Courts

Case Number
23-1276

Case Title
Railback v. City of Des Moines

So Ordered

A handwritten signature in black ink, appearing to read "David May, Justice".

David May, Justice

Electronically signed on 2023-12-28 16:49:07

APPENDIX B (1-8)

14

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LATRESSA D RAILBACK

Plaintiff

VS.

JOHN DOE
CITY OF DES MOINES
JEFFREY D LESTER
DES MOINES POLICE DEPARTMENT
STATE OF IOWA
JOSHUA RALEIGH
THOMAS MICHAEL FRANKLIN COWNIE
NEIGHBORHOOD INSPECTIONS DIV
CHRIS JOHANSEN
JOSHUA RALEIGH SUPERVISOR OF
KIMBERLY KAY REYNOLDS
JANE DOE
DANA WINGERT
SCOTT SANDERS
CITY OF DES MOINES

Defendants

05771 LACL155681

ORDER
TO DEFER CERTAIN COSTS

The Affidavit and Application to Defer Payment of Costs comes before the Court. The Court finds that the Plaintiff is unable to pay the Costs, fees or give security and approves the application.

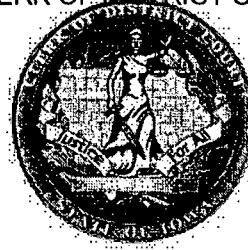
THE COURT ORDERS that: THE CLERK shall file this case and all orders and decrees without prepayment of any fees and costs.

THE POLK COUNTY SHERIFF shall serve the Petition and Original Notice (once provided with the same by Plaintiff) on Defendant City of Des Moines without prepayment of fees and costs.

Costs are not waived with respect to service on any other Defendant as upon its initial review, the Court does not believe the Petition makes out an enforceable claim against any defendant other than the City of Des Moines. If Plaintiff wishes to serve any additional Defendants, Plaintiff must pay the required fee with the Polk County Sheriff or arrange for a private process server.

IT IS SO ORDERED this May 18, 2023.

In addition to all other persons entitled to a copy of this order, the Clerk shall provide a copy to the following:



State of Iowa Courts

Case Number

LACL155681

Type:**Case Title**LATRESSA RAILBACK VS STATE OF IOWA ET AL
OTHER ORDER

So Ordered

A handwritten signature in black ink, appearing to read "David Nelmark".

David Nelmark, District Judge
Fifth Judicial District of Iowa

Electronically signed on 2023-05-18 13:21:52

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LATRESSA D RAILBACK

Plaintiff

VS.

JOHN DOE
CITY OF DES MOINES
JEFFREY D LESTER
JOSHUA RALEIGH
KIMBERLY KAY REYNOLDSJANE DOE
DES MOINES POLICE DEPARTMENT
SCOTT SANDERS
DANA WINGERT
CITY OF DES MOINES
THOMAS MICHAEL FRANKLIN COWNIE
STATE OF IOWA
NEIGHBORHOOD INSPECTIONS DIV
CHRIS JOHANSEN
JOSHUA RALEIGH SUPERVISOR OF

Defendants

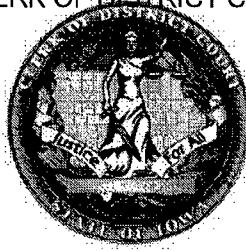
05771 LACL155681

ORDER
DENYING MOTION TO RECUSE

On June 29, 2023, Plaintiff filed a Reply to a Motion to Dismiss that included an implied Motion to Recuse on the basis that the undersigned is a past president of the Polk County Bar Association.

The Motion is DENIED. The Polk County Bar Association is not a party to this case. It is also not affiliated in any way with Polk County (which is also not a party to this case).

IT IS SO ORDERED.



State of Iowa Courts

Case Number

LACL155681

Type:**Case Title**LATRESSA RAILBACK VS STATE OF IOWA ET AL
OTHER ORDER

So Ordered

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David Nelmark, District Judge
Fifth Judicial District of Iowa

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IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LATRESSA D RAILBACK

Plaintiff(s)

05771 LACL155681

VS.

