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SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

SEP - 2 2025

Shirley A. Hansen, Clerk
Clerk

Clayton Walker, Appellant/Plaintiff, v. Jeffery Bendi, Extra Storage, Jodi Bendi 605 Storage Thomas Auto Inc., Frank Thomas Trust, Terri Guccione Jason Salamun, Michelle Schuelke, City of Rapid City, ect all, Appellee/ Defendants	Supreme Court # 31111 51 CIV 23 01329 Appellants Brief
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From 7th Circuit Court Robert Gusinsky, and Craig Pfeifle to review the
dispositive Motion to dismiss and Sanctions on May 7th 2025

Clayton G. Walker 1515 E. St. Patrick St # 356 Rapid City, SD 57703 Claytonwalker.com Claytonwalker.us Please contact by US Mail	David R. Hansen in 1830 W. Fulton St. Suite 102 Rapid City SD 57702 Attorney for Frank Thomas Trust Terri Guccione, Thomas Auto Cash Anderson at PO Box 160 Pierre SD 57501 by attorney for Jason Salamun, Michelle Schuelke city of Rapid City Robert J. Galbraith at 326 Founders Park Drive Rapid City SD 57709-8030 attorney for Jeffery and Jodi Bent 605 Storage and Extra Storage
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Under SDCL § 1-26-31.4 Within the Computation of Time under SDCL § 15-6-6(a) The Appellant must disclose the Case is Over the \$2500.00.	

Jurisdictional Statement

1. Date from Hearing was on Feb.18 2025
2. Ruling sought to be reviewed is the Oder from the 7th of May
3. First Notice of Appeal June 3rd 2025
4. The Appeal from Circuit Court from Judge Pfeifle, and Robert Gusinsky

5. Appealed to South Dakota Supreme Court, Order Granted of Extension to Aug. 25, 2025 from Steven R. Jensen, Chief Justice
6. All the Conditions of precedent to the institution of this appeal have been met.
7. Committed in this Jurisdiction of the Seventh Judicial Circuit, State of Pennington County.

Abstract

Lets be Honest, this court was not going to give a pro se plaintiff who is a politician a trial. The appellant is working on his brief with limited access.

Lets look at each side, the Appellant was accused of frivolous Motions, when asking the AG office to look into the theft of vehicles and to have him certified a class action the appellant asking the church for help does not violate any sanction rules.

Lets look at what the Appellee's are being accused of: Assault, theft, Lied, false Police report, hiding when police arrived, missing deadline to answer the complaint in 1331, felony of titled transferred, deceiving that the appellant was 3 moths behind in paying for the lot, not transfer of the appellants deposits for the lot, causing the appellant to go to the ER, lied about how many employees Thomas had, having the court reporter canceled, stated the land Rover was not on there lot, taking money in which they didn't own lot anymore, no notice was served by sheriff for eviction, no Due process, exceeding the number of interrogatory questions, not disclosing other thefts, not giving a speedy trial, not granting subpoena, stating in the transcripts "which the court wont give" in open court the plaintiff didn't file a motion to compel, hiding the fact that the court reporter was overcharging, the Judges recusal, the attorneys overcharging clients, violation of freedom of religion, using a Peirre law office and using the AG office to their advantage.

not answering typed depositions, asking questions about the appellants clothing and not asking real questions, making false statements about the video recordings of the assault and police body camera, the disputable facts at depositions of being assaulted.

Question for the appellant court to decide.

1. Can Sanctions be dispositive Motions. if it aims to resolve the case itself.
2. Did the second Judge error when the first Judge said they can only have one dispositive,
3. Did the appellee violate the Spoilation of Evidence when the first Judge Pfeifle granted to protect evidence, but then Judge Gusinsky than denied it.
4. Does the tenants security deposit transferred when the land is bought by the city council members, not for sale and not by Eminent Domain,
5. Did the court error when granting more than one motion to dismiss. and should those Transcripts be available for the appeal and Writ of Certiorari,
6. Does the Tenant's existing lease agreement remain valid and Binding on the new owner, and does the quit enjoyment apply.
7. Did the court fail for the Right to an Expedited Action, under SDCL
8. Does the city/ Landlord have to follow Eviction Policy,
9. Do Pro Se litigants get to have Voir Dire",
10. Does the tenant have Rights under the SDCL
11. Is the Appellant allowed to practice his religion when stating in his briefs,
12. Should the court discriminate against the plaintiff/ Appellant
13. Did the attorney give false testimony that the tow Yard only had two employees

14. Did the court fail to knowledge of the Number of employees in the tow yard as seen in the video footage, Reference page 1308
15. The Appellant has Strong Views of protecting his rights
16. Does the Supreme Court have jurisdiction when making decisions on the case that the Appellant will be appealing, Judge Recusal and asked a federal Question
17. Is the appellant entitled to subpoenas, what happens when the court cant issue them, again having the clerks unknowing what they job entails,
18. **Federal Questions**
 - a. Is the Appellant entitled to transcripts for his Appeal and for his Writ of Certiorari?
 - b. Should the appellant have the right to have a Judge rule of all Motion Filed with the court, or can they be ignored?
 - c. Is the Appellant entitled to an expedited civil action?
 - d. Can the Supreme of Court of South Dakota uphold their original decision on the recusal by having the same SD Supreme Court Judges review their own Decision?
 - e. Can the Appellant type his depositions?
 - f. Is the Supremacy Clause valid in South Dakota,
 - g. Is asking for help from a church, a sanctionable issue and Is the Appellant allowed to practice his religion when stating in his briefs?
 - h. Should an assault at depositions be decided by a Jury or Judge when both parties have affidavits and witness for disputable facts?

19. Background

The Appellant Clayton Walker hereby will be known as Appellant, Walker, and the plaintiff.

South Dakota renters have Rights regarding their security deposits, privacy quiet enjoyment and eviction processes. Landlords Must return security deposits within two weeks of the lease termination, or provide a written statement explaining any deductions, no letter from the Bendt's or extra storage was ever sent or served. Tenants have the right to quit enjoyment of the property, meaning the landlord or in this case the City unreasonably interfere with their use of the premises. Eviction procedures are specific, and landlords must follow the proper legal channels es including providing appropriate Notice. A Notice to Vacate was not served, or even a chance for a court hearing. If the city wants the tenant to leave, they would be required to provide proper Notice to Vacate according to State and the Local Rules, just like any landlord. The trial Court abused is discretion, abuse of the United States Constitution and State Constitution, and other actions by the Judge, in detailed in the brief for the Supreme Court. Did the Defendants Jeffery and Jody Bendt take the Plaintiff's Money in Bad Faith after the city took the property the land rover was parked at. Please review the evidence of the case rather than on procedural or technical grounds. Disputable facts between the parties should be decided by the jury, the alleged facts, when both parties have affidavits. Walker has pictures and video of assault, police body cameras more than two employee, show the plaintiff also has affidavits of what happen at the depositions and the attorney assault.

Legal Issues

20. Judge Pfeifle or Judge Gusinsky, does the orders of the first Judge stand
21. Did the court error by not granting a trial within one year, the plaintiff filed a motion for a hearing and the plaintiff waited 3 months to get a hearing on his discovery issues. See Motion to Advance, and for a Court Hearing for filed on Aug. 6 2024,
22. Did the court error by ignoring the request for hearings and Motion to Advance.
23. Did the attorney understand the bones of the Expedited procedure,
24. Motion to protect Substantial Rights
25. Whether the defendants should have asked for a Motion for summary Judgement, but the defendants asked for a second Motion to dismiss, not allowed according to the rules set out when the Judge told David Hansen he can only seek MSJ and MTD
26. See transcripts 15 and see the 5th and 9th amendment
27. The Appellant is guarantee a Jury Trial under the 7th Amendment please see SEC. v. Jarkesy.
28. Due Process, the Right to a Jury Trial under the 7th Amendment
29. In FY 1993, why the number of federal Judges only increased by 4 % and pleadings have increased 20 % per Judge
30. Did the court error when granting more than one motion to dismiss under the rules of expedited Civil Action, Transcripts from the hearing on 12-7-23, Can Sanctions be dispositive Motions, if it aims to resolve the case itself,

31. Can the court refer to the state bar, yes in **Qualcomm Inc. v. Broadcom Corp.** in this case of attorney misconduct, they withheld tens of thousands of pages of relevant electronic discovery, both the appellee's have hidden discovery about other stolen vehicles
32. No copy of his motion and record, the Appellant asked for a copy of his file,
33. The Appellant attempted Discovery, and even in good faith to exchange discovery see **Jones v. Riot Hospitality Group, LLC**. Where intentionally deleted evidence,
34. Interrogatories, the Appellant did not get a reply on the interrogatories he sent
35. Did the Court error in giving the defendants more than 10 Questions, in depositions,

Statement of the case and Facts

36. The Judge stated that the parties could only file one Motion to Dismiss.
37. Dispositive Motions are Formal request submitted seeking a ruling that terminates the lawsuit or dismisses particular claims or Defendants. if the first Judge already denied the motion to dismiss, and under an expedited civil action they do not get to have a second one.
38. Nature of the case⁴disposition by the Court was an error
39. Relevant to the reversal Right to a Jury trial,
40. The Appellant was alleging Violation of Due Process

Argument

41. Motion to dismiss was already filed and those David states he has filed a motion to dismiss on page 130 ¶ 17
42. The joined both claims page 135 and than Robert separated them,
43. An additional Motion to Dismiss can not be grated,
44. The Court stated on page 135¶ 17,18 At a hearings Motions.
45. Did the court error by not protections of Evidence.
46. Motion to protect Substantial Rights page 202 ¶
47. The plaintiff told the Judge he had a copy to protect Substantial Rights page 202 ¶ 23
48. 212¶ 4 which is the law of the land.
49. The Judge denied the motion to Dismiss page 214¶ 9
50. Should have the Defendants ask for MSJ, not Motion to Dismiss
51. Please see the plaintiffs Motion for Reconsideration on MTD 229 ¶ 1 SDCL § 43-32-13 SDCL § 43-32-6
52. The number of interrogatories was set by the expedited civil action, this was burden some on the plaintiff, please see the page 315 ¶ 1
53. Motion to quash page 323
54. The court Order Nunc Pro Tunc on the motion for Expedited Civil Action, page 325 ¶ 1
55. Would only hear the claims at the same time, not a joinder errored page 328 .

56. SDCL § 19-19-103 **Rulings on evidence** (a) Preserving a claim of error. A party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the party and: (1) If the ruling admits evidence, a party, on the record: (A) Timely objects or moves to strike; and
57. SDCL § 20-13-1(7) and SDCL § 20-13-1(6)
58. Williams v. Pennsylvania evaluating potential errors made on recusal by the SD Supreme Court.
59. The Court needs to protect the Appellant Substantial Rights and needs to get those rights under the 9th Amendment.
60. Page 126 ¶ 15 limitations on Dismissing one year of filing date ¶ 5,6. ¶ 21 bar bones
61. Fix transcripts page 212 was recording, # 225 ¶ 13
62. 213 ¶ 2 didn't answer the complaint.
63. This case warrants a Reversal. Modification is needed.
64. Page 128 ¶ 2 the Court states there is one dismissal allowed under that proceeding. when the parties asked the court for a second motion to dismiss this was not allowed of the Rules of the Proceedings. Page 129 the court overruled David Hansen
65. Page 130 ¶ 17 David admits to filing a Motion to Dismiss, so another would not be granted. To have the appellant file a Writ of Certiorari would be Burdensome.

