

(I)

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**IN DISTRICT COURT, COUNTY OF WALSH, NORTH DAKOTA**

<b>Mitchell S. Sanderson,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>ORDER GRANTING</b>
	)	<b>MOTION TO DISMISS AND REQUEST</b>
<b>vs.</b>	)	<b>FOR FEES AND COSTS</b>
	)	
<b>Judge Kari Agotness,</b>	)	<b>Case No. <u>50-2023-CV-00287</u></b>
	)	
<b>Defendant.</b>	)	

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**BACKGROUND AND CLAIMS**

[¶1] This action was initiated upon Judge Kari Agotness (“Judge Agotness”) and the Office of Attorney General by service of a Summons and Complaint dated October 18, 2023 from Plaintiff, Mitchell S. Sanderson (“Sanderson”). (R1-2). Sanderson did not file the Summons and Complaint with the Court, but rather Judge Agotness filed a copy of the Summons and Complaint pursuant to N.D.R.Civ.P. 5(d)(2)(A)(iv) to bring this matter before the Court.

[¶2] Sanderson initiated this action against Judge Agotness, a North Dakota state district court judge. Sanderson seeks compensatory damages of \$100,000,000 and punitive damages of at least \$100,000,000, along with a demand Judge Agotness be investigated for criminal actions.

[¶3] Defendant moves the Court for an order dismissing the Complaint. (R3-6). Defendant argues the Complaint generally fails to state a claim for relief under N.D.R.Civ.P. 12(b)(6) and is barred under the doctrine of absolute judicial immunity. Defendant also asks for an award of attorney fees and other reasonable costs pursuant to N.D.C.C. § 28-26-01(2) and N.D.C.C. § 28-26-31 due to having to defend against this action.

[¶4] Plaintiff did not file any response to Defendant’s Motion to Dismiss.

**LEGAL ANALYSIS**

[¶5] Rule 12(b)(6), N.D.R.Civ.P., states, in part: "...a party may assert the following defenses by motion:....(6) failure to state a claim upon which relief can be granted." The North Dakota Supreme Court has stated:

A motion to dismiss a complaint under N.D.R.Civ.P. 12(b)(6) tests the legal sufficiency of the statement of the claim presented in the complaint. We construe the complaint in the light most favorable to the plaintiff, taking as true the well-pleaded allegations in the complaint. Under N.D.R.Civ.P. 12(b)(6), a complaint should not be dismissed unless it is disclosed with certainty the impossibility of proving a claim upon which relief can be granted. We will affirm a judgment dismissing a complaint for failure to state a claim if we cannot discern a potential for proof to support it.

McColl Farms, LLC v. Pflaum, 2013 ND 169, ¶ 12, 837 N.W.2d 359, 366 (citing Moseng v. Frey, 2012 ND 220, ¶ 5, 822 N.W.2d 464). As to the Rule 12(b)(6) defense the Court reviews the filings in this matter in the light most favorable to Sanderson.

[¶6] Judge Agotness asserts Sanderson's Complaint should be dismissed because it is barred under the doctrine of absolute judicial immunity.

[¶7] Pursuant to N.D.C.C. § 32-12.2-02(3)(d) neither the state or a state employee may be held liable for "[a] claim resulting from a decision to undertake or a refusal to undertake any judicial or quasi-judicial act...." The long-standing common-law doctrine of judicial immunity protects judges from civil liability for their judicial decisions. Riemers v. State, 2007 ND APP 2, ¶ 5, 732 N.W.2d 398, 400. The North Dakota Supreme Court has also found the judicial immunity doctrine is significant in the administration of justice:

It is elementary that judicial officers are not liable for the erroneous exercise of the judicial powers vested in them. This immunity from liability is based upon considerations of public policy. To hold judicial officers personally liable for errors of judgment concerning either questions of law or fact would be subversive of both independence and efficiency in the administration of justice.

Landseidel v. Culeman, 47 N.D. 275, 181 N.W. 593, 595 (1921).

[¶8] Judge Agotness is a district court judge for the State of North Dakota. Sanderson's Complaint alleges Judge Agotness is overseeing a case in which Sanderson is the Plaintiff: Walsh County case no. 50-2023-CV-00129. Sanderson's Complaint alleges Sanderson is entitled to the relief he is seeking because of actions or inactions of Judge Agotness specifically and exclusively during her role as the judge presiding over that particular case. There is zero allegation of any interaction between the parties outside of Walsh County case no. 50-2023-CV-00129. There is zero alleged factual support for any claim in Sanderson's Complaint outside of Walsh County case no. 50-2023-CV-00129. The long-standing common-law doctrine of judicial immunity protects judges from civil liability for their judicial decisions. Judge Agotness correctly asserts that she has judicial immunity regarding all the claims pled in Sanderson's Complaint. It is impossible for Sanderson to prove he is entitled to any relief that can be granted based on the allegations in his Complaint. Judge Agotness is entitled to have the Complaint dismissed in its entirety.

[¶9] Judge Agotness also asserts that Sanderson's Complaint should be dismissed because it fails to state a legally cognizable claim for relief. N.D.R.Civ.P. (8)(a) states in relevant part a pleading that states a claim for relief must contain "a short and plain statement of the claim showing that the pleader is entitled to relief.]" "A claim may fail under Rule 8(a), N.D.R.Civ.P., 'if the defendant is unable to frame an appropriate responsive pleading.'" Tibert v. Minto Grain, LLC, 2004 ND 133, ¶ 21, 682 N.W.2d 294, 299 (quoting Gowin v. Hazen Memorial Hosp. Ass'n, 311 N.W.2d 554, 556 (N.D.1981)).

[¶10] Sanderson's Complaint is devoid of factual allegations or discernible causes of action that would permit this Court to draw a reasonable inference the alleged misconduct occurred. Sanderson has failed to sufficiently state a claim for which he may be entitled to the relief sought.

In fact, Sanderson does not specifically allege in any way how he has been aggrieved by any actions of Judge Agotness. Sanderson makes only a conclusory allegation that Judge Agotness has "violated the U.S. Constitution, Constitutional case law, Federal law, State Law, Rules of Court, and is biased against me." This is not a properly pled complaint. For this reason also Judge Agotness is entitled to have Sanderson's Complaint dismissed in its entirety.

[¶11] The Defendant is requesting the Court award reasonable attorney's fees and costs incurred in defending against the action pursuant to N.D.C.C. § 28-26-01(2) and § 28-26-31. N.D.C.C. § 28-26-01(2) states:

**Attorney's fees by agreement - Exceptions - Awarding of costs and attorney's fees to prevailing party.**

In civil actions the court shall, upon a finding that a claim for relief was frivolous, award reasonable actual and statutory costs, including reasonable attorney's fees to the prevailing party. Such costs must be awarded regardless of the good faith of the attorney or party making the claim for relief if there is such a complete absence of actual facts or law that a reasonable person could not have thought a court would render judgment in that person's favor, providing the prevailing party has in responsive pleading alleged the frivolous nature of the claim. This subsection does not require the award of costs or fees against an attorney or party advancing a claim unwarranted under existing law, if it is supported by a good-faith argument for an extension, modification, or reversal of the existing law.

Further, N.D.C.C. § 28-26-31 states:

**Pleadings not made in good faith.**

Allegations and denials in any pleadings in court, made without reasonable cause and not in good faith, and found to be untrue, subject the party pleading them to the payment of all expenses, actually incurred by the other party by reason of the untrue pleading, including a reasonable attorney's fee, to be summarily taxed by the court at the trial or upon dismissal of the action.

[¶12] "When a party requests attorney's fees under N.D.C.C. § 28-26-01(2), the court must first determine whether a claim is frivolous." Strand v. Cass Cty., 2008 ND 149, ¶ 11, 753 N.W.2d 872, 876. "Frivolous claims are those which have 'such a complete absence of actual facts or law

that a reasonable person could not have expected that a court would render judgment in [that person's] favor.”” Strand v. Cass Cty., 2008 ND 149, ¶ 11, 753 N.W.2d 872, 876 (citing Deacon's Development, LLP, v. Lamb, 2006 ND 172, ¶ 12, 719 N.W.2d 379; Peterson v. Zerr, 477 N.W.2d 230, 236 (N.D.1991) and N.D.C.C. § 28-26-01(2)). “Although the district court's award of attorney's fees and costs under N.D.C.C. § 28-26-31 is discretionary, the court's exercise of that discretion must be based on evidence that the pleadings were made without reasonable cause and not in good faith, and are found to be untrue.” Strand v. Cass Cty., 2008 ND 149, ¶ 14, 753 N.W.2d 872, 877.

[¶13] The Court finds Sanderson's Complaint is frivolous. There is no logical factual explanation or legal support for relief sought in the Complaint. Sanderson fails to state a legally cognizable claim for relief and Sanderson's action against Judge Agotness is barred under the clearly established doctrine of judicial immunity. A reasonable person in Sanderson's position could not have believed a court could render judgment in his favor. Sanderson has attempted to sue the Judge in his case because it appears he is unhappy with the decisions she is making as judge in his case. The Court finds that Sanderson's pleadings were made without reasonable cause and not in good faith. An award of reasonable attorney's fees and costs against Sanderson is appropriate and justified. Judge Agotness, and by extension the Office of Attorney General of North Dakota who represents Judge Agotness, is entitled to payment of all expenses, actually incurred by reason of the untrue pleading, including a reasonable attorney's fee.