JOHN DOE

CITY OF DES MOINES

JEFFREY D LESTER

JOSHUA RALEIGH

KIMBERLY KAY REYNOLDS

JANE DOE

DES MOINES POLICE DEPARTMENT

SCOTT SANDERS

DANA WINGERT

CITY OF DES MOINES

THOMAS MICHAEL FRANKLIN COWNIE

STATE OF IOWA

NEIGHBORHOOD INSPECTIONS DIV

CHRIS JOHANSEN

JOSHUA RALEIGH SUPERVISOR OF

Defendants

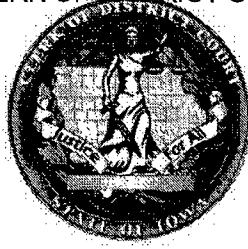
ORDER

DENYING MOTION TO CHANGE VENUE

On June 29, 2023, Plaintiff filed a Reply to a Motion to Dismiss that included an implied Motion to Transfer Venue. The Motion is DENIED. Plaintiff chose to file her case in this venue. If Plaintiff wishes to instead proceed in federal court, Plaintiff may dismiss this lawsuit without prejudice and attempt to re-file in federal court. This Court takes no position as to whether the United States District Court for the Southern District of Iowa would have jurisdiction over the case.

Plaintiff is advised to, in the future, not include substantive motions in the text of other pleadings.

IT IS SO ORDERED.



State of Iowa Courts

Case Number

LACL155681

Type:**Case Title**LATRESSA RAILBACK VS STATE OF IOWA ET AL
OTHER ORDER

So Ordered

A handwritten signature in black ink, appearing to read "David Nelmark".

David Nelmark, District Judge
Fifth Judicial District of Iowa

Electronically signed on 2023-07-05 12:15:46

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LATRESSA D RAILBACK

Plaintiff

VS.

JOHN DOE
CITY OF DES MOINES
JEFFREY D LESTER
JOSHUA RALEIGH
KIMBERLY KAY REYNOLDSJANE DOE
DES MOINES POLICE DEPARTMENT
SCOTT SANDERS
DANA WINGERT
THOMAS MICHAEL FRANKLIN COWNIE
STATE OF IOWA
NEIGHBORHOOD INSPECTIONS DIV
CHRIS JOHANSEN
JOSHUA RALEIGH SUPERVISOR OF
CITY OF DES MOINES

Defendants

05771 LACL155681

ORDER

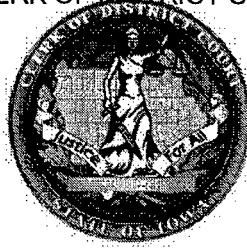
GRANTING STATE OF IOWA AND KIMBERLY
KAY REYNOLDS' MOTION TO DISMISS

The Plaintiff, Latressa Railback, filed this lawsuit against multiple parties on May 15, 2023. The State of Iowa and the Governor of Iowa, Kimberly Kay Reynolds, filed a Motion to Dismiss on May 24, 2023. Since that time, Plaintiff filed various amended petitions, but those petitions do not address the shortcomings alleged in the Motion to Dismiss. The Plaintiff filed a Reply to Motion to Dismiss on June 29, 2023, but filed no other resistance. The Reply does not address the deficiencies raised in the Motion to Dismiss.

The Court finds based on the uncontested arguments in the record, that the Plaintiff has a) not made out a valid claim against the State of Iowa or its Governor and that b) even if a valid claim could be made, Plaintiff did not plead that she exhausted her administrative remedies.

For the foregoing reasons, the Motion to Dismiss filed by the State of Iowa and Governor Kimberly Kay Reynolds is GRANTED.

IT IS SO ORDERED.



State of Iowa Courts

Case Number

LACL155681

Type:**Case Title**LATRESSA RAILBACK VS STATE OF IOWA ET AL
ORDER REGARDING DISMISSAL

So Ordered

A handwritten signature in black ink, appearing to read "David Nelmark".

David Nelmark, District Judge
Fifth Judicial District of Iowa

Electronically signed on 2023-07-20 12:42:45

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LATRESSA D RAILBACK

Plaintiff

VS.