Conclusion

The courts are based on Objectivity and fairness, were the approach for a fair and unbiased assessment, ensuring that the case is based on the substance of the matter at hand. The Erosion of Public trust with the Court backlogs lead to higher cost, lets get real

the Plaintiff was never going to get to have a trial. This is weakening public confidence in the Judicial process and it undermines the perception of fairness and access to Justice. The court should review the evidence of the case rather than on procedural or technical grounds, the plaintiff is losing a 12,000.00 Land Rover because the court will not allow a jury to decide disputable facts the plaintiff had affidavits that contradict If the city wants the tenant to leave, they would be required to provide proper Notice to Vacate according to State and the Local Rules, just like any landlord. The Appellant attempted Discovery, and even in good faith to exchange discovery, and was told that Thomas Auto had only two employees but the police body camera showed differently and the court erred to view this. Please look at the video, if the guy behind the counter sure looks like an employee see page 1308, good god the plaintiff has a witness and a recording of the assault where the plaintiff suffered an injury from the assault see page 29 of the record and the complaint. The court would not let walker subpoena any witness, the backlog was so behind the documents just sat at the clerks office. the workload is overwhelming for the new clerks, the plaintiff had an overwhelming amount of evidence the court said they lost at a hearing that the plaintiff isn't allowed to have, sound like a broken record of the plaintiff not getting the transcripts for his appeals Would not let him have a jury trial, and denied discovery to find out witness names so they could be subpoena

Relief and Demands

Wherefore, the Appellant respectfully requests that this Court:

- A. Grant a Reversal for the error and send the case back for a fair trial
- B. Grant a "Liberally Construed," and Grant "Based on its Merits"
- C. Award the Appellant for David Hansen lying at the hearing, submitting altered documents, and ignoring discovery. Award the Appellant \$75,000.00 in Compensatory Damages and \$5,3000,000.00 in Punitive Damages,
- D. Award the Appellant 75,000.00 for Cash Anderson using the AG office for the appellants records being placed into the record,
- E. Contact the Disciplinary Board and refer for the action in this brief/case,
- F. Order Doge to Investigate alleged attorney fraud of the "Right to Speedy Trial"
- G. Demands a fair hearing so he may to be able to get discovery and call witness to come testify,
- H. Grant Basic concept of American Justice,
- I. Award the Appellant any other relief the Court thinks is Just.

Dated this 23rd Day of Aug. 2025



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South Dakota Supreme Court

Certificate of Service and Affidavit

I Clayton G. Walker the Plaintiff states that all is true to the best of my knowledge.

That I the Plaintiff sent a copy of the following:

I certify that the original plus 7 copies were mailed to the clerks of the Supreme Court of South Dakota at 500 E Capitol Ave Pierre SD 57501

Certified Mail # 9589 0710 5270 1583 8365 88

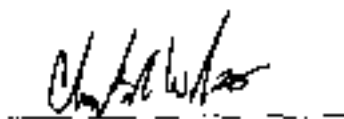
I certify that a copy was served to Attorneys for the Defendants with Robert J. Galbraith at 326 Founders Park Drive Rapid City SD 57709-8030 by U S Mail

I certify that a copy was served to David R. Hansen at 1830 W. Fulton St. Suite 102 Rapid City SD 57702. Sent by US Mail

I certify that a copy was Sent to Cash Anderson at PO Box 160 Pierre SD 57501 by US Mail

A copy thereof on the United States mail, postage paid for First Class Mail to the following persons above.

Compliance § 15-26A-66, Word Count is 3,017, Times New Roman, 12-point 1.5 Margins,



Dated this 24th Day of Aug 2025

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IN SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

Appeal No. 31111

CLAYTON WALKER,

Plaintiff/Appellant,

v.

**THOMAS AUTO, INC., FRANK THOMAS TRUST, TERRI GUCCIONE, MAYOR
JASON SALAMUN, MICHELLE SCHUELKE INDIVIDUALLY AND IN HER
OFFICIAL CAPACITY, and CITY OF RAPID CITY,**

Defendants/Appellees,

APPEAL FROM THE CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT
PENNINGTON COUNTY, SOUTH DAKOTA

THE HONORABLE ROBERT GUSINSKY
CIRCUIT COURT JUDGE

**BRIEF OF DEFENDANTS/APPELLEES MAYOR JASON SALAMUN, MICHELLE
SCHUELKE INDIVIDUALLY AND IN HER OFFICIAL CAPACITY, and CITY OF
RAPID CITY**

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PRELIMINARY STATEMENT

This brief will refer to Plaintiff/Appellant, Clayton Walker, as "Appellant" or "Walker." Defendants/Appellees, Mayor Jason Salamun, Michelle Schuekle Individually and in her Official Capacity, and the City of Rapid City, will refer themselves as "City Defendants." Defendants/Appellees Thomas Auto, Inc., Frank Thomas Trust, and Terri Guccione will be referred to as "Thomas Auto Defendants."

References to the Settled Record will be indicated by "SR ____." Appellant did not submit an Appendix. City Defendants/Appellees' Appendix will be referred to as "AA ____."

JURISDICTIONAL STATEMENT

This is an appeal from an Order in favor of the City Defendants and Thomas Auto Defendants entered on May 7, 2025, by the Honorable Robert Gusinsky. The Order granted all Defendants' Motion for Rule 11 Sanctions. Given Walker's refusal to comply with Court orders regarding discovery and his behavior throughout the case, including behavior at a deposition, the Trial Court also dismissed Walker's claim(s) as part of the Order. Notice of Entry for City Defendants was filed on May 8, 2025. Notice of Appeal was filed on June 3, 2025. The referenced Judgment is appealable, and the present appeal is timely.

STATEMENT OF LEGAL ISSUES

1. Whether the circuit court abused its discretion in awarding Rule 11 Sanctions and dismissing Walker's claim(s)?

Authorities:

- SDCL § 15-6-11
- *Ferebee v. Hobart*, 2009 SD 102, 776 N.W.2d 58

City Defendants have simplified the seventeen (17) state questions and eight (8) federal questions presented by Appellant in his brief and condensed it to the one (1) question presented in this brief, which appears to be the only issue ripe and proper for appeal.

STATEMENT OF THE CASE AND FACTS

This case revolves around many claims by Appellant but was aptly summarized in the Trial Court's Order Granting Defendants' Motion for Rule 11 Sanctions, which liberally construed Appellant's allegations. SR 1303-1316. The facts relevant to this appeal arise from Appellant's conduct throughout the case, and ultimately his conduct costing him his claim(s).

A very liberal reading of Appellant's allegations are as follows: Appellant alleged that he and Dr. Jeffery Bendt entered an apparent lease agreement of a parking spot owned by Dr. Bendt's company 605 Storage. Dr. Bendt eventually sold the parking lot to the City of Rapid City. A 2002 Range Rover in the parking lot, allegedly owned by either Appellant or his friend/roommate Jacob Black (hereinafter referred to as "Black"), was eventually found in Thomas Auto Inc.'s tow yard. Appellant and Black went to Thomas Auto to confront the business about the Range Rover in their yard and apparently to try and reclaim the vehicle. Appellant alleges that an assault occurred where he was the victim, perpetrated by a Thomas Auto Inc. worker, when Appellant confronted the Thomas Auto Inc. workers about the return of the vehicle.

On October 13, 2023, Appellant filed a Complaint along with numerous other documents attempting to sue a number of individuals and entities for the apparent return of the Range Rover. The filings by Appellant are rambling, largely incoherent, and hard

to decipher. Appellant's Complaint requested return of the Range Rover, punitive and compensatory damages, and interest and other damages. Appellant moved to have his case be an expedited civil action pursuant to SDCL § 15-6-72 et seq. Appellant made numerous filings throughout this case demonstrating a complete lack of understanding of the law and judicial process. City Defendants filed multiple Motions to Compel against Appellant due to refusal to participate in the discovery process City Defendants' Motions to Compel were granted. (SR 253, 326, 528, 593). Despite the Orders to Compel, Appellant continued to lodge the same refusals and objections to City Defendants' discovery requests, and made filings putting forth the same. Appellant had a heavily misguided reliance upon the ten question limit for discovery requests as posited in SDCL § 15-6-73.

The Circuit Court issued multiple Orders to Compel against Appellant throughout the pendency of this case. SR 326, 593. Eventually, depositions were noticed to take place in Rapid City on January 21, 2025. Prior to the depositions starting, counsel for City Defendants and Thomas Auto Defendants called chambers for various rulings relating to Appellant's failure to secure a court reporter for the depositions he wished to conduct, and to allow for the undersigned's attendance at the depositions after Appellant attempted to lock out the undersigned. The Court ordered Walker's deposition to take place and that Appellant could conduct his deposition(s) if he obtained a court reporter and time allowed. Appellant then refused to answer more than ten (10) questions from either Thomas Auto Defendants' counsel and City Defendants' counsel without legal basis to do so.

At a February 18, 2025 motions hearing, the Circuit Court denied a multitude of Appellant's motions, noting them to be frivolous and without sufficient detail. The Circuit Court heard argument on Thomas Auto Defendants' Motion for Rule 11 Sanctions; at the hearing, City Defendants joined in Thomas Auto Defendants' Rule 11 Motion. The Circuit Court was informed of Appellant's actions at the scheduled depositions. The Court questioned Appellant regarding his behavior, and due to Appellant's evasiveness during the questioning, was sworn in by the Court. Eventually, Walker admitted to refusing to answer more than ten (10) questions at the deposition and asserted he is being targeted due to his political and religious beliefs. The Circuit Court granted all Defendants' Motion for Rule 11 Sanctions due to Appellant's "voluminous frivolous filings, his repeated refusal to comply with the Court's discovery orders, and his behavior at the deposition, the Court ruled that the dismissal of Walker's case was appropriate. The Court also imposed sanctions, ordering Walker to pay the attorneys' fees for the Defendants." SR 1311. (*See also* SR 1315-16). The Circuit Court correctly awarded attorneys' fees to Thomas Auto Defendants and City Defendants, and additionally correctly dismissed Walker's claims. The Circuit Court did not abuse its discretion in awarding such sanctions, nor in dismissing Walker's claims due to his ongoing conduct. This brief will explain that the Circuit Court correctly did so.

STANDARD OF REVIEW

"Appeals involving sanctions under Rule 11 (SDCL § 15-6-11) are reviewed under the abuse of discretion standard of review. An abuse of discretion is a discretion exercised to an end or purpose not justified by, and clearly against, reason and evidence." *Pioneer Bank & Tr. V. Reynick*, 2009 SD 3, ¶ 13, 760 N.W.2d 139, 143 (citing *Hahne v.*

Burr, 2005 SD 108 ¶ 22, 705 N.W.2d 867, 874). Additionally, the Supreme Court “review[s] a dismissal on the basis of failure to comply with discovery orders under an abuse of discretion standard.” *Storm v. Durr*, 2003 SD 6, ¶ 8, 657 N.W.2d 34, 36 (further citations omitted).