#### CONCLUSION

[¶14] Sanderson has failed to sufficiently state a claim for which he may be entitled to the relief sought. The Court finds with certainty it is impossible for Sanderson to prove a claim upon which relief can be granted.

[¶15] Sanderson's Complaint is frivolous, was brought without reasonable cause, and it was not made in good faith.

[¶16] Based on the foregoing, the Court makes the following:

**ORDER**

[¶17] The Defendant's Motion to Dismiss is **GRANTED**.

[¶18] The Defendant's request for attorney's fees and costs is **GRANTED**. The Attorney General's office is directed to submit an affidavit and accounting of the fees and costs incurred in responding to this matter within fourteen (14) days of this Order. Sanderson, if he chooses, may respond regarding the specific requested amount within ten (10) days of being served with the affidavit. No hearing will be scheduled, and the Court will draft a supplemental order awarding fees as the Court finds them to be reasonably incurred.

Dated this 14 day of December, 2023.

  
\_\_\_\_\_  
Jay D. Knudson  
Judge of the District Court

STATE OF NORTH DAKOTA	IN DISTRICT COURT
COUNTY OF WALSH	NORTHEAST JUDICIAL DISTRICT
Mitchell S. Sanderson,	
	Plaintiff,
vs.	
Judge Kari Agotness,	
	Defendant.
	<b>JUDGMENT</b>
	<b>Civil No. 50-2023-CV-00287</b>

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[¶1] The Court, having ordered judgment entered in this action.

[¶2] IT IS HEREBY ORDERED AND ADJUDGED that the Motion to Dismiss of Judge Kari Agotness is **GRANTED** and the above-entitled action is **DISMISSED**.

[¶4] IT IS FURTHER ORDERED AND ADJUDGED THAT Judge Kari Agotness' motion for attorney fees and costs is **GRANTED**. Sanderson shall pay the amount of \$3,213.80 to the Office of Attorney General within sixty (60) days of January 19, 2024.

[¶5] Witness, the Honorable Jay Knudson, District Judge, and my hand and the seal of this Court.

1/30/2024 11:19:12 AM

*Mitchell Sanderson, Deputy*  
Clerk of District Court

## IN DISTRICT COURT, COUNTY OF WALSH, NORTH DAKOTA

<b>Mitchell S. Sanderson,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>SUPPLEMENTAL ORDER FOR</b>
	)	<b>ATTORNEY'S FEES</b>
<b>vs.</b>	)	
	)	
<b>Judge Kari Agotness,</b>	)	<b>Case No. <u>50-2023-CV-00287</u></b>
	)	
<b>Defendant.</b>	)	

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[¶ 1] Defendant filed a Motion to Dismiss ["Motion"] on November 9, 2023. Plaintiff did not file a response to the Motion. An Order Granting Motion to Dismiss and Request for Fees and Costs was entered on December 15, 2023. (R11). The Court found Plaintiff's Complaint to be frivolous, was brought without reasonable cause, and was not made in good faith. Therefore, the Court found Defendant's request for attorney's fees was justified. The Court requested the Office of Attorney General of North Dakota to submit an affidavit and accounting of fees and costs incurred for time spent responding to this action. The Court allowed Plaintiff time to respond to the affidavit submitted by the Office of Attorney General.

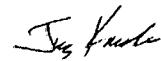
[¶ 2] On December 28, 2023, Assistant Attorney General Andrew Moraghan, the attorney representing Defendant, Judge Kari Agotness, filed an Affidavit and itemization for fees incurred in the amount of \$3,213.80. (R13-14). Plaintiff did not file any response or objection. The Court has reviewed the information provided by Attorney Moraghan and finds the requested amount of attorney's fees is reasonable.

## ORDER

[¶ 3] For the above reasons, Plaintiff, Mitchell S. Sanderson, shall pay to the Office of Attorney General of North Dakota, as attorney for Defendant, Judge Kari Agotness, the amount of \$3,213.80

for attorney's fees and costs. Payment is to be made within sixty (60) days of this Order. Counsel for the Office of Attorney General of North Dakota shall file a proposed Judgment of Dismissal consistent with the Court's Orders in this matter.

Dated this 19<sup>th</sup> day of January, 2024.



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Jay Knudson  
Judge of District Court

**IN DISTRICT COURT, COUNTY OF WALSH, NORTH DAKOTA**

<b>Mitchell S. Sanderson,</b>	)	
	)	<b>ORDER DENYING MOTION</b>
<b>Plaintiff,</b>	)	<b>FOR RELIEF FROM JUDGMENT</b>
	)	
<b>vs.</b>	)	
	)	
<b>Judge Kari Agotness,</b>	)	<b>Case No. <u>50-2023-CV-00287</u></b>
	)	
<b>Defendant.</b>	)	

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**Background**

[¶1] Plaintiff, Mitchell S. Sanderson [“Sanderson”] initiated this suit against Defendant, Judge Kari Agotness [“Judge Agotness”]. The Office of Attorney General of North Dakota [“Attorney General”] represented Judge Agotness pursuant to N.D.C.C. § 54-12-01.3. The Court and Sanderson were given adequate notice of the Attorney General’s appearance by the filing of the Motion to Dismiss. Further, a Notification of Assignment and Case Number was served upon the parties by the Court on November 9, 2023 which identified the parties, as well as Defendant’s counsel, the case number, and the Judge initially assigned to this matter. (R7).

[¶2] Judge Agotness did not file an Answer, but rather moved to dismiss the Complaint and sought attorney’s fees as permitted by N.D.R.Civ.P. 12(a). Sanderson did not respond. The Court dismissed the Complaint and found the action to be frivolous. The Court requested an accounting of fees from counsel for Judge Agotness, and allowed time for Sanderson to respond. Sanderson did not respond. Judgment of dismissal was entered and attorney fees were awarded.

[¶3] Sanderson subsequently moved for Relief from Judgment under N.D.R.Civ.P. 60(b). Sanderson’s motion does not specifically identify which section of N.D.R.Civ.P. 60(b) he is alleging applies. However, the Court must assume from the filings that Sanderson’s request for relief is brought pursuant to N.D.R.Civ.P. 60(b)(1). Even if Sanderson was intending to bring his

motion pursuant to a different subsection, the Court has reviewed the other subsections of N.D.R.Civ.P. 60(b) and no other section would provide grounds for the relief sought.

[¶4] Before the Court could rule on the motion for Relief from Judgment, Sanderson filed a Notice of Appeal. Because of the Notice of Appeal, this Court lost jurisdiction to rule on the motion requesting relief from judgment. Subsequently, the North Dakota Supreme Court remanded the case back to this Court "for the limited purpose of consideration and disposition of the motion for relief from judgment." (R50). For reasons set forth below, the motion for Relief from Judgment is denied.

#### Law

[¶5] "On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for . . . (1) mistake, inadvertence, surprise, or excusable neglect". N.D.R.Civ.P. 60(b)(1). "The party moving for relief has the burden of establishing sufficient grounds for disturbing the finality of the decree." *Grinaker v. Grinaker*, 553 N.W.2d 204, 207 (N.D. 1996). Case law described this burden as "heavy." *DCI Credit Servs., Inc. v. Plemper*, 2021 ND 215, ¶ 7, 966 N.W.2d 904, 907. "The moving party must also show more than that the lower court made a 'poor' decision, but that it positively abused the discretion it has in administering the rule." *First Nat. Bank of Crosby v. Bjorgen*, 389 N.W.2d 789, 794 (N.D. 1986).

#### Discussion

[¶6] Sanderson must prove sufficient grounds exist to disturb the finality of the decree. The Court finds Sanderson does not meet his burden. Sanderson initiated this action. He sued Judge Agotness. When Judge Agotness filed a Motion to Dismiss, Sanderson did not respond or in any way oppose the Motion to Dismiss. The Court granted the Motion to Dismiss. When the Court further found the action to be frivolous and ordered attorney fees, it gave Sanderson time to

respond or object to the fees requested by counsel for Judge Agotness. Sanderson did not respond or in any way object to the fees requested. The Court finds still that the suit initiated by Sanderson was and is frivolous, and the Court continues to hold that an award of attorney's fees to the Attorney General's office is proper.

[¶7] The Motion for Relief from Judgment alleges no facts supporting a conclusion that the Court's order for judgment was the result of inadvertence, surprise, or excusable neglect. Sanderson's Motion for Relief from Judgment provides no explanation why he did not respond in a timely manner to Judge Agotness' Motion to Dismiss or why he did not object to the award of attorney fees when he was given opportunity to do so. On its face, Sanderson's Motion for Relief from Judgment seems to allege that the Judgment and the accompanying award of attorney fees were the result of mistake by this Court. Sanderson's Brief makes a few additional arguments not presented in his Complaint but these arguments could have and should have been presented in response to the Motion to Dismiss. Otherwise, Sanderson essentially restates his complaint in longer sentences. Sanderson provides no new information, law, or authority that would convince this Court that its judgment was the result of a mistake. A motion under Rule 60 does not give a party the chance to bring forth new arguments. A motion under Rule 60 does not give a party another bite at the apple. To allow such would undermine the finality of judgments. Even if the Court were to consider the additional arguments presented by Sanderson, his arguments are unpersuasive and Sanderson does not convince this Court that it made a mistake in its prior order.