JOHN DOE
CITY OF DES MOINES
JEFFREY D LESTER
JOSHUA RALEIGH
KIMBERLY KAY REYNOLDSJANE DOE
DES MOINES POLICE DEPARTMENT
SCOTT SANDERS
DANA WINGERT
CITY OF DES MOINES
THOMAS MICHAEL FRANKLIN COWNIE
STATE OF IOWA
NEIGHBORHOOD INSPECTIONS DIV
CHRIS JOHANSEN
JOSHUA RALEIGH SUPERVISOR OF

Defendants

05771 LACL155681

ORDER
STAYING DEADLINES

All discovery and response deadlines in this matter are stayed pending resolution of the pending Motion to Dismiss filed by the City of Des Moines.

IT IS SO ORDERED.



State of Iowa Courts

Case Number

LACL155681

Type:**Case Title**LATRESSA RAILBACK VS STATE OF IOWA ET AL
ORDER TO STAY

So Ordered

David Nelmark, District Judge
Fifth Judicial District of Iowa

Electronically signed on 2023-07-20 13:15:57

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LATRESSA D RAILBACK

Plaintiff(s)

Case No. 05771 LACL155681

VS.

JOHN DOE
CITY OF DES MOINES
JEFFREY D LESTER
JOSHUA RALEIGH
KIMBERLY KAY REYNOLDS
DES MOINES POLICE DEPARTMENT
SCOTT SANDERS
THOMAS MICHAEL FRANKLIN COWNIE
STATE OF IOWA
NEIGHBORHOOD INSPECTIONS DIV
CHRIS JOHANSEN
JOSHUA RALEIGH SUPERVISOR OF
CITY OF DES MOINES
JANE DOE
DANA WINGERT

Defendant(s).

Order Setting Hearing**on****Motion**

The Defendant, City of Des Moines, has filed a/an Motion to Dismiss. A hearing should now be scheduled.

IT IS THEREFORE THE ORDER OF THE COURT as follows:

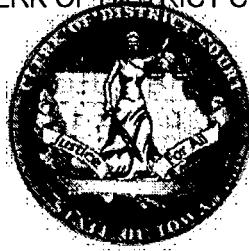
Hearing is scheduled on 07/28/2023 at 9:00 AM at the Historic Courthouse, 500 Mulberry St. RM 220, DSM, IA 50309.

This hearing is scheduled for 1 hour. If additional time is needed, counsel or pro se litigants shall immediately notify the Court to reschedule for an appropriate time.

Any additional legal authorities not set forth in the motion or resistance must be submitted to the Court two (2) days prior to the hearing.

In addition to all other persons entitled to a copy of this order, the Clerk shall provide a copy to the following:
PLAINTIFF

If you need assistance to participate in court due to a disability, call the disability coordinator at (515) 286-3394 or information at <https://www.iowacourts.gov/for-the-public/ada/>. Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**



State of Iowa Courts

Case Number

LACL155681

Type:**Case Title**LATRESSA RAILBACK VS STATE OF IOWA ET AL
ORDER SETTING HEARING

So Ordered

A handwritten signature in black ink, appearing to read "David Nelmark".

David Nelmark, District Judge
Fifth Judicial District of Iowa

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IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LATRESSA D RAILBACK

Plaintiff

VS.

JOHN DOE
CITY OF DES MOINES
JEFFREY D LESTER
JOSHUA RALEIGH
JANE DOE
DES MOINES POLICE DEPARTMENT
THOMAS MICHAEL FRANKLIN COWNIE
NEIGHBORHOOD INSPECTIONS DIV
CHRIS JOHANSEN
JOSHUA RALEIGH SUPERVISOR OF
CITY OF DES MOINES
SCOTT SANDERS
DANA WINGERT

Defendant

05771 LACL155681

ORDER
DISMISSING CASE WITH PREJUDICE

A hearing on the remaining Defendants' Motion to Dismiss was held on July 28, 2023. (The State of Iowa and Governor Kimberly Reynolds were previously dismissed via the Court's July 20, 2023, Order.) Luke DeSmet and Michelle Mackel-Wiederanders appeared on behalf of the Defendants. Plaintiff did not appear nor did anyone appear on her behalf. The hearing proceeded in Plaintiff's absence. Given the reason for the Court's ruling as stated herein, Plaintiff's presence would not have changed the outcome.