ARGUMENT AND AUTHORITIES

I. THE CIRCUIT COURT DID NOT ABUSE ITS DISCRETION IN AWARDING RULE 11 SANCTIONS AND DISMISSING WALKER'S CLAIM(S).

In its oral ruling at the February 18, 2025 motions hearing, the Circuit Court sanctioned Walker by awarding attorneys' fees to City Defendants and Thomas Auto Defendants, and additionally dismissed Walker's claim(s). The oral ruling was bolstered by the Circuit Court's May 7, 2025 Order Granting Defendants' Motion for Rule 11 Sanctions. The Circuit Court did not abuse its discretion in sanctioning Walker, awarding attorneys' fees to City Defendants and Thomas Auto Defendants, or by dismissing Walker's case. By detailing the factual and procedural history of the case and Appellant's behavior, the Circuit Court's May 7, 2025 Order Granting Defendants' Motion for Rule 11 Sanctions (SR 1303-1316) illustrates the Court did not abuse its discretion by levying sanctions, attorneys' fees, and dismissal of Appellant's case.

“[T]he term ‘abuse of discretion ... is a fundamental error of judgment, a choice outside the range of permissible choices, a decision, which, on full consideration, is arbitrary or unreasonable.” *Arneson v. Arneson*, 2003 SD 125, ¶ 14, 670 N.W.2d 904, 910. Abuse of discretion is the most deferential of appellate review standards as a recognition to trial courts, as they are in a better positions to make difficult decisions as they are in the courtroom and can assess the parties and witnesses. *Id.* Here, the Circuit

Court was in a position to review all of Walker's filings, review party submissions regarding Walker's refusal to follow court orders and conduct himself in a way to productively move the case forward, the trial court was able to question Walker, after putting him under oath (See SR 1226), in court, and ultimately determined dismissal and sanctions were appropriate because Walker made (1) "voluminous frivolous filings"; (2) repeatedly refused to comply with the Court's discovery orders, and (3) conducted himself in such a way at depositions and through communications, that, although harsh, sanctions and dismissal were appropriate. SR 1311, 1315.

SDCL § 15-6-11(b) provides:

By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

- (1) It is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- (2) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (3) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

SDCL § 15-6-11(b) applies to attorneys and unrepresented parties equally.

SDCL § 15-6-11(c) authorizes a court to "impose an appropriate sanction upon the attorneys, law firm, or parties that have violated SDCL § 15-6-11(b) or are responsible for the violation. A party may move for sanctions, or the Court "[o]n its own initiative ... may enter an order describing the specific conduct that appears to violate

SDCL § 15-6-11(b) and directing an attorney, law firm, or party to show cause why it has not violated SDCL § 15-6-11(b) with respect thereto.” SDCL § 15-6-11(c)(1)(A)-(B). Sanctions must be “limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated.” SDCL § 15-6-11(c)(2).

A. Attorneys’ Fees and Rule 11 Sanctions

Attorneys’ fees and other expenses incurred as a result of Walker’s action(s) are specifically contemplated by SDCL § 15-6-11(c)(2). Attorneys’ fees in the amount of \$4,386.00 were awarded to City Defendants for costs associated with the Rule 11 motion. SR 1316. The Circuit Court arrived at such an award after requiring City Defendants counsel to submit a Motion, Affidavit and detailed billing statement, and briefing to support their request for attorneys’ fees.¹ SR 1104-61. The Circuit Court awarded a fraction of the City Defendants’ request. *Id.* ¶ 6 at 60-61.

Awarding attorneys’ fees against Walker was not an abuse of discretion and the Circuit Court sufficiently explained its reasoning in its May 7, 2025 Order Granting Defendants’ Motion for Rule 11 Sanctions. The Court found that Walker had violated Rule 11 by filing frivolous motions, engaging in harassing communications with the Defendants, and via his behavior at the January 21, 2025 depositions. The Circuit Court likened Appellant’s behavior to that exhibited in *Ferebee v. Hobart*, 2009 SD 102, 776 N.W.2d 58. Ferebee “barraged the court and opposing counsel with numerous pro se

¹ SR 1106 includes the following: “In the seventeen-plus months that followed the filing of the action, Plaintiff has caused to be filed ninety-four (94) motions and miscellaneous filings, secretly recorded counsel on a meet and confer phone call, refused to participate in properly noticed depositions and other methods of written discovery, failed to secure a court reporter for depositions he noticed, harassed parties and counsel, and lodged ad hominem attacks and threats against opposing counsel, among other things.”

motions and requests, sometimes issuing multiple pleadings and letters on the same day.” *Id.* Ferebee would not accept a ruling and would file numerous motions attempting to relitigate previously decided issues. *Id.* The Supreme Court held that Ferebee’s behavior “exhibit[ed] a strategy designed to utilize the court system and rules of procedure as tools to further harass and intimidate [the defendant] as much as to obtain valid redress for a wrong. *Id.* ¶ 27 (citing *Oesterling v. Oesterling*, 354 N.W.2d 735, 736-37 (SD 1984)). Walker has attempted to utilize these rules and procedures in the same fashion.

Walker did the same. Notably, as found by the Court, Walker repeatedly violated the Court’s discovery orders when he continued to refuse to answer City Defendants’ Requests for Admissions after lodging the same objections, unsuccessfully, to City Defendants’ Interrogatories. (See SR 239 ¶ 4). Prior to answering those interrogatories, Walker asked for an extension of time from the court and stated, antithetical to the Court’s ruling mere weeks prior, that City Defendants asked more than ten (10) questions. SR 371. City Defendants brought a Second Motion to Compel or In the Alternative Dismiss (SR 528). Walker continued to refuse to answer City Defendants’ Requests for Admission by reiterating the same objection the Circuit Court had previously overruled. (*See generally* SR 239, 315, 323-337).

At the January 21, 2025 depositions, Appellant attempted to lock City Defendants’ counsel out of the room where depositions were to be taken and Defense counsel had to phone the Circuit Court’s chambers prior to the depositions due to his conduct and unwillingness to participate—this conduct was deemed “harassing and inappropriate” by the Circuit Court. SR 1315. It was also clear to the Circuit Court judge

that Walker failed to procure a court reporter for depositions he wished to conduct, wasting the time of the parties and counsel. *Id.*

Walker made numerous filings asking for relief previously denied and made frivolous motions, including a *Brady* Motion (in a civil case), a Motion for Theft by Deception, Motion for Judicial Review, Notice to Certify a Class Action and Motion for Access to Justice and Report. Additionally, Walker emailed Defendants' counsel regarding a door to door campaign regarding the "Defendants' theft"—of course, City Defendants are the Mayor, a city official, or Rapid City itself. Walker made numerous frivolous filings, ignored the Circuit Court's orders repeatedly, and harassed the opposing parties and counsel.

The record is replete with Walker's frivolous filings, rejections and subversions of court orders, and illustrations of his disrespect and ignorance of the law and judicial process. Awarding sanctions to City Defendants was wholly justified and supported by reason and fact; in fact, Walker's filings and conduct are the antithesis of what SDCL § 15-6-11(b) requires. The Circuit Court listed its reasoning for awarding sanctions, and why such a specific amount was awarded, in its Order Granting Rule 11 Sanctions; the reasoning contained in the Court's written order plainly shows the Circuit Court did not abuse its discretion when entering sanctions against Appellant. The Circuit Court was fully empowered to award sanctions on its own accord or via motion from any party, and such award was an easy choice based upon the record before it.

B. Dismissal of Walker's Case

SDCL § 15-6-11(a) through 15-6-11(c) don't apply to disclosures and discovery requests, responses, objections, and motions that are subject to the provisions of SDCL §

15-6-26 through 15-6-37. SDCL § 15-6-11(d). Instead, SDCL § 15-6-37(b) provides penalties to a party failing to comply with a court's discovery order:

(1) Sanctions by court in circuit where deposition is taken. If a deponent fails to be sworn or to answer a question after being directed to do so by the court in the circuit in which the deposition is being taken, the failure may be considered a contempt of that court.

(2) Sanctions by court in which action is pending. If a party or an officer, director, or managing agent of a party or a person designated under subdivision 15-6-30(b)(6) or § 15-6-31(a) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under § 15-6-37(a) or 15-6-35, the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:

(A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence;

(C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

(D) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination;

(E) Where a party has failed to comply with an order under § 15-6-35(a) requiring that party to produce another for examination, such orders as are listed in paragraphs (A), (B), and (C) of this subdivision, unless the party failing to comply shows that that party is unable to produce such person for examination.

In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or the attorney advising that party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

SDCL § 15-6-37(b)

Appellant made himself the target which SDCL § 15-6-37(b) aims to punish.

Appellant repeatedly lodged the same objections after the Circuit Court overruled those

objections. Appellant continued to fail to respond to City Defendants' Requests for Admissions and bolstered his refusal with the same overruled arguments and objections. Appellant repeatedly attempted to have the court provide transcripts and records despite being told no. After nineteen (19) months and hundreds of frivolous filings and refusals to cooperate with the judicial process, the Circuit Court finally employed SDCL § 15-6-37(b)(2)(C) and dismissed his case; the Circuit Court, again, had the ability to do this on its own accord. See SR 1311, 1315. As Appellant repeatedly violated orders of the Circuit Court and engaged in contemptuous behavior, dismissal of his case was justified and was not an abuse of discretion.

CONCLUSION

Appellant's continuous behavior throughout the case, from frivolous filings to conduct throughout the discovery process, led the Circuit Court to award attorneys' fees and dismiss Appellant's case. The record is clear in regard to Appellant's frivolous behavior. It is exceptionally clear in Appellant's reluctance to sincerely participate in the discovery process and obey court orders-whether that be responding to written discovery (before or after being ordered to), procuring a court reporter to record depositions he wished to take, or participate by answering more than ten (10) of Defendants' questions in depositions with no legal basis for doing otherwise. The Circuit Court should be affirmed.

Dated this 8th day of October, 2025.

MAY, ADAM, GERDES & THOMPSON LLP

BY:



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CERTIFICATE OF SERVICE

Cash E. Anderson, of May, Adam, Gerdes & Thompson LLP, hereby certifies that on the 8th day of October, 2025, a true and correct copy of the foregoing Appellee's Brief and appendices was served through Odyssey File & Serve, and served and mailed by United States mail, first class postage thereon prepaid, to the following at their last-known addresses:

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CASH E. ANDERSON

CERTIFICATE OF COMPLIANCE

Cash E. Anderson, counsel for Defendants/Appellees, hereby certifies that the foregoing Brief of Appellees complies with the type volume limitation provided for in the South Dakota Codified Laws and pursuant to SDCL § 15-26A-66(b)(4). This brief contains 3,924 words, exclusive of the Table of Contents, Table of Authorities, Jurisdictional Statement, Statement of Legal Issues, Appendix, Certificate of Service, and Certificates of Counsel. Counsel relied on the word and character count of Microsoft Word, word processing software, used to prepare this Brief at font size 12, Times New Roman, and left justified.

Dated this 8th day of October, 2025.

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IN SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

Appeal No. 31111

CLAYTON WALKER,

Plaintiff/Appellant,

v.