[¶8] Sanderson's Brief on Motion for Relief from Judgment addresses the award of attorney's fees in ¶¶ 65-68. (R28). Sanderson suggests that because the Attorney General's office filed the Complaint pursuant to N.D.R.Civ.P. 5(d)(2)(iv), that means that Sanderson did not "initiate" the action. In North Dakota, "a civil action is commenced by the service of a summons" pursuant to

N.D.R.Civ.P. 3. Sanderson served his Summons and Complaint on Judge Agotness. Whichever party filed the case with the Court is of no consequence. Judge Agotness was entitled to file the case and then ask the Court for an Order dismissing the Complaint. She did exactly that. The Court then found, and continues to find, that Sanderson's Complaint was and is wholly deficient and the award of attorney's fees was appropriate.

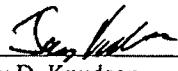
[¶9] As an unwelcome new entanglement to this matter, the Court is aware of a recently filed letter from the Attorney General's office indicating that a clerical error was made in its fee calculation. The Attorney General's office has indicated in its letter that the attorney fees it calculated and requested were incorrect. The letter notes that the amount of fees requested and subsequently awarded should have been less. The matter must be addressed, and if the fees calculated were incorrect, they should be corrected. Presumably, this will result in an award of lesser attorney fees, which would be favorable to Sanderson. However, the North Dakota Supreme Court remanded this case back to the District Court specifically "for the limited purpose of consideration and disposition of the motion for relief for judgment." Also, there is at this time no motion filed by Judge Agotness to correct the mistake in its requested attorney fees. Therefore at this time the Court has no ability to not take any action based on the Attorney General's letter. Should the Supreme Court affirm the District Court's award of attorney fees, then the Court would expect a motion from Judge Agotness through her counsel to correct the clerical error in the calculation of reasonable attorney fees awarded.

[¶10] While the Court is denying Sanderson's Motion for Relief from Judgment, the Court does not find the motion to be frivolous. The Defendant's request for additional attorney's fees and costs is denied.

**ORDER**

[¶11] Plaintiff's Motion for Relief from Judgment is **DENIED**. Defendant's request for attorney's fees and costs is **DENIED**.

Dated this 14 day of May, 2024.

  
\_\_\_\_\_  
Jay D. Knudson

Judge of the District Court

IN THE SUPREME COURT  
STATE OF NORTH DAKOTA

---

2024 ND 232

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**Mitchell S. Sanderson,**

**Plaintiff and Appellant**

v.

**Judge Kari Agotness,**

**Defendant and Appellee**

---

No. 20240054

---

**Appeal from the District Court of Walsh County, Northeast Judicial District, the Honorable Jay D. Knudson, Judge.**

**AFFIRMED AS MODIFIED.**

**Opinion of the Court by Crothers, Justice.**

**Mitchell S. Sanderson, Park River, ND, self-represented, plaintiff and appellant; on brief.**

**Andrew Moraghan, Assistant Attorney General, Bismarck, ND, for defendant and appellee; on brief.**

**Sanderson v. Agotness**  
**No. 20240054**

**Crothers, Justice.**

[¶1] Mitchell S. Sanderson appeals from the district court's judgment dismissing his civil case against Judge Kari Agotness, awarding her attorney's fees, and denying his N.D.R.Civ.P. 60(b) motion for relief of judgment. We modify the amount of attorney's fees awarded and affirm the judgment as modified.

**I**

[¶2] On October 30, 2023, Sanderson commenced this action against Agotness, seeking \$200 million in damages and demanding that Agotness be investigated for alleged criminal conduct. Sanderson served his summons and complaint on Agotness and the Office of Attorney General. Agotness filed the summons and complaint under N.D.R.Civ.P. 5(d)(2)(A)(iv), filed a N.D.R.Civ.P. 12(b)(6) motion to dismiss and requested attorney's fees. Sanderson did not respond to the motion to dismiss or the request for attorney's fees. The district court granted Agotness's motion to dismiss, found Sanderson's claims were frivolous, and awarded attorney's fees to Agotness. After judgment was entered, Sanderson filed a motion for relief of judgment under N.D.R.Civ.P. 60(b) with the district court. Before receiving a ruling on the motion, Sanderson filed a notice of appeal. We temporarily remanded the case for the district court to consider the Rule 60(b) motion, which later was denied. Sanderson timely appealed from that order.

[¶3] Sanderson lists 11 issues on appeal. We limit our consideration to Sanderson's challenge to Agotness's judicial immunity defense, which is dispositive, the motion for relief from judgment, and the award of attorney's fees.

## II

[¶4] Sanderson claims the district court erred in dismissing his claims based on Agotness's judicial immunity because Agotness lacked personal jurisdiction to adjudicate issues in the underlying action.

[¶5] Dismissals under N.D.R.Civ.P. 12(b)(6) are reviewed *de novo* and will be affirmed if this Court is unable to "discern a potential for proof to support [the complaint]." *Krile v. Lawyer*, 2022 ND 28, ¶ 16, 970 N.W.2d 150 (quoting *Nelson v. McAlester Fuel Co.*, 2017 ND 49, 891 N.W.2d 126). Here, the three-page complaint consisted of a jurisdictional statement listing the parties, 11 conclusory claims without factual context or support, a demand for \$200 million in damages, and requested a criminal investigation of Agotness. Sanderson also claimed Agotness had the burden of disproving his claims.

[¶6] Under N.D.R.Civ.P. 12(b)(6), a complaint should not be dismissed for failure to state a claim "unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Bismarck Fin. Grp. LLC v. Caldwell*, 2020 ND 207, ¶ 5, 950 N.W.2d 155 (quoting *Johnson & Maxwell, Ltd. v. Lind*, 288 N.W.2d 763, 765 (N.D. 1980)). Section 8(a)(1), N.D.R.Civ.P., requires that a claim for relief contain "a short and plain statement of the claim showing that the pleader is entitled to relief[.]" A claim fails if the defendant "is unable to frame an appropriate responsive pleading." *Gowin v. Hazen Mem'l Hosp. Ass'n*, 311 N.W.2d 554, 556 (N.D. 1981).

[¶7] North Dakota law protects judges from civil claims arising out of the performance of their judicial duties. Section 32-12.2-02(3)(d), N.D.C.C., provides: "[n]either the state nor a state employee may be held liable . . . for . . . a claim resulting from a decision to undertake or a refusal to undertake any judicial . . . act." "Judicial immunity is a long-standing common law doctrine that protects judges from civil liability for their judicial decisions[.]" *Riemers v. State*, 2007 ND APP 2, ¶ 5, 732 N.W.2d 398. Judges lose immunity if acting "in clear absence of jurisdiction." *Id.* (citing *Brokaw v. Mercer Cnty.*, 235 F.3d 1000, 1015 (7th Cir. 2000)). Sanderson claims Agotness had no authority to act in the underlying case because the district court did not have personal jurisdiction over the defendant.

He argues the court lacked jurisdiction because he improperly served the defendant by mailing the summons and complaint in the underlying case. Because service was defective, he claims Agotness was required to dismiss the case rather than rule on any issues.

[¶8] We explicitly rejected Sanderson's claim the district court was without jurisdiction in his action against Myrdal. *Sanderson v. Myrdal*, 2024 ND 202, ¶ 8, \_\_\_ N.W.3d \_\_\_ ("We are aware of no authority for the proposition that a plaintiff may challenge the court's jurisdiction over a defendant who admits personal jurisdiction on the basis of defects in the plaintiff's service of process on the defendant. Sanderson's jurisdiction argument is without merit."). Our holding in the *Myrdal* case is not subject to collateral attack in this proceeding. *Riverwood Commercial Park, L.L.C. v. Standard Oil Co., Inc.*, 2007 ND 36, ¶ 13, 729 N.W.2d 101 ("The doctrines of res judicata and collateral estoppel bar courts from relitigating claims and issues in order to promote the finality of judgments, which increases certainty, avoids multiple litigation, wasteful delay and expense, and ultimately conserves judicial resources.") (cleaned up). Because the district court had jurisdiction, Agotness was acting within her capacity as a judge when she resolved the issues in the *Myrdal* case. Therefore, judicial immunity applies.