The remaining defendants are a municipality and municipal employees. The Legislature has revised the Iowa Municipal Tort Claims Act to require Plaintiff to "state with particularity the circumstances constituting the violation and that the law was clearly established at the time of the alleged violation." Iowa Code Â§ 670.4A(3) This amendment took effect on June 17, 2021, prior to the events complained of in Plaintiff's Petition. Accordingly, there is no concern regarding retroactivity.

Assuming, without deciding, that Plaintiff's Petition stated the violations of law with the requisite particularly, the Court can find no language in the Petition (or any of the filed Amended Petitions) that states "the law was clearly established at the time of the alleged violation."

The statute provides that the failure to meet heightened pleading requirements â€œshall result in dismissal with prejudice.â€ Victoriano v. City of Waterloo, 984 N.W.2d 178, 182 (Iowa 2023).

Because Iowa Code Â§ 670.4A(3) requires dismissal with prejudice, the Court need not address the other arguments raised in Defendants' Motion to Dismiss.

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LATRESSA D RAILBACK

Plaintiff

VS.

JOHN DOE
CITY OF DES MOINES
JEFFREY D LESTER
JOSHUA RALEIGH
JANE DOE
DES MOINES POLICE DEPARTMENT
SCOTT SANDERS
DANA WINGERT
CITY OF DES MOINES
THOMAS MICHAEL FRANKLIN COWNIE
NEIGHBORHOOD INSPECTIONS DIV
CHRIS JOHANSEN
JOSHUA RALEIGH SUPERVISOR OF

Defendants

05771 LACL155681

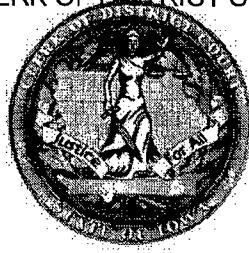
ORDER
DENYING MOTION FOR NEW TRIAL
AND MOTION FOR HEARING

Following the dismissal of the case, Plaintiff filed a Motion for New Trial and Motion for Hearing.

The Motion for New Trial is denied as no trial took place.

The Motion for Hearing is untimely as the case has been closed. To the extent that the Motion for Hearing can be considered a Motion to Reconsider, it is denied. The docket reflects that Ms. Railback received email notice of the hearing on the Motion to Dismiss. Further, as noted in the prior Order, it does not appear that the outcome of the hearing would have been any different if she had attended.

IT IS SO ORDERED.



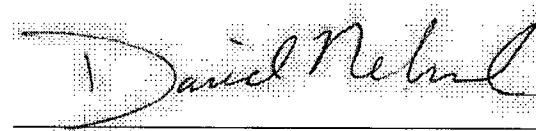
State of Iowa Courts

Case Number

LACL155681

Type:**Case Title**LATRESSA RAILBACK VS STATE OF IOWA ET AL
OTHER ORDER

So Ordered



David Nelmark
District Judge
Fifth Judicial District of Iowa

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APPENDIX C (1-2)

IN THE SUPREME COURT OF IOWA
No. 23-1276

Polk County No. LACL155681

PROCEDENDO

**LATRESSA RAILBACK,
Plaintiff-Appellant,**

vs.

**CITY OF DES MOINES, JOSHUA
RALEIGH, STATE OF IOWA,
KIMBERLY REYNOLDS, JEFFEREY
LESTER, SCOTT SANDERS,
DANA WINGERT, FRANKLIN
COWNIE, CHRIS JOHANSEN,
NEIGHBOORHOOD INSPECTIONS
DIV. and DES MOINES POLICE
DEPARTMENT,
Defendants-Appellees.**

To the Iowa District Court for the County of Polk :

Whereas, there was an appeal from the district court in the above-captioned case to the supreme court. The appeal is now concluded.

Therefore, you are hereby directed to proceed with diligence and according to the law in the same manner as if there had been no appeal.

In witness whereof, I have hereunto set my hand and affixed the seal of the supreme court.