**THOMAS AUTO, INC., FRANK THOMAS TRUST, TERRI GUCCIONE, MAYOR
JASON SALAMUN, MICHELLE SCHUELKE INDIVIDUALLY AND IN HER
OFFICIAL CAPACITY, and CITY OF RAPID CITY,**

Defendants/Appellees,

APPEAL FROM THE CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT
PENNINGTON COUNTY, SOUTH DAKOTA

THE HONORABLE ROBERT GUSINSKY
CIRCUIT COURT JUDGE

**APPENDIX TO BRIEF OF DEFENDANTS/APPELLEES MAYOR JASON SALAMUN,
MICHELLE SCHUELKE INDIVIDUALLY AND IN HER OFFICIAL CAPACITY, and
CITY OF RAPID CITY**

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Order Granting Defendants' Motion for Rule 11 Sanctions AA001

Transcript of February 18, 2025 Motions Hearing AA015

STATE OF SOUTH DAKOTA)
COUNTY OF PENNINGTON)
CLAYTON WALKER,)
Plaintiff,)
v.)
THOMAS AUTO, INC., FRANK)
THOMAS TRUST, TERRI)
GUCCIONE, MAYOR JASON)
SALAMUN, MICHELLE SCHUELKE)
INDIVIDUALLY AND IN HER)
OFFICIAL CAPACITY, and CITY OF)
RAPID CITY,)

IN CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT
FILE NO. CIV 23-1329

**ORDER GRANTING DEFENDANTS'
MOTION FOR RULE 11 SANCTIONS**

Defendants.

This matter is before the Court on Thomas' Defendants Motion for Rule 11 Sanctions ("Motion"). At the hearing on February 18, 2025, the City Defendants orally joined the Motion.

Having reviewed the motions, notices, and other submissions by parties, having heard arguments by parties, and being otherwise familiar with the record, Defendants' Motions for Rule 11 Sanctions is **GRANTED** in part and **DENIED** in part.

BACKGROUND

This action was commenced by Clayton Walker on October 13, 2023. The Complaint is rambling and difficult to understand. But a liberal construction of the allegations in the Complaint follows:

- Plaintiff entered into an agreement with Defendant Dr. Jeffery Bendt for the lease of a parking spot on a lot owned by 605 Storage. Dr. Jefferey Bendt and Jodi Bendt are members of 605 Storage. Defendants Dr. Jeffery Bendt, Jodi Bendt, and 605 Storage will be referred to as the Bendt Defendants. As evidence of the agreement, Walker attaches Exhibit "A" which is nothing more than acknowledgement that Jodi Bendt is authorized to sign a document on behalf of 605 Storage

and in fact appears to be page 2 of Exhibit "C" which is the warranty deed transferring the parking lot to the City of Rapid City. In paragraph 6, Walker alleges that he and a "possible Co-Plaintiff" paid for the parking spot lease.

- Bendt Defendants sold the parking lot to the City of Rapid City. Defendants Mayor Jason Salamon and Michelle Schuelke will collectively be referred to as City Defendants.
- Bendt Defendants never informed the City Defendants of the alleged lease.
- On September 23, 2023, a 2002 Range Rover Discovery was stolen from the parking lot now owned by Rapid City.
- Walker alleges that the vehicle is owned by Jacob Black and Clayton Walker. Paragraphs 9 of the Complaint states: "Owners being of Jacob Black and Clayton Walker. Please see Bill of sale. Waiting on finalizing the contract/final \$500 lease payment. Attached hereto as Exhibit 'D.'" Paragraph 10 states: "Clayton walker is part owner of a Blue Land Rover Range Rover Vin number Sald15402a736383 attached hereto as Exhibit 'E.'"
- Exhibit D is nothing more than an undated statement that Walker sold the 2002 Range Rover to Jacob Black and signed by Jacob Black. Exhibit "E" is a registration document with an issue date of October 12, 2023, with no mention of Jacob Black.
- The Complaint then jumps to an allegation that Defendant Thomas Auto had a Range Rover on its lot with the same license plate as Walker's Range Rover. Walker does not allege how the Range Rover came to be on Thomas Auto's lot.
- Walker claims that a Thomas Auto employee called Walker a "dirty whore" and later assaulted him.
- Walker claims that the "plaintiffs" formally demanded the return of their vehicle from Thomas Auto. As evidence, he attaches Exhibit "G." Exhibit "G" is an undated and unsigned letter in which Jake Black, not Walker, demands the return of the vehicle plus \$6,216.90 in litigation costs.

- As relief, Walker requests the return of his property, punitive damages in the amount of \$23,000, compensatory damages of \$1081.52, as well as interest and other accrued damages.

Walker requested and was granted permission to proceed under the rules governing an expedited civil action. On October 13, 2023, Walker also filed a separate document styled "Entitled to Relief."

On October 16, 2023, Walker filed a motion to amend his complaint and add Governor Noem and Attorney General Marty Jackley as additional defendants. The motion is handwritten and barely legible. There is no indication as to Governor Noem's and Attorney General Jackley's alleged culpability.

On November 2, 2023, Walker filed a document titled "Motion of waiver of additional services and summons," wherein he complained that he was not allowed to file a video. He also complains that not all defendants are listed and requested a waiver of additional service and summons.

The Bendt Defendants filed a Motion to Dismiss which was Granted by Judge Pfeifle on April 19, 2024. Thomas Auto Defendants also filed a Motion to Dismiss, which was Denied by Judge Pfeifle on the record on March 14, 2024,¹ but there does not appear to be an Order on file to confirm that.

DISCOVERY

On May 7, 2024, City Defendants filed a Motion to Compel alleging that Walker failed to respond to First Set of Interrogatories and Requests for Production initially served on February 23, 2024. Apparently, Walker refused receipt of the certified letter and Motion to Compel filed on May 7, 2024.

On May 8, 2024, Thomas Defendants served interrogatories and requests for production.

¹ Hearing Transcript, Motion to Dismiss, March 14, 2024, filed on April 3, 2024, at 16.

On May 22, 2024, Walker moved to quash alleging that with subparts, Thomas Defendants have exceeded the 10 interrogatories and requests for production allowed by the rules. Also on May 22, 2024, Walker objected to the City Defendants' discovery requests on the same grounds and requested that the City's Motion to Compel be denied. It is noteworthy that most of Walker's filings request that the court construe his motions liberally.

Following a hearing held on May 30, 2024, Judge Pfeifle granted the City Defendants' Motion to Compel, set a June 14, 2024, deadline for Walker to respond, and held the City Defendants' request for costs and fees in abeyance. *See* Orders filed on June 4, 2024. Judge Pfeifle also converted Walker's Motion to Quash the Thomas Defendants discovery requests to a Motion for a Protective Order and Denied the same. Judge Pfeifle also found that while the interrogatories and requests for production served on Walker had subparts, such subparts were not "discrete subparts within the meaning of the statute, rather they merely seek to clarify the respective discovery requests." *See* Order on Motion to Compel, June 4, 2024.

Despite the Court's clear and unambiguous finding that the 10-question limit was not exceeded, Walker filed a Motion for Extension of Time and Objection on June 13, 2024. Specifically, Walker stated that the City Defendants asked more than 10 questions. Without any specificity, Walker alleged that City Defendants did not follow the court's order and that he should be allowed to ask questions as well. According to Walker he needed more time so that he could obtain responses from the defendants. Finally, and consistent with many pleadings filed by Walker, he once again highlights his indigent status.

On the same date, Walker also objects to the court's previous order denying his motion to quash, essentially arguing that Judge Pfeifle failed to review discovery requests, that he was tricked into granting the Thomas Defendants' motion, and that Judge Pfeifle's actions violate his rights

under the 9th Amendment to the United States Constitution as well as his due process rights. *See* Objection to Order Denying Plaintiff Clayton Walkers [sic] to Quash, June 13, 2024.

On August 6, 2024, Walker filed a Motion to Compel Production of Documents and Affidavit, wherein he argues that Defendants' attorneys have not participated in discovery. *See* Motion to Compel Production of Documents and Affidavit, filed on August 6, 2024.

On September 4, 2024, Walker requested that subpoenas be issued for the production of documents and "all vehicles" towed by Thomas Auto to the Defendants. *See* Plaintiff's Subpoena for Documents, September 4, 2024. Both the Thomas Auto Defendants and the City Defendants filed Motions to Quash the subpoenas. On October 10, 2024, this Court issued an Order Granting the Defendants' Motion to Quash in part, holding that because the rules for expedited civil actions apply in this case, the use of subpoenas on party opponents are not permitted in discovery. However, the Court declined to award attorneys' fees or sanctions.

On September 20, 2024, Walker filed Objections for Request for Admission of City, wherein he argues that the Defendants "are breaking the law of SDCL § 15-6-36 and SDCL § 15-6-73 (C) [sic]." *See* Plaintiff's Objection for Request for Admission for City, Ect. [sic] All. Walker further argues that the Defendants' Request for Discovery exceeded the 10-question limit, an issue that had been previously ruled on by Judge Pfeifle. *Id.* Walker requested punitive damages in the amount of \$75,000.00 for "emotional distress and their continued abuse of these Rules and laws" and for an award of \$600,000.00 "to be paid by the Law Office for Wanton disregard on the complaints made by [Walker]." *Id.*

The City Defendants filed a Second Motion to Compel or, in the Alternative, Dismiss on October 7, 2024, for Walker's failure to respond to the Requests for Admissions. In Walker's Reply, he alleges, among other things, that the City Defendants attorney, Cash Anderson, "sees this is an opportunity for political gain," and reasserts his arguments regarding the 10-question limit. *See* Reply

to Defendants Mayor Jason Salamun, Michelle Schuelke, and City of Rapid City's Second Motion to compel or in the Alternative Dismiss, request for stay, filed on October 15, 2024. Walker requests, among other things, that the Court "[c]ontact the State Bar about the attorney's misconduct." *Id.*

On October 15, 2024, Walker filed a Motion for Stay. It is unclear what the grounds are for the Motion, but the Court understands that Walker disagrees with Attorney Cash Anderson's assertion that Walker was not participating in discovery. *See* Motion for Stay, filed October 15, 2024.

On November 7, 2024, the Court issued an Order Denying Walker's Motion to Compel, Granting the Thomas Auto Defendants' Motion to Compel, and Striking Walker's Motion to Compel for an improper caption with a warning that if further filings have improper captions, he may be subject to contempt. *See* Order on Motions to Compel Dated August 6, 2024, and September 5, 2024. The Court also ordered Walker to respond to Thomas Auto Defendants' requests by November 13, 2024, and that the parties must use telephone communication to resolve future discovery disputes.

On December 2, 2024, the Court issued an Order Partially Granting the City Defendants' Motion to Compel and further Ordered that the City Defendants' Requests for Admissions were deemed admitted, that the requirement to meet and confer regarding discovery disputes was suspended, that Walker's "Motion to Stay" was denied, that Walker's Motion for Order of Transcripts was denied in part and granted in part, and that Walker's "Motion to Protect Substantial Rights" was denied. *See* Order issued on December 2, 2024.

On December 13, 2024, Walker sent an Informal Request for Judge Disqualification to the Court, which provided that he had "[d]oubts about the judge [sic] ability to be impartial, due process of statements made in court, canons, religion." *See* Informal Request for Judge Disqualification, filed on December 20, 2024. The Court denied this request. On December 16, 2024, Walker filed a Motion for Transcripts cost and Endorsement, wherein he requested that "each court reporter fill out the Endorsement under the Penalty of Law, this is used to know the cost and the type of the Stenograph

Machine Used.” *See* Plaintiff’s Motion for Transcripts cost and Endorsement, filed on December 16, 2024. The Court denied this Motion, noting that there was no legal authority for the request. *Id.*

On December 30, 2024, Walker filed an Affidavit for Change of Judge and a Motion for a Change for Judge. On January 12, 2025, Walker submitted a Motion for a Court Hearing on the matter. On January 21, 2025, Circuit Court Judge Matt Brown Denied Walker’s Motion for Change of Judge.