[¶9] "Judicial immunity is defined by the governmental functions it protects, not the motives of the officers performing those functions." *Riemers*, 2007 ND APP. 2, ¶ 8 (citing 46 Am. Jur. 2d *Judges* § 64 (2007). "Judges have absolute immunity because of the special nature of their responsibilities[.]" *Loran v. Iszler*, 373 N.W.2d 870, 875 (N.D. 1985). "Even if the judges disregard clear case or statutory law, their actions were judicial acts, and judicial immunity bars [ ] claims for money damages." *Riemers*, at ¶ 8. Judicial acts are decisions regarding "what the law is, and what the rights of the parties are, with reference to the transactions already had[.]" *State ex rel. Mason v. Baker*, 288 N.W. 202, 204 (N.D. 1939). Here, all of the acts alleged by Sanderson exclusively stem from Agotness's decisions while presiding over a case in which Sanderson was the plaintiff (No. 50-2023-CV-00129). "A district judge acting within his jurisdiction is not subject to a damage action." *Loran*, 373 N.W.2d at 874 (citing *Root v. Rose*, 6 N.D. 575, 72 N.W. 1022 (1897)). Agotness has complete immunity from claims

relating to judicial decisions she made while presiding over the underlying case. As a result, the district court here did not err by dismissing Sanderson's case.

### III

[¶10] Sanderson claims the district court erred in awarding Agotness's attorney's fees she incurred in defending against this action.

[¶11] This Court reviews an award of attorney's fees under the abuse of discretion standard. *Gratech Co., Ltd. v. Wold Eng'g, P.C.*, 2007 ND 46, ¶ 18, 729 N.W.2d 326. "A district court abuses its discretion if it acts in an arbitrary, unconscionable, or unreasonable manner, or if it misinterprets or misapplies the law." *Id.* (internal citations omitted).

[¶12] Sanderson argues the district court erred in finding his claims were frivolous and awarding attorney's fees. "A claim is frivolous when there is such a complete absence of actual facts or law that a reasonable person could not have expected that a court would render judgment in his favor." *Dietz v. Kautzman*, 2004 ND 119, ¶ 14, 681 N.W.2d 437 (citing *Peterson v. Zerr*, 477 N.W.2d 230, 236 (N.D. 1991)). "Judicial immunity . . . [is a] well-established and long-standing legal doctrine[]." *Riemers*, 2007 ND APP 2, ¶ 13. Because Sanderson did not request any form of relief not barred by judicial immunity, his claims are without merit.

[¶13] Sanderson also argues the district court erred in awarding attorney's fees because Agotness filed the summons and complaint with the court, not him. Attorney's fees in a frivolous action are not awarded based on who was first to file but on the prevailing party who was sued on a meritless claim. N.D.C.C. § 28-26-01(2). Section 28-26-01(2), N.D.C.C., states:

"In civil actions the court *shall*, upon a finding that a claim for relief was frivolous, award reasonable actual and statutory costs, including reasonable attorney's fees to the prevailing party. Such costs *must* be awarded regardless of the good faith of the attorney or party making the claim for relief if there is such a complete absence of actual facts or law that a reasonable person could not have thought a court would render judgment in that person's favor[.]"

(Emphasis added.) Sanderson did not provide a legal or factual response to the judicial immunity defense that would permit his claims to proceed. Because of this, the court did not abuse its discretion in finding the claims were frivolous and awarding attorney's fees to Agotness.

[¶14] While the district court did not abuse its discretion in awarding attorney's fees to Agotness, the amount awarded is incorrect. Counsel for Agotness filed a letter with the court asking to amend the attorney's fees award from \$3,213.80 to \$2,787.45 due to a computational error. Because the case was on appeal when the error was discovered, the district court is unable to correct it. *See N.D.R.Civ.P. 60(a)* (correction based on clerical mistake; oversights and omissions). Sanderson did not object to the request to reduce the attorney's fees award. We reduce Agotness's attorney's fee recovery to \$2,787.45, and affirm the award as modified.

#### IV

[¶15] Sanderson argues the district court erred in denying his “[m]otion for [r]elief from judgment.”

[¶16] In February 2024, Sanderson filed a N.D.R.Civ.P. 60(b) motion for relief of judgment from the district court's order finding the claim was frivolous and granting attorney's fees. The motion was denied. Sanderson's argument on appeal is “Judge Knutson should have granted the Motion for Relief from Judgment! All legal arguments in this Motion are true and accurate demanding relief!”

[¶17] “Generally, issues not adequately briefed or argued on appeal will not be considered.” *First State Bank v. Moen Enters.*, 529 N.W.2d 887, 893 (N.D. 1995). Sanderson did not include reference to N.D.R.Civ.P. 60(b) or other supporting law in his table of contents or the argument portion of his brief. “We ‘will not consider an argument that is not adequately articulated, supported, and briefed,’ or ‘engage in unassisted searches of the record for evidence to support a litigant’s position.’” *Hoever v. Wilder*, 2024 ND 58, ¶ 5, 5 N.W.3d 544 (quoting *State v. Nonck*, 2007 ND 82, ¶ 8, 732 N.W.2d 389). Because Sanderson failed to adequately brief his N.D.R.Civ.P. 60(b) claim, we decline to further consider the issue.

[¶18] It is unnecessary to address other issues raised on appeal because they are either without merit or unnecessary to the decision. We affirm the dismissal of this matter based on judicial immunity. We modify the amount of attorney's fees awarded, and affirm the judgment as modified.

[¶19] Jon J. Jensen, C.J.  
Daniel J. Crothers  
Lisa Fair McEvers  
Jerod E. Tufte  
Douglas A. Bahr

IN THE SUPREME COURT  
STATE OF NORTH DAKOTA

## JUDGMENT

Supreme Court No. 20240054  
Walsh County No. 50-2023-CV-00287**Mitchell S. Sanderson,****Plaintiff and Appellant****v.****Judge Kari Agotness,****Defendant and Appellee**

**[¶1]** This appeal was considered by the Court at the October Term of Court and an opinion was filed. The Court considered the matter, and

**[¶2]** **IT IS ORDERED AND ADJUDGED** that the judgment of the district court is **AFFIRMED AS MODIFIED**.

**[¶3]** **IT IS FURTHER ORDERED AND ADJUDGED** that neither party have and recover costs and disbursements in this appeal.

**[¶4]** This judgment will be final upon disposition of a petition for rehearing, if any is filed, or when the time for filing such petition has expired and the mandate of this Court issued.

**[¶5]** This judgment, together with the opinion of the Court, constitutes the mandate of the Supreme Court on the date it is issued to the district court under N.D.R.App.P. 41.

**[¶6]** Dated: 12/19/2024

**Jon J. Jensen**  
**Chief Justice**

**Attest:**

**Petra H. Mandigo Hulm**  
**Clerk**

**REGISTER OF ACTIONS**  
**CASE No. 50-2023-CV-00129**

## **Mitchell S Sanderson vs. Janne Myrdal**

Case Type: Other Civil  
Date Filed: 05/19/2023  
Location: -- Walsh County  
Judicial Officer: Agotness, Kari  
Supreme Court Docket Number: 20230395

## PARTY INFORMATION

<b>Defendant</b>	<b>Myrdal, Janne a.k.a. MYRDAL, JANNE NMN EDINBURG, ND 58227</b>	Female DOB: 1962	<b>Attorneys</b> <b>Howard D. Swanson</b> <i>Retained</i> 701-772-3407 x0000(W)
<b>Intervenor</b>	<b>Attorney General Bismarck, ND 58505</b>		<b>Courtney R. Titus</b> <i>Retained</i> 701-328-3640(W)

**Plaintiff** **Sanderson, Mitchell S** **Male**  
**Park River, ND 58270** **DOB: 1965**

## EVENTS & ORDERS OF THE COURT

<b>DISPOSITIONS</b>	
01/30/2024	<b>Dismissed</b> (Judicial Officer: Agotness, Kari)
01/31/2024	<b>Money Judgment Entered</b> (Judicial Officer: Agotness, Kari) Monetary Award Judgment Status: \$4,975.00 Creditor: Janne Myrdal; AKA JANNE NMN MYRDAL Debtor: Mitchell S Sanderson (Active) Entered: 01/31/2024 Docketed: 01/31/2024, 1:46 PM Damages: \$4,975.00 Interest Rate: 11.50%

## **OTHER EVENTS AND HEARINGS**

05/19/2023	<b>Complaint</b> Index # 1
05/19/2023	<b>Summons</b> Index # 2
05/19/2023	<b>Service Document</b> Index # 3
	<i>Affidavit of Service by Mail</i>
05/19/2023	<b>Service Document</b> Index # 4
	<i>Return Receipt for Certified Mail</i>
05/19/2023	<b>Service Document</b> Index # 5
	<i>serving Walsh County Clerk of Court</i>
05/19/2023	<b>Notice of Assignment and Case Number</b> Index # 6
	<i>Emailed to Plaintiff on this date</i>
05/24/2023	<b>Request</b> Index # 7
	<i>for Recusal by Judge Barbara Whelan</i>
05/26/2023	<b>Notice</b> Index # 8
	<i>of Filing and Case Number</i>
05/26/2023	<b>Service Document</b> Index # 9
	<i>Affidavit of Service by Mail-Janne Myrdal and Clerk of Court Walsh County</i>
06/05/2023	<b>Response</b> Index # 10
06/06/2023	<b>Recusal</b> Index # 11
06/07/2023	<b>Order</b> Index # 12
	<i>Assigning Case</i>
06/07/2023	<b>Letter</b> Index # 13
	<i>Notification of Case Number of Assignment</i>