Copies to:

Luke Michael Desmet
400 Robert D. Ray Drive
Des Moines, IA 50309-1891

Michelle Rae Mackel - Wiederanders
400 Robert D. Ray Drive
Des Moines, IA 50309-1891

Ryan Wesley Pell
Assistant Attorney General
1305 E. Walnut Street
Des Moines, IA 50319

Stanley Jay Thompson
Attorney General's Office
Special Litigation Division
Hoover State Office Building
Des Moines, IA 50319

Des Moines Police Department
25 E. 1st Street
Des Moines, IA 50309

Neighborhood Inspections Div
602 Robert D Ray Dr 2nd Flr
Des Moines, IA 50309

Latressa Railback
3423 Sw 8th St
Des Moines, IA 50315

Polk County District Court

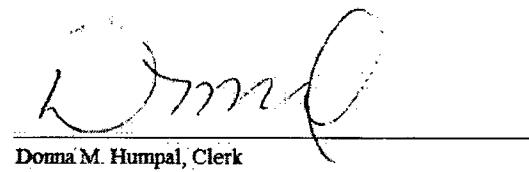


State of Iowa Courts

Case Number
23-1276

Case Title
Railback v. City of Des Moines

So Ordered



A handwritten signature in black ink, appearing to read "D. Humpal".

Donna M. Humpal, Clerk

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IN THE SUPREME COURT OF IOWA

No. 23-1276

Polk County No. LACL155681

BILL OF COSTS

**LATRESSA RAILBACK,
Plaintiff-Appellant,**

vs.

**CITY OF DES MOINES, JOSHUA
RALEIGH, STATE OF IOWA,
KIMBERLY REYNOLDS, JEFFEREY
LESTER, SCOTT SANDERS,
DANA WINGERT, FRANKLIN
COWNIE, CHRIS JOHANSEN,
NEIGHBOORHOOD INSPECTIONS
DIV. and DES MOINES POLICE
DEPARTMENT,
Defendants-Appellees.**

On December 29, 2023, the supreme court dismissed the case for failure to comply with appellate rules.

Clerk's fees incurred	\$	150.00
Amount of Clerk's fees already paid by the Appellant	\$	0.00
Amount of Clerk's fees already paid by the Appellee	\$	0.00
Balance due the Clerk	\$	150.00
Printing costs of Appellant	\$	0.00
Printing costs of Appellee	\$	0.00

{Computed pursuant to Iowa Rule of Appellate Procedure
6.903(1)(h) and 6.905(13(c) (2009)}

TOTAL TO BE PAID. \$ 150.00

The above costs of \$150.00 are hereby taxed against the appellant, and judgment is entered accordingly. The costs shall be paid to the Clerk of the District Court, who shall pay them to the persons entitled thereto. *See Iowa Code Section 625.19.* The District Court Clerk shall remit them to Clerk of the Supreme Court.

Copies to:

Luke Michael Desmet
400 Robert D. Ray Drive
Des Moines, IA 50309-1891

Michelle Rae Mackel - Wiederanders
400 Robert D. Ray Drive
Des Moines, IA 50309-1891

Ryan Wesley Pell
Assistant Attorney General
1305 E. Walnut Street
Des Moines, IA 50319

Stanley Jay Thompson
Attorney General's Office
Special Litigation Division
Hoover State Office Building
Des Moines, IA 50319

Des Moines Police Department
25 E. 1st Street
Des Moines, IA 50309

Neighborhood Inspections Div
602 Robert D Ray Dr 2nd Flr
Des Moines, IA 50309

Latressa Railback
3423 Sw 8th St
Des Moines, IA 50315

Polk County District Court



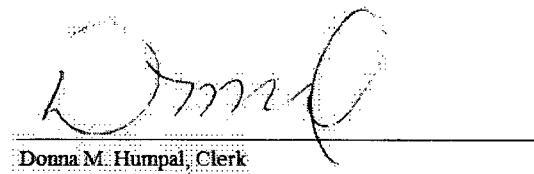
IOWA APPELLATE COURTS

State of Iowa Courts

Case Number
23-1276

Case Title
Railback v. City of Des Moines

So Ordered



A handwritten signature in black ink, appearing to read "D. Humpal".

Donna M. Humpal, Clerk

Electronically signed on 2024-01-26 07:46:33