On January 3, 2025, Walker submitted a flash drive with a document titled, “What’s on the Flash Drive.” Also, on January 3, Walker filed a Motion for Brady Rule and Possible Violation and a Motion for Theft by Deception. Walker also filed a 129-page Motion to Compel, wherein he argues that the Defendants’ attorneys are “hiding information.” *See* Motion to Compel, filed January 3, 2025.

On January 10, 2025, the Thomas Auto Defendants filed a Motion for Rule 11 Sanctions and Response to Recent Filings, wherein they asserted that Walker gave them a “Notice to Certify a Class Action.” *See* Defendant Thomas Auto’s Motion for Rule 11 Sanctions and Response to Recent Filings. Walker informed the parties via email that he planned to “start a Door to Door campaign with flyers to get the Money needed for Deposition to put and [sic] end to the Defendants alleged theft,” and that he’d be asking “his church, and community for assistance to put an end to the Defendants thefts, Assault, battery and deception’s of stealing from Indigent Citizens.” *See* Thomas Auto Defendants’ Exhibit 1 to their Motion for Rule 11 Sanctions and Response to Recent Filings.

On January 16, 2025, Walker filed a Motion for Judicial Review, a Motion for Inspection of Property, a Motion to Quash Subpoenas, and a Motion for Theft by Deception. Walker also filed a Motion for Sufficient Probable Cause on January 30, 2025. Walker filed a Motion for Access to Justice, and Reports on February 12, 2025.

Depositions by both parties were scheduled to take place on January 21, 2025. On that date, the parties contacted the Court to explain various issues with the depositions. Counsel for Defendants, Attorneys David Hansen and Cash Anderson, informed the Court both on the phone on January 21,

2025,¹ and at the motions hearing on February 18, 2025, that Walker failed to obtain a court reporter prior to the depositions. Walker informed the Court that he was in the process of getting a court reporter. *Id.* Attorney Hansen also informed the Court that Walker attempted to block Attorney Anderson from gaining entry to the room where the depositions were to take place. *Id.* Walker informed the Court that he filed a Motion to Quash the Thomas Auto Defendants' subpoena for improper service. *Id.* Attorney Hansen explained that they provided Walker with a Notice of Deposition. *Id.*

The Court Denied Walker's Motion and ordered that the parties conduct Walker's deposition, and that Walker could conduct the Defendants' deposition if he obtained a court reporter and there was sufficient time to do so. *Id.* The Court also informed Walker that Attorney Anderson was allowed to be in the room during the deposition. *Id.* Walker then asked whether the Court would provide him with access to a court reporter, and again, the Court informed him that it was his responsibility to obtain a court reporter.

A motions hearing was held on February 18, 2025, where the Court denied Walker's *Brady* Motion, Walker's Motion for Court to Settle Discovery Disputes, Walker's Motion for Theft by Deception, and Walker's Motion to Compel for Requests for Admissions.² The Court found Walker's *Brady* Motion, the Theft by Deception Motion, the Motion for Judicial Review, and the Motion for Access to Justice and Report to be frivolous. The Court also found that Walker's Motion to Settle Discovery Disputes lacked sufficient detail for the Court to rule on. Walker requested that the Court review a video recording he received in discovery to help explain the dispute,³ and argued that the Thomas Auto Defendants did not provide all their employees' names. Attorney Hansen confirmed

¹ See Motions Hearing Transcript, January 21, 2025, filed on February 14, 2025.

² See Motions Hearing Transcript, February 18, 2025, filed on March 21, 2025.

³ The Court has reviewed the video that Walker submitted and does not find that it lends any credibility to his argument regarding the discovery dispute. Walker also referenced a binder that he dropped off at the courthouse, but the Court is unaware of any such binder's existence. The Court reviewed all filed materials prior to the hearing.

that they had complied with Walker's discovery requests and all names had been provided. The Court also heard arguments on Thomas Auto Defendants' Motion for Rule 11 Sanctions. Attorney Hansen argued that the motion was brought in response to Walker's Notice to Certify a Class Action, noting that Walker is not an attorney and cannot represent a class of people.

Attorney Hansen further informed the Court of Walker's behavior at the deposition. According to Attorney Hansen, Walker did not have a court reporter, and Walker attempted to block the Attorneys' entry to the room. Walker also refused to answer more than ten questions from either attorney, citing the rules governing expedited civil actions as the basis for his refusal. Attorney Anderson confirmed that Mr. Hansen's recount of Walker's behavior at the deposition was accurate. The Court found that no credible evidence was presented to suggest that Walker had secured a court reporter lined up prior to noticing or attending the deposition, and as a result, he wasted the parties' and attorneys' time.

When asked by the Court about his behavior at the deposition and whether he refused to answer more than ten questions, Walker was evasive. Walker eventually agreed that he did not answer more than ten questions. Walker also reiterated that he believes he is being targeted based on his political or religious beliefs. The Court informed Walker that it has no knowledge of his political or religious beliefs, and it makes no difference what they are.

Based on Walker's voluminous frivolous filings, his repeated refusal to comply with the Court's discovery orders, and his behavior at the deposition, the Court ruled that the dismissal of Walker's case was appropriate. The Court also imposed sanctions, ordering Walker to pay the attorneys' fees for the Defendants.

Again, in March 2025, Walker filed a document titled "Plaintiffs request Clerks Response," wherein he requested to be provided with "the Court Reporters Endorsement from [his] last court Hearing." *See* Plaintiffs request Clerks Response, filed on March 19, 2025.

DISCUSSION

"South Dakota utilizes the American rule that each party bears the burden of the party's own attorney fees." *Ctr. of Life Church v. Nelson*, 2018 S.D. 42, ¶ 34, 913 N.W.2d 105, 114 (quoting *In re S.D. Microsoft Antitrust Litig.*, 2005 S.D. 113, ¶ 29, 707 N.W.2d 85, 98. "However, two exceptions to this general rule exist, first when a contractual agreement between the parties entitles the prevailing party to attorney fees, and second when an award of attorney fees is authorized by statute." *In re S.D. Microsoft Antitrust Litig.*, 2005 S.D. 113, ¶ 29, 707 N.W.2d at 98 (citing *Crisman v. Determan Chiropractic, Inc.*, 2004 SD 103, ¶ 26, 687 N.W.2d 507, 513). SDCL 15-6-11(c) authorizes a court to "impose an appropriate sanction upon the attorneys, law firms, or parties that have violated § 15-6-11(b) or are responsible for the violation." SDCL 15-6-11(c). Under this section, a party may make a motion for sanctions, or the Court, "[o]n its own initiative ... may enter an order describing the specific conduct that appears to violate § 15-6-11(b) and directing an attorney, law firm, or party to show cause why it has not violated § 15-6-11(b) with respect thereto." SDCL 15-6-11(1)(A)-(B).

A sanction imposed for violation of this rule shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. Subject to the limitations in subparagraphs (A) and (B), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

SDCL 15-6-11(c)(2). However, "[s]ections 15-6-11(a) through 15-6-11(c) do not apply to disclosures and discovery requests, responses, objections, and motions that are subject to the provisions of §§ 15-6-26 through 15-6-37." SDCL 15-6-11(d).

SDCL 15-6-11(b) provides that:

By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

- (1) It is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

- (2) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (3) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

Chapter 15-6-37 outlines the consequences for refusing to make discovery. SDCL 15-6-37(b) provides the following consequences for failing to comply with an order:

- (1) Sanctions by court in circuit where deposition is taken. If a deponent fails to be sworn or to answer a question after being directed to do so by the court in the circuit in which the deposition is being taken, the failure may be considered a contempt of that court.
- (2) Sanctions by court in which action is pending. If a party or an officer, director, or managing agent of a party or a person designated under subdivision 15-6-30(b)(6) or § 15-6-31(a) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under § 15-6-37(a) or 15-6-35, the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:
 - (A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;
 - (B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence;
 - (C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;
 - (D) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination;
 - (E) Where a party has failed to comply with an order under § 15-6-35(a) requiring that party to produce another for examination, such orders as are listed in paragraphs (A), (B), and (C) of this subdivision, unless the party failing to comply shows that that party is unable to produce such person for examination.

In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or the attorney advising that party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

SDCL 15-6-37(b).

Here, the Thomas Auto Defendants filed a Motion for Rule 11 Sanctions on January 11, 2025, relating to Walker's attempt to certify a class action. The Rule 11 Motion was joined by the City Defendants. The Court heard arguments on the Rule 11 Motion at the Motions Hearing on February 18, 2025. At the hearing, the Court found that Walker had violated Rule 11 by filing frivolous motions as well as through his behavior during the depositions on January 21, 2025, and his harassing communications with the Defendants.

Attorney Hansen likened Walker's behavior throughout the proceedings to the actions of the plaintiff in *Ferebee v. Hobart*, 2009 S.D. 102, 776 N.W.2d 58. In *Ferebee*, the plaintiff "barraged the court and opposing counsel with numerous pro se motions and requests, sometimes issuing multiple pleadings and letters on the same day." *Id.* ¶ 6 at 60-61. The Court noted that the plaintiff would not accept a ruling, and once the trial court addressed one motion, he would subsequently file another motion or letter that relitigated the prior argument. *Id.*

Regarding the frivolousness and maliciousness of the plaintiff's actions, the trial court found:

The continual litigation stems from Mr. Ferebee's intransigent view that he is right and Mr. Hobart, Judge Davis, Judge Fuller, the South Dakota Supreme Court, and Judge Bogue (and this Court) are all wrong in their positions and rulings. The very nature of Mr. Ferebee's continual litigation is frivolous and malicious since Mr. Ferebee continues to raise the same issues over and over, even though the issues have been previously decided in Mr. Hobart's favor.

Id. ¶ 26 at 65. The South Dakota Supreme Court held that "[w]hile some of these practices could perhaps be attributed to Ferebee's pro se status and lack of familiarity with proper procedures, Ferebee can claim no advantage from his status," and that this behavior "exhibit[ed] a strategy designed to utilize the court system and rules of procedure as tools to further harass and intimidate [the defendant] as much as to obtain valid redress for a wrong." *Id.* ¶ 27 (citing *Oesterling v. Oesterling*, 354 N.W.2d 735, 736-37 (S.D. 1984)).

Here, Walker's behavior somewhat mirrors the facts of *Ferbise*. Walker repeatedly violated the Court's discovery orders by not responding to opposing counsel's requests for admissions. He also made several repetitive arguments on issues that the Court had previously ruled on, such as his repeated requests for the court reporter's "endorsement." Walker filed several frivolous motions, including his *Brady* Motion, the Theft by Deception Motion, the Motion for Judicial Review, and the Motion for Access to Justice and Report.

Walker also exhibited harassing behavior throughout this case. Walker's Motion to Amend his Complaint to add Governor Noem and Attorney General Jackley, without mentioning their culpability, was harassing and had no legitimate purpose. The Court also found that Walker's email to Defendants' counsel, wherein he informed them that he was going to initiate a door-to-door campaign, was harassing. Walker's behavior at the deposition further indicates an intent to harass or intimidate the Defendants and their counsel. Walker's attempt to block Defendants' counsel from entering the room where the depositions were scheduled is clearly harassing and inappropriate. It is also clear that Walker did not secure a court reporter prior to noticing or attending the deposition, and therefore wasted the time of the parties and their counsel.