06/07/2023	<b>Service Document</b> Index # 14
06/08/2023	<b>Brief</b> Index # 15 <i>in Support of Complaint</i>
06/08/2023	<b>Affidavit</b> Index # 16 <i>in Support of Complaint</i>
06/08/2023	<b>Exhibit</b> Index # 17 <i>A - F Defendant Facebook Page. (Not Received)</i>
06/08/2023	<b>Service Document</b> Index # 18 <i>Affidavit of Service by Mail</i>
06/12/2023	<b>Answer</b> Index # 19 <i>Answer of Defendant</i>
06/12/2023	<b>Service Document</b> Index # 20 <i>Affidavit of Service by Mail (Mitchell S Sanderson)</i>
06/13/2023	<b>Request</b> Index # 21 <i>for Recusal of Judge Kari Agotness</i>
06/20/2023	<b>Notice</b> Index # 22 <i>of 3.2 Motion for Default Summary Judgment</i>
06/20/2023	<b>Motion</b> Index # 23 <i>3.2 Motion for Default/Summary Judgment</i>
06/20/2023	<b>Brief</b> Index # 24 <i>in Support of Motion for Default/Summary Judgment</i>
06/20/2023	<b>Affidavit</b> Index # 25 <i>in Support of Motion for Default Judgment</i>
06/20/2023	<b>Service of Motion</b> Index # 26 <i>Affidavit of Service by Email-Clerk of Court Walsh County(Not Served by Certified Mail), Steven C. Ekman</i>
06/20/2023	<b>Proposed Judgment</b> Index # 27 <i>Judgment</i>
06/28/2023	<b>Brief</b> Index # 28 <i>Brief in Response to Motion for Default Judgment</i>
06/28/2023	<b>Affidavit</b> Index # 29 <i>Affidavit of Janne Myrdal</i>
06/28/2023	<b>Exhibit</b> Index # 30 <i>Exhibit 1</i>
06/28/2023	<b>Exhibit</b> Index # 31 <i>Exhibit 2</i>
06/28/2023	<b>Exhibit</b> Index # 32 <i>Exhibit 3</i>
06/28/2023	<b>Service Document</b> Index # 33 <i>Affidavit of Service by Mail (Mitchell Sanderson)</i>
06/30/2023	<b>Answer</b> Index # 34 <i>to Counterclaim</i>
06/30/2023	<b>Service Document</b> Index # 35 <i>Affidavit of Service by Mail-Serving Clerk of Court Walsh County and Steven C. Ekman</i>
06/30/2023	<b>Proposed Judgment</b> Index # 36 <i>Judgment</i>
07/10/2023	<b>Order</b> Index # 37 <i>Order Denying Request to Recuse</i>
07/10/2023	<b>Service Document</b> Index # 38 <i>Certificate of Service serving Nicholas B. Hall and Mitchell S. Sanderson</i>
07/10/2023	<b>Order</b> Index # 39 <i>Order Denying Motion for Default Judgment</i>
07/10/2023	<b>Service Document</b> Index # 40 <i>Certificate of Service</i>
07/11/2023	<b>Response</b> Index # 41 <i>Reply Brief to Defendant's Response on Default Judgment</i>
07/11/2023	<b>Affidavit</b> Index # 42 <i>in Support of Complaint</i>
07/11/2023	<b>Service Document</b> Index # 43 <i>Affidavit of Service by Mail-Serving Clerk of Court and Steven C. Ekman</i>
07/18/2023	<b>Brief</b> Index # 44 <i>Supplemental Brief</i>
07/18/2023	<b>Affidavit</b> Index # 45 <i>of Supplemental Brief</i>
07/18/2023	<b>Exhibit</b> Index # 46 <i>E &amp; F</i>
07/18/2023	<b>Exhibit</b> Index # 47 <i>G &amp; H</i>
07/18/2023	<b>Exhibit</b> Index # 48 <i>I &amp; J</i>

07/18/2023	<b>Exhibit</b>	<b>Index # 49</b>
	<i>K &amp; L</i>	
07/18/2023	<b>Exhibit</b>	<b>Index # 50</b>
	<i>M &amp; N</i>	
07/18/2023	<b>Exhibit</b>	<b>Index # 51</b>
	<i>O &amp; P</i>	
07/18/2023	<b>Exhibit</b>	<b>Index # 52</b>
	<i>Q &amp; R</i>	
07/18/2023	<b>Service Document</b>	<b>Index # 53</b>
	<i>Certificate of Service serving Steven C. Ekman and Clerk of Court Walsh County</i>	
07/21/2023	<b>Notice</b>	<b>Index # 54</b>
	<i>State of North Dakota's Notice of Motion to Intervene</i>	
07/21/2023	<b>Motion</b>	<b>Index # 55</b>
	<i>State of North Dakota's Motion to Intervene</i>	
07/21/2023	<b>Brief</b>	<b>Index # 56</b>
	<i>State of North Dakota's Brief in Support of Motion to Intervene</i>	
07/21/2023	<b>Exhibit</b>	<b>Index # 57</b>
	<i>Exhibit 1 - Answer by State of North Dakota</i>	
07/21/2023	<b>Service of Motion</b>	<b>Index # 58</b>
	<i>Certificate of Service - Hall and Sanderson</i>	
07/26/2023	<b>Substitution of Attorneys</b>	<b>Index # 59</b>
	<i>Substitution of Counsel</i>	
07/26/2023	<b>Consent</b>	<b>Index # 60</b>
	<i>Consent to Substitution of Counsel</i>	
07/26/2023	<b>Notice</b>	<b>Index # 61</b>
	<i>Notice of Substitution of Counsel</i>	
07/26/2023	<b>Service Document</b>	<b>Index # 62</b>
	<i>Declaration of Service (serving Nicholas Hall, Courtney Titus &amp; Mitchell Sanderson)</i>	
07/26/2023	<b>Interrogatories</b>	<b>Index # 63</b>
	<i>Discovery/Interrogatories with Admissions and Production</i>	
07/26/2023	<b>Service Document</b>	<b>Index # 64</b>
	<i>Certificate of Service of Discovery-Steven C. Ekman, Drew H. Wrigley, Clerk of Court Walsh County</i>	
08/02/2023	<b>Answer</b>	<b>Index # 65</b>
	<i>to Counterclaim from State</i>	
08/02/2023	<b>Brief</b>	<b>Index # 66</b>
	<i>in Opposition to State Intervention</i>	
08/02/2023	<b>Affidavit</b>	<b>Index # 67</b>
	<i>in Opositino to State Intervening</i>	
08/02/2023	<b>Service Document</b>	<b>Index # 68</b>
	<i>Service of Oposition of State to Intervene and Reply to States Answer-Served on Howard Swanson, Drew H. Wrigley/Courtney R. Titus and Clerk of Court of Walsh County</i>	
08/02/2023	<b>Motion</b>	<b>Index # 69</b>
	<i>to Rule on Evidence Tampering and Spoilage</i>	
08/02/2023	<b>Brief</b>	<b>Index # 70</b>
	<i>of Evidence Tampering</i>	
08/02/2023	<b>Affidavit</b>	<b>Index # 71</b>
	<i>in Support of Motion on Evidence Tampering</i>	
08/02/2023	<b>Exhibit</b>	<b>Index # 72</b>
	<i>Exhibit #S Facebook Page.</i>	
08/02/2023	<b>Service Document</b>	<b>Index # 73</b>
	<i>of Evidence Tampering Motion-Serving Howard Swanson; Drew H. Wrigley/Courtney R. Titus &amp; Clerk of Court Walsh County</i>	
08/02/2023	<b>Notice</b>	<b>Index # 74</b>
	<i>of Motion to Rule on Evidence Tampering and Spoilage</i>	
08/02/2023	<b>Notice</b>	<b>Index # 75</b>
	<i>of Motion to Rule on Forgery</i>	
08/02/2023	<b>Motion</b>	<b>Index # 76</b>
	<i>to Rule on Forgery</i>	
08/02/2023	<b>Brief</b>	<b>Index # 77</b>
	<i>on Forgery</i>	
08/02/2023	<b>Affidavit</b>	<b>Index # 78</b>
	<i>in Support of Motion on Forgery</i>	
08/02/2023	<b>Exhibit</b>	<b>Index # 79</b>
	<i>Exhibit # T Answer of Defendant.</i>	
08/02/2023	<b>Exhibit</b>	<b>Index # 80</b>
	<i>Exhibit # U Certifiied Return Receipt Card.</i>	
08/02/2023	<b>Exhibit</b>	<b>Index # 81</b>
	<i>Exhibit # V Affidavit of Janne Myrdal. (Received)</i>	
08/02/2023	<b>Service Document</b>	<b>Index # 82</b>
	<i>of Forgery Motion-Serving Howard Swanson, Drew H Wrigley/Courtney R. Titus and Clerk of Court Walsh County</i>	