Therefore, given Walker's multiple frivolous filings, the Court finds it appropriate to grant the Defendants' Motion for Rule 11 Sanctions. The Court further finds that, given Walker's refusal to comply with this Court's orders regarding discovery and his behavior during the deposition, the dismissal of Walker's claim, while severe, is appropriate.

The issue currently before the Court is determining the amount to award the Defendants under either SDCL 15-6-11 or SDCL 15-6-37(b). The South Dakota Supreme Court has previously recognized that "the purpose of sanctions under SDCL 15-6-11 is to deter abuse by parties and counsel." *Smizer v. Dry*, 2016 S.D. 3, ¶ 18, 873 N.W.2d 697, 703 (citing *Anderson v. Prod. Credit Ass'n*, 482 N.W.2d 642, 645 (S.D. 1992)). In *Tri-State Refining and Inv. Co., v. Apaleosa Co.*, the South Dakota

Supreme Court affirmed the trial court's ruling of imposing a penalty sanction under SDCL 15-6-11. 431 N.W.2d 311, 316 (S.D. 1988) (citing *Cbeck v. Doe*, 828 F.2d 395 (7th Cir.1987)). In *Cbeck*, the court held that Federal Rule 11 permits "penalty" sanctions where there is obvious bad faith and intent to harass. *Cbeck*, 828 F.2d at 397 (7th Cir. 1987).

In the present case, Attorneys Hansen and Anderson have provided Affidavits of their attorneys' fees for their respective clients. The Court declines to grant the entire amount requested by the attorneys in this matter. While Walker's behavior and filings throughout the duration of this case have largely been inappropriate, the amount in sanctions will be limited to those attorneys' fees earned while responding to Walker's Motions that this Court found frivolous, costs associated with the depositions, and costs associated with the Rule 11 motion. Based on Attorney Hansen's Affidavit, a total of \$5,014.72 will be awarded. Based on Attorney Anderson's Affidavit, a total of \$4,352.00 will be awarded.

ORDER

Considering the foregoing, it is hereby **ORDERED** that:

1. Defendants Thomas Auto, Inc., Frank Thomas Trust, and Terri Guccione's Motion for Rule 11 Sanctions is **GRANTED** in part and **DENIED** in part.
2. Plaintiff Walker must pay \$5,014.72 to the Thomas Auto Defendants.
3. Plaintiff Walker must pay \$4,386.00 to the City Defendants.

Dated this 7 day of May 2025.

ATTEST:

AMBER WATKINS
CLERK OF COURTS



[Signature]
Deputy
(SEAL)

BY THE COURT

[Signature]
The Honorable Robert Gusinsky
Circuit Court Judge
Seventh Judicial Circuit, Pennington County, SD
IN CIRCUIT COURT

MAY - 7 2025

Amber Watkins, Clerk of Courts
By NO AA014 Deputy

1 STATE OF SOUTH DAKOTA } IN CIRCUIT COURT
 2 COUNTY OF PENNINGTON } SEVENTH JUDICIAL CIRCUIT
 3
 4 CLAYTON WALKER,)
 5 Plaintiff,)
 6 vs.)
 7 THOMAS AUTO, INC, FRANK)
 8 THOMAS TRUST, TERRI) Motions Hearing
 9 GUCCIONE, MAYOR JASON) 51CIV23-1329
 10 SALAMUN, MICHELLE SCHUELKE,)
 11 Individually and in her)
 12 Official Capacity, and CITY)
 13 OF RAPID CITY,)
 14 Defendants.)

14 BEFORE: **THE HONORABLE ROBERT GUSINSKY**
 15 Circuit Court Judge
 16 Rapid City, South Dakota
 17 February 18, 2025, at 10:58 a.m.

17 APPEARANCES:

18 For the Plaintiff: **MR. CLAYTON WALKER, PRO SE**
 19 For the Defendants **MR. DAVID R. HANSEN**
 20 Thomas Auto, Inc. Compass Rose Law Firm
 21 Frank Thomas Trust 1830 W. Fulton Street, Suite 102
 22 & Terri Guccione: Rapid City, SD 57702
 23 For the Defendants **MR. CASH E. ANDERSON - VIA ZOOM**
 24 City of Rapid City, May, Adam, Gerdies & Thompson, LLP
 25 Salamun & Schuelke: P.O. Box 160
 Pierre, SD 57501-0160

1 (WHEREUPON, the following proceedings were duly
2 had:)

3 THE COURT: Mr. Anderson, can you hear us okay?

4 MR. ANDERSON: I can hear you. Can you hear me?

5 THE COURT: I can hear you perfectly. We're just getting
6 set up here so give us a moment.

7 Is everybody ready to proceed?

8 MR. HANSEN: Yes, Your Honor, we're ready.

9 MR. WALKER: Yes, Your Honor.

10 THE COURT: Okay. So because we have Mr. Anderson
11 appearing via Zoom, I'm going to ask everybody to make sure
12 that you talk clearly into the microphone so that he can
13 hear everything.

14 Mr. Anderson -- and this goes for everybody --
15 recording of these proceedings are done by the court
16 reporter only. Any other recording devices are strictly
17 prohibited.

18 And so with that, the first thing I want to say is
19 just generally something regarding this file. This file
20 has become such a mess it's almost impossible for me to go
21 through it and tell what is going on, which motions are
22 filed, which motions need to be addressed, what is still
23 outstanding. I mean, we've got statements being filed,
24 motions being filed without hearings. That has to stop.
25 That's got to stop. And it's mainly you, Mr. Walker. I

1 mean, I understand you're pro se but you're bound by the
2 same rules and you are held to the same standards as
3 licensed attorneys. And so I've done my best to go through
4 what we need to address here today and if I missed
5 anything, I'm going to rely on you to tell me.

6 MR. WALKER: Thank you, Your Honor.

7 THE COURT: So the first thing is the *Brady* motion. Is
8 that correct?

9 MR. WALKER: Yes, Your Honor.

10 THE COURT: All right. That motion is denied. *Brady* is
11 not applicable to civil cases. You've cited absolutely no
12 relevant law that will allow this to be done and, quite
13 frankly, the *Brady* motion was a frivolous motion, so it is
14 denied.

15 The second motion is plaintiff's motion for Court to
16 settle discovery disputes. I don't understand what that
17 is. Generally when there is a discovery dispute, there is
18 a procedure for that. You're supposed to be able to
19 resolve it or try to resolve it amongst yourselves. The
20 Court has suspended that requirement because the parties do
21 not get along.

22 But in order for the Court to settle discovery
23 disputes, you must state what discovery is outstanding, you
24 must tell me when and how you asked for it, and you must
25 tell me why you're entitled to it and why you didn't get

1 it.

2 MR. WALKER: Your Honor --

3 THE COURT: There's nothing of that in that motion, is
4 there?

5 MR. WALKER: There is, Your Honor.

6 THE COURT: Okay.

7 MR. WALKER: In that motion I talk about a witness that
8 worked for Thomas Auto and when I got the video from Cash
9 Anderson, the police never talked to this gentleman and he
10 disappeared once these cops showed up and I want to find
11 out who those witnesses that saw Mark leave --

12 THE COURT: Did you ask in a discovery request who that
13 witness is?

14 MR. WALKER: Your Honor, I don't know who the witness is
15 because they won't tell me the employee's name.

16 THE COURT: Shhh. When I speak, you stop. Did you ask in
17 a discovery request, whether it's an interrogatory, request
18 for production, request for admission, or anything of that
19 sort, who that witness was?

20 MR. WALKER: Yes, Your Honor. I asked them to list all the
21 employees down that worked for Thomas Auto.

22 THE COURT: Was there an answer given?

23 MR. WALKER: They've only given me two employees that
24 worked -- that worked there.

25 THE COURT: Do you know whether or not that person is even

1 an employee?

2 MR. WALKER: I see them in their discovery that they gave
3 to me of other employees.

4 THE COURT: This person who wasn't named, do you know
5 whether that person is an employee? Do you know anything
6 about that person?

7 MR. WALKER: It looks like that in the discovery that
8 they're wearing some type of -- they're walking around --

9 THE COURT: Let me interrupt you.

10 MR. WALKER: Okay.

11 THE COURT: Listen carefully to my question and answer only
12 my question.

13 MR. WALKER: Okay.

14 THE COURT: I presume since you're asking who that person
15 is, you do not know who that person is. Right?

16 MR. WALKER: Correct.

17 THE COURT: Then you don't know whether they're employees
18 or not, or do you?

19 MR. WALKER: They're sitting behind a desk talking to a
20 police officer letting them know that these are their
21 policies so I'm assuming that they are employees of the
22 company but those names weren't provided other than in the
23 initial discovery requests.

24 THE COURT: And was that discovery directed at Thomas Auto?

25 MR. WALKER: Yes.

1 THE COURT: Okay. Your response.

2 MR. HANSEN: Thank you, Your Honor.

3 Mr. Walker is just plain not being truthful today. He
4 asked for the name of the employee. We provided it. It's
5 Mark Kulesza. He is the general manager. We provided the
6 information to him. In fact, Mr. Walker subpoenaed him for
7 deposition and failed to have a court reporter there to
8 take his deposition. So he's not telling the Court the
9 truth today and he's had the opportunity to depose him.

10 MR. WALKER: Your Honor, for him to say that I was lying to
11 the Court here today --

12 THE COURT: Did you receive the name of that person?

13 MR. WALKER: I only received the name of Mark. I had
14 requested under my initial discovery that all employees be
15 listed and I've only gotten two. David knows that I'm
16 asking for these other employees.

17 THE COURT: Stop. Did you provide the names of all
18 employees?

19 MR. HANSEN: I did, Your Honor.

20 THE COURT: I'm going to deny the motion. The
21 representation is that the names of the employees have been
22 provided.

23 MR. WALKER: All the employees that worked there?

24 THE COURT: That's what they're saying. If you've got any
25 evidence, then you'll need to bring that forward in a

1 motion, but I don't do my own investigation. They're
2 telling me they provided everything. You've got nothing to
3 suggest that they haven't.

4 MR. WALKER: I provided evidence to the Court.

5 THE COURT: Anything else in that motion to compel that
6 you want resolved?

7 MR. WALKER: Your Honor, when I had dropped off a folder of
8 evidence that I wanted the Court to review that is not in
9 the file and it's somewhere in this courtroom. They
10 dropped it off. In that is the evidence of the police
11 report of the police officer speaking with an employee that
12 looked like an employee behind the desk telling him this is
13 what the policies are and they're telling me they only have
14 two employees that work there when there's video evidence
15 like --

16 THE COURT: Quiet. I've resolved that issue.

17 Anything else that you need the Court to help settle
18 discovery disputes?

19 MR. WALKER: Can I ask for that evidence back so that I can
20 maybe print out the pictures for the Court? Because that
21 evidence is already --

22 THE COURT: The Court has no evidence. I've got nothing
23 here.

24 All right. Is that all for the motion to settle
25 discovery disputes?

1 MR. WALKER: Your Honor, I have it on my laptop if you'd be
2 willing to look at that video. If the Court has lost the
3 evidence, I would like to present that evidence --

4 THE COURT: I've never lost anything. I don't have any
5 evidence.

6 MR. WALKER: I have it with me today, another copy.

7 THE COURT: What you are asking the Court to resolve is
8 your complaint that they didn't turn over all names of
9 employees.