08/08/2023	<b>Brief Index # 83</b> <i>State of North Dakota's Reply Brief in Support of Motion to Intervene</i>
08/08/2023	<b>Service Document Index # 84</b> <i>Certificate of Service - Swanson, Sanderson</i>
08/09/2023	<b>Notice Index # 85</b> <i>Notice of No Objection to the State of North Dakota's Motion to Intervene</i>
08/09/2023	<b>Service Document Index # 86</b> <i>Declaration of Service (serving Courtney R. Titus &amp; Mitchell S. Sanderson)</i>
08/15/2023	<b>Brief Index # 87</b> <i>Defendant's Brief in Opposition to Plaintiff's Motion to Rule on Evidence Tampering and Spoilage</i>
08/15/2023	<b>Brief Index # 88</b> <i>Defendant's Return and Brief in Opposition to Plaintiff's Motion to Rule on Forgery</i>
08/15/2023	<b>Service Document Index # 89</b> <i>Declaration of Service (serving Courtney R. Titus &amp; Mitchell S. Sanderson)</i>
08/15/2023	<b>Notice Index # 90</b> <i>of Motion to Rule on First and Fourteenth Amendment Violations</i>
08/15/2023	<b>Motion Index # 91</b> <i>To Rule on First and Fourteenth Amendment Violations</i>
08/15/2023	<b>Brief Index # 92</b> <i>On First and Fourteenth Amendment Violations</i>
08/15/2023	<b>Affidavit Index # 93</b> <i>in Support of Motion to Rule on First and Fourteenth Amendment Violations</i>
08/15/2023	<b>Service Document Index # 94</b> <i>Service of First and Fourteenth Amendment Violations-Howard Swanson &amp; Drew Wrigley/Courtney Titus</i>
08/18/2023	<b>Order Index # 95</b> <i>Order Granting State of North Dakota's Motion to Intervene</i>
08/18/2023	<b>Service Document Index # 96</b> <i>Certificate of Service upon Howard D. Swanson, Courtney R. Titus and Mitchell S. Sanderson</i>
08/21/2023	<b>Notice Index # 97</b> <i>Notice of Appearance</i>
08/21/2023	<b>Answer Index # 98</b> <i>Answer by State of North Dakota</i>
08/21/2023	<b>Service Document Index # 99</b> <i>Certificate of Service - Swanson, Sanderson</i>
08/29/2023	<b>Motion Index # 100</b> <i>to Rule on Qualified Immunity</i>
08/29/2023	<b>Notice Index # 101</b> <i>of Motion to Rule on Qualified Immunity</i>
08/29/2023	<b>Brief Index # 102</b> <i>on Qualified Immunity</i>
08/29/2023	<b>Affidavit Index # 103</b> <i>on Qualified Immunity</i>
08/29/2023	<b>Service Document Index # 104</b> <i>Service of Motion on Qualified Immunity, Reply to Defendant's Brief on Forgery and Evidence Tampering</i>
08/29/2023	<b>Response Index # 105</b> <i>to Defendant's Brief on Forgery</i>
08/29/2023	<b>Response Index # 106</b> <i>Reply to Defendant's Brief on Evidence Tampering</i>
08/30/2023	<b>Order Index # 107</b> <i>Order Denying Hearing on Motion to Rule on Evidence Tampering and Spoilage and Order Denying Hearing on Motion to rule on Forgery</i>
08/30/2023	<b>Service Document Index # 108</b> <i>Certificate of Service upon Mitchell S. Sanderson, Howard D. Swanson, and Courtney R. Titus</i>
09/01/2023	<b>Notice of Hearing Index # 109</b> <i>Notice of Remote Hearing</i>
09/01/2023	<b>Service Document Index # 110</b> <i>Certificate of Service - Swanson</i>
09/08/2023	<b>Response Index # 111</b> <i>Reply and Counter Answer to State's Answer</i>
09/08/2023	<b>Exhibit Index # 112</b> <i>Exhibit # T Return Receipt.</i>
09/08/2023	<b>Service Document Index # 113</b> <i>Service of Reply and Counter to State's Answer-Howard Swanson, Drew H. Weigley/Courtney R. Titus</i>
09/11/2023	<b>Motion Index # 114</b> <i>to Rule on Obstruction</i>
09/11/2023	<b>Notice Index # 115</b> <i>of Motion to Rule on Obstruction</i>
09/11/2023	<b>Brief Index # 116</b> <i>on Obstruction</i>
09/11/2023	<b>Affidavit Index # 117</b> <i>on Obstruction</i>

09/11/2023	<b>Exhibit Index # 118</b> <i>Exhibit # U &amp; V Facebook Posts.</i>
09/11/2023	<b>Exhibit Index # 119</b> <i>Exhibit # X &amp; Y Facebook Posts.</i>
09/11/2023	<b>Service Document Index # 120</b> <i>Service of Motion on Obstruction on Howard Swanson, Drewe H. Wrigley/Courtney R. Titus &amp; Clerk of Court Walsh County</i>
09/12/2023	<b>Scheduling Conference</b> (3:00 PM) (Judicial Officer Agotness, Kari)  Result: Hearing Ended
09/13/2023	<b>Brief Index # 121</b> <i>Defendant's Brief in Opposition to Plaintiff's Motion to Rule on First and Fourteenth Amendment Violations and Plaintiff's Motion to Rule on Qualified Immunity</i>
09/13/2023	<b>Service Document Index # 122</b> <i>Declaration of Service (serving Courtney R. Titus &amp; Mitchell S. Sanderson)</i>
09/13/2023	<b>Brief Index # 123</b> <i>State of North Dakota Response Brief in Opposition to Plaintiff's Motion to Rule on First and Fourteenth Amendment Violations</i>
09/13/2023	<b>Service Document Index # 124</b> <i>Certificate of Service (Swanson, Sanderson)</i>
09/14/2023	<b>Service Document Index # 125</b> <i>Certificate of Service - Swanson, Sanderson</i>
09/15/2023	<b>Order Index # 126</b> <i>Scheduling Order</i>
09/15/2023	<b>Service Document Index # 127</b> <i>Certificate of Service upon Mitchell S. Sanderson, Howard D. Swanson, and Courtney R. Titus</i>
09/19/2023	<b>Brief Index # 128</b> <i>Defendant's Brief in Opposition to Plaintiff's Motion to Rule on Obstruction</i>
09/19/2023	<b>Service Document Index # 129</b> <i>Declaration of Service (serving Courtney R. Titus &amp; Mitchell S. Sanderson)</i>
09/19/2023	<b>Brief Index # 130</b> <i>State of North Dakota's Response Brief to Plaintiff's Motion to Rule on Obstruction</i>
09/19/2023	<b>Service Document Index # 131</b> <i>Certificate of Service - Swanson, Sanderson</i>
09/27/2023	<b>Response Index # 132</b> <i>State of North Dakota Response Brief in Opposition to Plaintiff's Motion to Rule on Qualified Immunity</i>
09/27/2023	<b>Service Document Index # 133</b> <i>Certificate of Service - Swanson, Mitchell</i>
09/29/2023	<b>Motion Index # 134</b> <i>to Rule on Public Forum and Color of Law</i>
09/29/2023	<b>Notice Index # 135</b> <i>of Motion to Rule on Public Forum and Color of Law</i>
09/29/2023	<b>Brief Index # 136</b> <i>on Public Forum and Color of Law</i>
09/29/2023	<b>Affidavit Index # 137</b> <i>on Public Forum and Color of Law</i>
09/29/2023	<b>Exhibit Index # 138</b> <i>Exhibit # Z FaceBook Posts.</i>
09/29/2023	<b>Service Document Index # 139</b> <i>Service of Motion on Public Forum and Color of Law</i>
10/03/2023	<b>Order Index # 140</b> <i>Order Denying Hearing on Motion to Rule on First and Fourteenth Amendment Violations</i>
10/03/2023	<b>Service Document Index # 141</b> <i>Certificate of Service upon Mitchell S. Sanderson, Howard D. Swanson, and Courtney R. Titus</i>
10/06/2023	<b>Under Advisement</b> (Judicial Officer: Agotness, Kari) <i>Issue decision re: first set of motions</i>
10/10/2023	<b>Response Index # 142</b> <i>Response/Reply to Defendant on First and Fourteenth Amendment Right Violations</i>
10/10/2023	<b>Response Index # 143</b> <i>Response/Reply/Brief to State's Omnibus Motion</i>
10/10/2023	<b>Response Index # 144</b> <i>Response/Reply to State on First and Fourteenth Amendment Right Violations</i>
10/10/2023	<b>Response Index # 145</b> <i>Response/Reply to State on Obstruction Motion</i>
10/10/2023	<b>Response Index # 146</b> <i>Response/Reply to Defendant's Response on Obstruction Motion</i>
10/10/2023	<b>Response Index # 147</b> <i>Response/Reply to State's Response on Qualified Immunity</i>
10/10/2023	<b>Service Document Index # 148</b> <i>Proof of Service Upon Howard Swanson and Drew H. Wrigley/Courtney R. Titus</i>

10/11/2023	<b>Notice Index # 149</b> <i>Rule 3.2 Notice of Motion for Summary Judgment</i>
10/11/2023	<b>Motion Index # 150</b> <i>Motion for Summary Judgment</i>
10/11/2023	<b>Brief Index # 151</b> <i>Defendant's Brief in Support of Motion for Summary Judgment and Defendant's Return in Opposition to Plaintiff's Motion to Rule on Public Forum and Color of Law</i>
10/11/2023	<b>Declaration Index # 152</b> <i>Unsworn Declaration of Janne Myrdal</i>
10/11/2023	<b>Service Document Index # 153</b> <i>Declaration of Service (serving Courtney R. Titus &amp; Mitchell S. Sanderson)</i>
10/16/2023	<b>Brief Index # 154</b> <i>State of North Dakota's Response Brief in Opposition to Plaintiff's Motion on Public Forum and Color of Law</i>
10/16/2023	<b>Service Document Index # 155</b> <i>Certificate of Service - Swanson, Sanderson</i>
10/16/2023	<b>Order Index # 156</b> <i>Order Denying Motion to Rule on Evidence Tampering and Spoilage &amp; Awarding Attorney Fees</i>
10/16/2023	<b>Service Document Index # 157</b> <i>Certificate of Service upon Mitchell S. Sanderson, Howard D. Swanson, and Courtney R. Titus</i>
10/16/2023	<b>Order Index # 158</b> <i>Order Denying Motion to Rule on Forgery &amp; Awarding Attorney Fees</i>
10/16/2023	<b>Service Document Index # 159</b> <i>Certificate of Service upon Mitchell S. Sanderson, Howard D. Swanson, and Courtney R. Titus</i>
10/17/2023	<b>Order Index # 160</b> <i>Order Denying Motion to Rule on Obstruction and Awarding Attorney Fees</i>
10/17/2023	<b>Service Document Index # 161</b> <i>Certificate of Service upon Mitchell S. Sanderson, Howard D. Swanson, and Courtney R. Titus</i>
10/18/2023	<b>Notice Index # 162</b> <i>State of North Dakota's Notice of Motion for Declaratory Judgment</i>
10/18/2023	<b>Motion Index # 163</b> <i>State of North Dakota's Motion for Declaratory Judgment</i>
10/18/2023	<b>Brief Index # 164</b> <i>State of North Dakota's Brief in Support of Motion for Declaratory Judgment</i>
10/18/2023	<b>Service of Motion Index # 165</b> <i>Certificate of Service - Swanson, Sanderson</i>
10/23/2023	<b>Declaration Index # 166</b> <i>Unsworn Declaration of Howard D. Swanson (Attorney Fees RE: Evidence Tampering and Spoilage Motion)</i>
10/23/2023	<b>Declaration Index # 167</b> <i>Unsworn Declaration of Howard D. Swanson (Attorney Fees RE: Forgery Motion)</i>
10/23/2023	<b>Declaration Index # 168</b> <i>Unsworn Declaration of Howard D. Swanson (Attorney Fees RE: Obstruction Motion)</i>
10/23/2023	<b>Service Document Index # 169</b> <i>Declaration of Service (serving Courtney R. Titus &amp; Mitchell S. Sanderson)</i>
10/24/2023	<b>Brief Index # 170</b> <i>Plaintiff's Brief in Opposition to Defendant's Motion for Summary Judgment</i>
10/24/2023	<b>Notice Index # 171</b> <i>of Reservation of the Disposition of the Above Styled Action</i>
10/24/2023	<b>Service Document Index # 172</b> <i>Declaration of Service</i>
10/25/2023	<b>Response Index # 173</b> <i>Plaintiff's Reply to State's Opposition Motion and Motion to Color of Law and Forum</i>
10/30/2023	<b>Declaration Index # 174</b> <i>of Service-Clerk of Court; Howard Swanson; Drew Wrigley/Courtney Titus</i>
10/31/2023	<b>Brief Index # 175</b> <i>Plaintiff's Brief in Response to State's Motion for Declaratory Judgment</i>
10/31/2023	<b>Stipulation / Agreement Index # 176</b> <i>Stipulation to Dismiss Without Prejudice</i>
10/31/2023	<b>Proposed Order Index # 177</b> <i>Order Adopting Stipulation to Dismiss Without Prejudice</i>
10/31/2023	<b>Service Document Index # 178</b> <i>Declaration of Service-Clerk of Court; Howard Swanson; Drew Wrigley/Courtney R. Titus</i>
11/01/2023	<b>Brief Index # 179</b> <i>Reply Brief in Support of Defendant's Motion for Summary Judgment</i>
11/01/2023	<b>Service Document Index # 180</b> <i>Declaration of Service (serving Courtney R. Titus &amp; Mitchell S. Sanderson)</i>
11/03/2023	<b>Notice Index # 181</b> <i>Notice of Non-Recusal</i>
11/03/2023	<b>Service Document Index # 182</b> <i>Certificate of Service upon Mitchell S. Sanderson, Howard D. Swanson, and Courtney R. Titus</i>

11/07/2023	<b>Order Index # 183</b> <i>Order Denying Hearing on Motion to Rule on Public Forum and Color of Law</i>
11/07/2023	<b>Service Document Index # 184</b> <i>Certificate of Service upon Mitchell S. Sanderson, Howard D. Swanson, and Courtney R. Titus</i>
11/07/2023	<b>Brief Index # 185</b> <i>State of North Dakota's Reply Brief in Support of Motion for Declaratory Judgment</i>
11/07/2023	<b>Service Document Index # 186</b> <i>COS - Swanson and Sanderson</i>
12/14/2023	<b>Order Index # 187</b> <i>Order Regarding Attorneys Fees</i>
12/14/2023	<b>Order Index # 188</b> <i>Order Granting Motion for Summary Judgment, Order Denying Motion to Rule on First and Fourteenth Amendment Violations, Order Denying Motion to Rule on Qualified Immunity, and Order Denying Motion to Rule on Public Forum and Color of Law</i>
12/14/2023	<b>Order Index # 189</b> <i>Order Regarding Motion for Declaratory Judgment</i>
12/14/2023	<b>Service Document Index # 190</b> <i>Certificate of Service upon Mitchell S. Sanderson, Howard D. Swanson, and Courtney R. Titus</i>
12/19/2023	<b>Notice Index # 191</b> <i>Notice of Entry of Order Regarding Attorney's Fees</i>
12/19/2023	<b>Service Document Index # 192</b> <i>Declaration of Service (serving Courtney R. Titus &amp; Mitchell S. Sanderson)</i>
12/27/2023	<b>Proposed Statement of Costs and Disbursements Index # 193</b> <i>Verified Statement of Costs and Disbursements and Taxation of Costs (proposed)</i>
12/27/2023	<b>Service Document Index # 194</b> <i>Declaration of Service (serving Courtney R. Titus &amp; Mitchell S. Sanderson)</i>
12/29/2023	<b>Civil Filing Index # 195</b> <i>Verified Petition to Remove - venued in United States District Court</i>
12/29/2023	<b>Exhibit Index # 196</b> <i>A Official Complaint</i>
12/29/2023	<b>Civil Filing Index # 197</b> <i>Civil Cover Sheet</i>
12/29/2023	<b>Service Document Index # 198</b> <i>Declaration of Service upon Clerk of Court Walsh County, Howard Swanson, Drew H. Wrigley/Courtney R. Titus and Office of the Clerk U.S. District Court</i>
01/08/2024	<b>Order Index # 199</b> <i>Order of Dismissal with Mandate</i>
01/29/2024	<b>Order Index # 200</b> <i>Remand to State Court from the US District Court</i>
01/30/2024	<b>CANCELED Motion/Hearing (1:00 PM) (Judicial Officer Agotness, Kari)</b> <i>Court Order on Motion for Declaratory Judgment.</i>
01/30/2024	<b>Proposed Judgment Index # 201</b> <i>Judgment of Dismissal with Prejudice (proposed)</i>
01/30/2024	<b>Service Document Index # 202</b> <i>Declaration of Service (serving Courtney R. Titus &amp; Mitchell S. Sanderson)</i>
01/30/2024	<b>Judgment Index # 203</b> <i>Judgment of Dismissal with Prejudice</i>
01/31/2024	<b>Statement of Costs and Disbursements Index # 204</b>
01/31/2024	<b>Affidavit Index # 205</b> <i>Affidavit of Identification and Non-Military Service of Judgment Debtor</i>
01/31/2024	<b>Notice of Entry of Judgment Index # 206</b> <i>Notice of Entry of Judgment</i>
01/31/2024	<b>Service Document Index # 207</b> <i>Declaration of Service (serving Courtney R. Titus &amp; Mitchell S. Sanderson)</i>
02/09/2024	<b>Notice Index # 208</b> <i>of Objection to Dismissal with Prejudice and Attorney Fees Vacate Judgment/Release from Order</i>
02/09/2024	<b>Civil Filing Index # 209</b> <i>Objection to Dismissal with Prejudice and Attorney Fees Vacate Judgment/Release from Order</i>
02/09/2024	<b>Brief Index # 210</b> <i>on Objection to Dismissal with Prejudice and Attorney Fees Vacate Judgment/Release from Order</i>
02/09/2024	<b>Service Document Index # 211</b> <i>Declaration of Service-ND Attorney General's Office, Courtney Titus; Walsh County Clerk of Court; Howard Swanson</i>
02/09/2024	<b>Proposed Judgment Index # 212</b> <i>Judgment Adopting Stipulation to Dismiss Without Prejudice</i>
02/12/2024	<b>Response Index # 213</b> <i>Return in Opposition to Plaintiff's "Notice of Objection to Dismissal with Prejudice and Attorney Fees, Vacate Judgment/Release from Order."</i>
02/12/2024	<b>Service Document Index # 214</b> <i>Declaration of Service (serving Courtney R. Titus &amp; Mitchell S. Sanderson)</i>