10 MR. WALKER: Correct.

11 THE COURT: They're saying they did. Looking at a video
12 isn't going to resolve that matter. We're done with that.

13 Is there anything else in your motion for the Court to
14 settle discovery disputes that you want addressed?

15 MR. WALKER: Your Honor, is it just we're talking with
16 David Hansen or are we going to move to Cash Anderson now?

17 THE COURT: Well, that's the problem. I cannot tell with
18 that motion for Court to settle discovery disputes what
19 you're asking for. I'm just not going to take it up. If
20 you want -- if you have a valid motion to compel, then you
21 need to file a valid motion to compel. You need to tell me
22 what it is that they didn't respond to. You also have to
23 tell me when and how you asked for it and you have to tell
24 me what their response was and then they'll get a chance to
25 respond to it and we'll have a hearing.

1 MR. WALKER: Your Honor, I did file a motion to compel and
2 I did drop that evidence off. I'm asking the Court to
3 please allow access over the Internet to submit those
4 electronically because if I'm dropping off paperwork that
5 is not getting to the file, I feel like I'm not getting
6 fair access to justice here when a stack of papers is being
7 dropped off and they're just throwing them in the trash.

8 THE COURT: Well, nothing's been dropped off with me and I
9 take offense to the --

10 MR. WALKER: I have a witness.

11 THE COURT: Well, we're done with that.

12 The next motion is for -- plaintiff's motion for theft
13 by deception. I've read everything you've submitted on
14 that.

15 MR. WALKER: Thank you, Your Honor.

16 THE COURT: That is denied. That is another frivolous
17 motion. You're asking for the Court to implement criminal
18 charges. This is a civil proceeding. I don't have that
19 authority. If you believe that these constitute -- this
20 constitutes a civil cause of action, then you need to try
21 to amend the complaint and you have done neither so that
22 motion is denied.

23 The next one is plaintiff's motion to compel requests
24 for admission response on the requests for admissions. Is
25 that correct? You filed a motion to compel and apparently

1 you didn't get the answers for requests for admissions that
2 you wanted. Is that correct?

3 MR. WALKER: Yeah, Your Honor. There was the other
4 employees that I see in the police video of -- my video
5 that I submitted to the Court. I can't get a police
6 officer to take a police report. I know that I just
7 recently filed that motion and I don't see that in the
8 record but I would like to be able to present that on my
9 laptop to the Court today.

10 THE COURT: All right. You filed a motion to compel. Let
11 me pull it up here.

12 MR. WALKER: Your Honor, what's --

13 THE COURT: One second. I'm trying to find this.

14 MR. WALKER: I'd like to make a statement for the Court.

15 THE COURT: Not yet. I'll give you a chance. Right now
16 I'm trying to look for something.

17 MR. ANDERSON: Your Honor, are you referencing the motion
18 to compel filed January 3rd?

19 THE COURT: I believe I am. I'm just trying to find it
20 here. Here we go. Yes.

21 So you filed a motion to compel on January 3rd. Is
22 that correct?

23 MR. WALKER: Your Honor, with that motion was all of the
24 discovery so how could the Court have the motion to compel
25 but not be in possession of all the discovery that was

1 presented to the Court?

2 THE COURT: I've got the stuff that was attached to the
3 motion but I didn't --

4 MR. WALKER: How many pages --

5 THE COURT: You're talking about me getting a stack of
6 discovery. I remember we had one hearing where you said
7 you weren't getting proper responses. I asked the
8 attorneys to show me what their response was. I looked at
9 it. I believed their responses were sufficient. I handed
10 them back. So whatever is attached is attached.

11 So what you attached to the motion to compel are
12 requests for admission. Let's see. Yes.

13 MR. WALKER: Your Honor, I ask that I get to argue these
14 motions and they not just be denied.

15 THE COURT: Say that again.

16 MR. WALKER: I'm asking that the Court allow me to argue
17 these motions and that they not just be denied.

18 THE COURT: You have the ability to tell me in your written
19 submissions what your arguments are and so you're not
20 necessarily guaranteed time to argue. Okay.

21 MR. WALKER: Your Honor, I don't have a law degree and some
22 of these court hearings and court requirements are being
23 asked that I follow them but they're not typed down
24 anywhere that I can read them and I can't afford to attend
25 law school because I'm attending, you know, motions

1 hearings online and reading the 8th Circuit Court of
2 Appeals.

3 THE COURT: Whether or not you have a law license or not,
4 you decided to represent yourself. That is certainly your
5 right. You're held to the same standards.

6 So the motion to compel addresses requests for
7 admissions. You're saying that you didn't get proper
8 responses. Is that correct?

9 MR. WALKER: Your Honor, in the motions I'm assuming I must
10 have put down what those were.

11 THE COURT: Well, the problem is you didn't. You said --
12 your motion to compel says that Cash Anderson still has not
13 given the cases that he used as admissions. He has not
14 shared evidence of each time the city used Thomas Auto, not
15 shared police department records and so on, but the only
16 things that you attached were requests for admissions and
17 some accompanying paperwork. And so are you saying that
18 the requests for admissions were not properly responded to?

19 MR. WALKER: Your Honor, I'm wondering if there's evidence
20 of video of that paperwork being dropped off? Is there a
21 camera there?

22 THE COURT: Can you answer my question, sir?

23 MR. WALKER: Yes.

24 THE COURT: Are you saying that the requests for admissions
25 were not properly responded to?

1 MR. WALKER: Requests for admissions not properly. I
2 believe that was part of my motion to compel. If you look
3 at my motions for sanctions for Rule 11, I also dictate
4 some issues there as well.

5 THE COURT: I'm giving you a chance to argue but you're
6 going to -- you're going to collateral issues.

7 MR. WALKER: What --

8 THE COURT: One second. I reviewed all the requests for
9 admissions carefully. I reviewed the responses carefully.
10 I find that the requests for admissions were properly
11 responded to; therefore, the January 3rd motion to compel
12 is denied.

13 MR. WALKER: Your Honor --

14 THE COURT: The next thing I have is defendant's Thomas
15 motion for Rule 11 sanctions. I'll hear that.

16 MR. HANSEN: Thank you, Your Honor.

17 The motion is brought in response to plaintiff
18 providing and filing a notice of a class action -- or
19 notice to certify class in a class action type lawsuit and
20 it's improper and in my briefing I provide the Court with
21 the statutory support that these types of motions cannot be
22 brought pro se. A class action by definition represents
23 the interests of multiple parties and Mr. Walker is not an
24 attorney and cannot represent the interests of multiple
25 parties. He can only represent himself and his interests.

1 And so to follow the procedure, I provided Mr. Walker
2 with the notice of my intent to seek sanctions as a result
3 of his improper filing and the main reason that Thomas Auto
4 and the Thomas Auto defendants are concerned about this is
5 for the mere fact that they're running a business and by
6 him spreading false statements --

7 MR. WALKER: Objection, Your Honor. I have submitted
8 evidence of multiple employees --

9 THE COURT: Stop. I'm only going to tell you one more
10 time. When I'm talking, you stop. Are we clear about
11 that?

12 MR. WALKER: Your Honor, I'm very anxious and nervous.

13 THE COURT: Are you clear about that? When I start
14 speaking, you stop.

15 You objected to an argument. That is an improper
16 objection. You can certainly respond to it when you get a
17 chance to do that.

18 Go ahead.

19 MR. HANSEN: Thank you, Your Honor.

20 The main concern for Thomas Auto is the very real
21 consequence that if Mr. Walker not only tries to bring this
22 action improperly, but also if he publishes in the
23 newspaper that he's trying to certify a class and he's
24 spreading these type of statements around and publishes
25 them, that both libel and slander are implicated.

1 It would certainly lower the reputation of Thomas Auto
2 in the community if they were being accused of a conspiracy
3 to work with Rapid City, the city of Rapid City, and the
4 police department to conspire to steal cars from indigent
5 citizens and then sell them on the black market on some
6 sort of a cash only operation. It's preposterous, it's
7 untrue, and now he provides us notice that he's going to
8 try to certify a class action lawsuit to that effect.

9 That's a serious allegation. Mr. Walker doesn't seem
10 to understand that the procedures of the court system are
11 in place to help resolve disputes. They're not intended to
12 allow for harassment and abuse and libel and slander and
13 defamation.

14 Your Honor, in this case, there's a case ruled on by
15 the South Dakota Supreme Court called *Ferebee v. Hobart*.
16 The citation is 2009 South Dakota 102. It's very factually
17 similar to this case.

18 In that case Hobart (sic) brings several frivolous
19 actions, motions, statements that are characterized by the
20 court as follows. This is in paragraph 6 of the decision.

21 "Ferebee utilized the same tactics previously employed
22 in contesting Hobart's protection order and barraged the
23 court and opposing counsel with numerous pro se motions and
24 requests, sometimes issuing multiple pleadings and letters
25 on the same day. Ferebee would not accept a ruling or an

1 answer. As soon as the trial court addressed one of his
2 motions or concerns, Ferebee would follow it up with
3 another motion or letter, often simply rephrasing or
4 reformulating previous arguments. All of this paperwork
5 required a response from opposing counsel and further
6 attention by the court. The continuation of these tactics
7 generated another three volume court file and more
8 attorney's fees for Hobart."

9 The court goes on in paragraph 26 to say: "The
10 continual litigation stems from Mr. Ferebee's intransigent
11 view that he is right and Mr. Hobart, Judge Davis, Judge
12 Fuller, the South Dakota Supreme Court, Judge Bogue (and
13 this Court) are all wrong in their positions and rulings.
14 The very nature of Mr. Ferebee's continual litigation is
15 frivolous and malicious since Mr. Ferebee continues to
16 raise the same issues over and over, even though the issues
17 have been previously decided in Mr. Hobart's favor."

18 I bring this up for the Court's consideration because
19 it's very factually similar. It's the same tactic.
20 Mr. Walker knows that he's not going to be able to prevail
21 on his case for conversion or assault. The discovery that
22 has been provided by both Thomas Auto and the Thomas Auto
23 defendants as well as the city and the city defendants is
24 very clear that his cases can't prevail and so just as he's
25 done today, rather than continue to try to find a

1 resolution to those issues, he now seeks some collateral
2 issue like a class action lawsuit and since that didn't
3 work, now he's trying a theft by deception theory.

4 He's trying to do this as a way not to resolve any
5 matter that he's raised, rather, he's trying to harass and
6 intimidate and embarrass Thomas Auto and the city and many
7 others, frankly, by continuing to file frivolous lawsuits,
8 two of which at least the Court has ruled on today and
9 specifically found that they are frivolous.

10 THE COURT: Lawsuits or motions?

11 MR. HANSEN: Excuse me, motions. I'm sorry, Your Honor.

12 But the motions that were found frivolous today are
13 this same type of tactic that's being used in the *Ferebee*
14 case. In the *Ferebee* case, Hobart was asking for a
15 protection order which is a form of injunctive relief which
16 is what Thomas Auto is seeking here today.

17 And in the *Ferebee* case the Supreme Court did not
18 grant injunctive relief for two reasons. First, that
19 Hobart sought the equitable relief with unclean hands,
20 meaning that both *Ferebee* and Hobart had taken improper
21 steps to try to resolve the dispute.