02/29/2024	<b>Response Index # 215</b> <i>Response to Defendant's Objection to Dismissal with Prejudice and Attorney Fees/Vacate Judgment/Release from Order</i>
02/29/2024	<b>Service Document Index # 216</b> <i>Declaration of Service-ND Attorney General's Office, Courtney Titus; Walsh County Clerk of Court; Howard Swanson</i>
03/05/2024	<b>Order Index # 217</b> <i>Order Denying Plaintiff's Objection to Dismissal with Prejudice and Attorney Fees. Vacate Judgment/Release from Order</i>
03/05/2024	<b>Service Document Index # 218</b> <i>Certificate of Service upon M. Sanderson, H. Swanson, and C. Titus</i>
03/08/2024	<b>CANCELED Pretrial Conference (1:00 PM) (Judicial Officer Agotness, Kari)</b> <i>Court Order</i> <i>Zoom hearing. Meeting ID: 484 756 1164; password: 165941; toll free number: 1-888-788-0099.</i>
03/19/2024	<b>CANCELED Court Trial (9:00 AM) (Judicial Officer Agotness, Kari)</b> <i>Court Order</i>

**FINANCIAL INFORMATION**

Defendant Myrdal, Janne				
Total Financial Assessment				50.00
Total Payments and Credits				50.00
<b>Balance Due as of 03/24/2024</b>				<b>0.00</b>
06/12/2023	Transaction Assessment			50.00
06/12/2023	E-File Payment	Receipt # 50-2023-1004	Myrdal, Janne	(50.00)
Plaintiff Sanderson, Mitchell S				
Total Financial Assessment				80.00
Total Payments and Credits				80.00
<b>Balance Due as of 03/24/2024</b>				<b>0.00</b>
05/19/2023	Transaction Assessment			80.00
05/19/2023	Mail Payment	Receipt # 50-2023-825	Sanderson, Mitchell S	(80.00)

3/22/24, 9:39 AM

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## REGISTER OF ACTIONS

CASE NO. 50-2023-CV-00287

Mitchell S. Sanderson vs. Kari Agotness

S Case Type: Other Civil  
 S Date Filed: 11/09/2023  
 S Location: - Walsh County  
 S Judicial Officer: Knudson, Jay  
 S Supreme Court Docket Number: 20240054

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PARTY INFORMATION

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Defendant **Agotness, Kari**  
Cavalier, ND 58220

Attorneys  
Andrew . Moraghan  
Retained  
701-328-3640 x0000(W)

Plaintiff **Sanderson, Mitchell S.**  
Park River, ND 58270

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EVENTS & ORDERS OF THE COURT

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## DISPOSITIONS

01/30/2024 Dismissed (Judicial Officer: Knudson, Jay)  
 01/31/2024 Money Judgment Entered (Judicial Officer: Knudson, Jay)  
 Monetary Award Judgment  
 Status: \$3,213.80  
 Creditor: State of North Dakota  
 Debtor: Mitchell S. Sanderson (Active)  
 Entered: 01/31/2024  
 Docketed: 01/31/2024, 2:50 PM  
 Damages: \$3,213.80  
 Interest Rate: 11.50%

## OTHER EVENTS AND HEARINGS

11/09/2023 Summons Index # 1  
*Summons (copy received from Mitchell Sanderson by Judge Kari Agotness and Office of Attorney General)*  
 11/09/2023 Complaint Index # 2  
*Complaint (copy received from Mitchell Sanderson by Judge Kari Agotness and Office of Attorney General)*  
 11/09/2023 Notice Index # 3  
*Notice of Motion to Dismiss*  
 11/09/2023 Motion Index # 4  
*Motion to Dismiss*  
 11/09/2023 Brief Index # 5  
*Brief in Support of Motion to Dismiss*  
 11/09/2023 Service of Motion Index # 6  
*Certificate of Service - Mitchell S. Sanderson*  
 11/09/2023 Notice of Assignment and Case Number Index # 7  
 11/14/2023 Recusal Index # 8  
*Notice of Recusal*  
 11/16/2023 Supreme Court Order Index # 9  
*Order of Assignment of Judge Jay Knudson*  
 11/16/2023 Letter Index # 10  
 12/15/2023 Order Disposing of Motion Index # 11  
*Order Granting Motion to Dismiss and Request for Fees and Costs*  
 12/15/2023 Service Document Index # 12  
 12/28/2023 Affidavit Index # 13  
*Affidavit of Andrew Moraghan*  
 12/28/2023 Exhibit Index # 14  
*Exhibit 1 - Attorney's Billing*  
 12/28/2023 Service Document Index # 15  
*Certificate of Service - Mitchell S. Sanderson*  
 01/19/2024 Order Index # 16  
*Supplemental Order for Attorney's Fees*  
 01/19/2024 Service Document Index # 17  
 01/29/2024 Sheriff's Return Served Index # 18  
*PC Sheriff's Return of Service - Judge Kari Agotness served on 10-30-23*  
 01/29/2024 Sheriff's Return Served Index # 19  
*Sheriff's Return - Attorney General's Office served on 11-01-23*  
 01/29/2024 Service Document Index # 20  
*Certificate of Service - Mitchell S. Sanderson*  
 01/29/2024 Proposed Order Index # 21  
*proposed Order for Judgment filed by Andrew Moraghan*  
 01/29/2024 Proposed Judgment Index # 22  
*proposed Judgment filed by Andrew Moraghan*

<https://publicsearch.ndcourts.gov/CaseDetail.aspx?CaseID=5228355>

1/2

3/22/24, 9:39 AM	<a href="https://publicsearch.ndcourts.gov/CaseDetail.aspx?CaseID=5228355">publicsearch.ndcourts.gov/CaseDetail.aspx?CaseID=5228355</a>
01/29/2024	Service Document Index # 23 <i>Certificate of Service - Mitchell Sanderson</i>
01/30/2024	Order Index # 24 <i>for Judgment</i>
01/30/2024	Judgment Index # 25
02/01/2024	Notice Index # 26 <i>of Motion for Relief from Judgment</i>
02/01/2024	Motion Index # 27 <i>for Relief from Judgment</i>
02/01/2024	Brief Index # 28 <i>on Motion for Relief from Judgment</i>
02/01/2024	Service Document Index # 29 <i>Declaration of Service-ND Attorney General's Office, Andrew Moraghan; Walsh County Clerk of Court</i>
02/02/2024	Notice of Entry of Judgment Index # 30 <i>Notice of Entry of Judgment</i>
02/02/2024	Service Document Index # 31 <i>Certificate of Service - Mitchell Sanderson</i>
02/16/2024	Letter Index # 32 <i>Letter to the Hon. Jay Knudson</i>
02/16/2024	Service Document Index # 33 <i>Certificate of Service - Mitchell Sanderson</i>
02/20/2024	Notice Index # 34 <i>Notice of Motion for Extension</i>
02/20/2024	Motion Index # 35 <i>Motion for Extension</i>
02/20/2024	Brief Index # 36 <i>Brief in Support of Motion for Extension</i>
02/20/2024	Exhibit Index # 37 <i>Exhibit 1 - Sanderson Email to Supreme Court 02-12-24</i>
02/20/2024	Exhibit Index # 38 <i>Exhibit 2 - Notice of Appeal</i>
02/20/2024	Exhibit Index # 39 <i>Exhibit 3 - Declaration of Service</i>
02/20/2024	Exhibit Index # 40 <i>Exhibit 4 - Service Related Document</i>
02/20/2024	Exhibit Index # 41 <i>Exhibit 5 - Clerk of Supreme Court Email 02-14-24</i>
02/20/2024	Exhibit Index # 42 <i>Exhibit 6 - Notice of Appeal Filed</i>
02/20/2024	Exhibit Index # 43 <i>Exhibit 7 - Unsworn Declaration of Service</i>
02/20/2024	Proposed Order Index # 44 <i>Proposed Order Granting Motion for Extension-Moraghan</i>
02/20/2024	Service Document Index # 45 <i>Certificate of Service - Mitchell Sanderson</i>
02/20/2024	Notice Index # 46 <i>Notice of Appeal</i>
02/20/2024	Notice of Filing the Notice of Appeal Index # 47 <i>Notice of Filing Notice of Appeal</i>
02/20/2024	Service Document Index # 48 <i>Unsworn Declaration of Service</i>
03/11/2024	Clerk's Certificate on Appeal Index # 49
03/15/2024	Supreme Court Order Index # 50 <i>Supreme Court Order of Remand</i>
03/18/2024	Order Index # 51 <i>Order Granting Motion for Extension</i>