22 Well, that's distinguishable from today's case in that
23 Thomas Auto has been trying to follow the rules and doing
24 its best to decipher the myriad motions and statements that
25 have been filed and trying to respond to each of them in

1 turn.

2 The second reason that the Supreme Court did not grant
3 injunctive relief was because it felt that payment of
4 attorney's fees would have a greater deterrent effect than
5 injunctive relief alone so it upheld the trial court's
6 decision to grant payment of attorney's fees.

7 THE COURT: Do you want to address what happened at the
8 deposition?

9 MR. HANSEN: Yes, Your Honor. So -- so to begin,
10 Mr. Walker subpoenaed my client, Terri Guccione, as well as
11 Mark Kulesza, which we've already discussed today, and when
12 he appeared -- we appeared early and he did not have a
13 court reporter. It was my intuition that he would not have
14 a court reporter and would not be properly prepared
15 which -- so I alerted the Court and Mr. Anderson to that
16 fact and -- and it turned out that I was correct. And we
17 showed up and he didn't have a court reporter. He intended
18 to have a friend of his, Mr. Black, take notes.

19 THE COURT: He claims that he had some online court
20 reporting company out of -- I forget their name -- out of
21 California. What happened with that?

22 MR. HANSEN: Well, we asked him who that was, specifically
23 what the company was, and he could not provide that. He
24 said he'd have to look it up and never provided it.

25 Again, Your Honor, I just don't think he had -- he

1 didn't understand that's what he was supposed to do. He
2 thought he was going to be able to either record it on his
3 cell phone or have his friend take notes and that would be
4 sufficient so I don't think he even lined up a court
5 reporter.

6 THE COURT: Okay. What else happened?

7 MR. HANSEN: So thereafter there was a dispute. Mr. Walker
8 tried to exclude Mr. Anderson from the room entirely
9 claiming that Mr. Anderson was being confrontational and
10 that Mr. Walker couldn't -- couldn't deal with that and was
11 excluding him. He tried at one point to exclude me. I
12 tried to hold the door because he was pushing the door shut
13 and if I hadn't have moved my hand, he would have slammed
14 my hand in the door. He -- and this continued throughout.

15 When my court reporter showed up, he then tried for
16 several minutes to recruit my court reporter and she,
17 recognizing the situation and has somewhat of a standing
18 policy that she doesn't work with pro se litigants because
19 they generally don't pay for her services and can't afford
20 them, so Mr. Walker tried for several minutes to talk with
21 the court reporter, Ms. Harkins, and they could not come to
22 an agreement that she would take the depositions at that
23 time.

24 Since they resolved that issue, I then insisted that
25 he prepare to have his deposition taken since I had noticed

1 that as well and we were prepared to do that. He refused
2 to take the deposition until the Court intervened. We had
3 a hearing, telephonic hearing there and that's part of the
4 court record and the Court ultimately, doing its best to
5 try to facilitate discovery, required that the deposition
6 should be taken. Also required that if a court reporter
7 was able -- that if Mr. Walker was able to obtain a court
8 reporter, that Terri Guccione and Mark Kulesza's
9 depositions should be taken as well.

10 So we started the deposition. After I asked 10
11 questions, Mr. Walker objected, said that he was not
12 required to answer more than 10 questions in a deposition
13 under the expedited rules of civil procedure. We asked --
14 Mr. Anderson then proceeded to ask 10 questions and
15 Mr. Walker refused to answer any questions. We asked for
16 what was the basis of his objections, what legal grounds he
17 had. He simply stated that there was some rules and he
18 would find them if he could. We allowed him some time to
19 try to find them on his phone. He couldn't.

20 He then -- well, I'll come to that. So then he
21 refused to take any further deposition. On the record he
22 made several statements about how this was fun for him and
23 he was walking in and out of the room several times. As
24 Mr. Anderson and I were trying to conclude our record, he
25 continued to interrupt. Finally we got our record

1 completed. Mr. Walker left the premises. This was all
2 taking place at the public library here in Rapid City. And
3 Mr. Walker left. We concluded our record and then we
4 waited an additional 15 minutes in the event that
5 Mr. Walker had obtained a court reporter and that she was
6 on her way. After waiting for 15 minutes, there was no
7 court reporter and so we terminated the deposition.

8 Thereafter, that night, Mr. Walker -- I brought a copy
9 of it for the Court's review -- that night Mr. Walker sent
10 yet another harassing e-mail to both Mr. Anderson and I.

11 If I may approach, Your Honor?

12 THE COURT: Yes.

13 MR. HANSEN: This has been marked as defendant's exhibit C.
14 Here Mr. Walker says: "The plaintiff hereby gives notice
15 to the defendants that the plaintiff will start a door to
16 door campaign with flyers to get the money needed for
17 deposition to put an end to the defendants' alleged theft.
18 If you have any objections, I will review them. Please let
19 me know as I'll be making flyers tonight and asking my
20 church and community for assistance to put an end to the
21 defendants' thefts, assault, battery, and deceptions of
22 stealing from indigent citizens."

23 On the following line he tries to provide some legal
24 basis for his refusal to answer more than 10 deposition
25 questions. He says: "It was the Judge Pfeifle that said

1 the parties need to follow the rule of 10 for expedited
2 civil actions, 10 interrogatories, 10 admissions, 10
3 requests for production, 10 deposition questions, and one
4 MSJ," which I believe stands for motion for summary
5 judgment.

6 THE COURT: All right. Is that all you've got?

7 MR. HANSEN: Just one more briefly, Your Honor.

8 The -- I've also brought my client's trust ledger to
9 provide for the Court the overall costs that the attorney's
10 fees that have accumulated because of Mr. Walker's actions
11 in this matter. If I may provide this to the Court as
12 well.

13 THE COURT: Yes.

14 MR. HANSEN: I'm providing a copy for Mr. Walker. I
15 apologize, Mr. Anderson, I have not provided this to you
16 previously.

17 I'll just direct the Court to the last page of this
18 document. It's a five page document. This ledger outlines
19 all of the payments and the fees collected in trust
20 deposited in my firm's HLO account for this matter.

21 If you'll look at the last page, you see three columns
22 there. The closing balance is \$25,787.81. 29,000
23 represents the total amount of trust funds that have been
24 paid to date. And so then the difference between what's
25 been paid and what has been collected by my firm is the

1 final number there, \$3212.19.

2 The reason that I bring this before the Court's
3 attention is, again, because of the *Ferebee versus Hobart*
4 case. In that case, which is distinguishable from this
5 case, that case was going on for decades and they had
6 accumulated \$90,000 worth of attorney's fees and that was
7 the ultimate sanction in that case. I don't think this
8 case needs to drag on for another nine years before it's
9 obvious that Mr. Walker is perpetuating this case only for
10 the purpose of abuse to my client and to others in the
11 community.

12 But finally, Your Honor, I believe that there's even
13 something more that the Court should consider than the
14 wrongs that Mr. Walker has perpetuated against my client
15 and that is the integrity of the judicial system. The
16 sanctions should be filed as a deterrent for people coming
17 into the judicial system, a place that has rules and order
18 and is designed to be a civil venue for a civil resolution
19 of disputes.

20 We've long since passed that threshold and now we are
21 into a realm of harassment and abuse not only against my
22 clients, but also against the city and the city defendants,
23 the Court, this Court's staff, and many other people who
24 are suffering just because, as it says, Mr. -- Mr. Walker
25 believes that he is right. He won't accept rulings from

1 the Court. He won't accept explanations from attorneys.
2 He won't accept these. He thinks he's right at all costs.

3 So yes, Your Honor, I would ask for sanctions to be
4 imposed as outlined in my briefing.

5 THE COURT: What are you asking for?

6 MR. HANSEN: Particularly for injunctive relief so that
7 Mr. Walker cannot attempt to certify a class against any of
8 the defendants in this case, specifically Terri Guccione,
9 Frank Thomas Trust, and Thomas Auto, Inc., either
10 collectively or individually; that the Court permanently
11 enjoin Mr. Walker from attempting to publish notice in a
12 newspaper or otherwise that he's trying to certify a class
13 action against any of the named plaintiffs (sic); and
14 finally, that the Court dismiss this matter with prejudice
15 because it's clearly past the threshold and Mr. Walker
16 has --

17 THE COURT: Is the dismissal of the first two requests
18 moot?

19 MR. HANSEN: Well, no, because --

20 MR. WALKER: Your Honor, they were denied from Judge
21 Pfeifle.

22 THE COURT: You'll get a chance to --

23 MR. WALKER: Okay.

24 THE COURT: I'll give you a chance to respond.

25 MR. WALKER: Thank you, Your Honor.

1 MR. HANSEN: Just by virtue of a dismissal of this matter
2 would not preclude Mr. Walker from issuing some new matter
3 to initiate a class action.

4 THE COURT: I don't think the Court has got the authority
5 to prevent any plaintiff from filing another matter. I
6 mean, I don't think -- do you have any case law that allows
7 me to simply say, "Mr. Walker, you are from now on
8 prohibited from filing any cases against these defendants"?

9 MR. HANSEN: Your Honor, I don't have anything that's
10 binding on this Court. I do have a -- a ruling in the
11 Federal District Court under Judge Viken -- it's been
12 presented in previous hearings and is already part of the
13 Court record -- where Judge Viken precludes Mr. Walker
14 specifically from filing any additional court matters, any
15 other cases, I believe, without first receiving judicial
16 permission.

17 THE COURT: All right. Anything else you want to tell me
18 about your motion for sanctions?

19 MR. HANSEN: Just, Your Honor, that in the event that
20 sanctions -- that something less than complete dismissal is
21 ordered, such as a bond or something like that, that
22 somehow the Court put a mechanism in place where that fine
23 or those attorney fees, whatever it is, be paid prior to
24 Mr. Walker proceeding with any additional claims that he
25 initiates.

1 Now, I don't have any problems if Mr. Anderson or
2 myself files a motion in the meantime that he be able to
3 respond to that, I think that's fair, but that he not be
4 able to initiate additional proceedings in this matter
5 until those fines are paid.

6 THE COURT: All right.

7 MR. HANSEN: That's all. Thank you.

8 THE COURT: Mr. Anderson.

9 MR. ANDERSON: Thanks, Your Honor.

10 I mean, I'd really piggyback off of everything
11 Mr. Hansen said. I'll tell you, my client -- I had planned
12 to file a similar motion but I do think -- I do think
13 dismissal of all the claims of all the parties is
14 potentially appropriate because the conduct that we have
15 seen and that's been displayed throughout this is kind of
16 like Mr. Hansen said, it's well past the threshold, and the
17 time, money, and expense that has gone into this has been
18 exacerbated extremely just due to a misunderstanding of law
19 or ignorance of law and the extreme amount of filings
20 that's gone on. This is not a complex antitrust litigation
21 or anything like that and the record would indicate
22 otherwise due to the filings.

23 So that's kind of my piece as it relates to that.

24 THE COURT: Okay. Are you joining, then, in the motion
25 that was brought by Mr. Thomas?

1 MR. ANDERSON: I would, yes.

2 THE COURT: All right. Now is your chance to tell me why I
3 shouldn't -- or to argue against the motion for sanctions,
4 Mr. Walker.

5 MR. WALKER: Thank you, Your Honor.

6 First of all, I'd like you to know, put it on the
7 record --

8 THE COURT: If you can speak into the microphone so that
9 they can hear you.

10 MR. WALKER: First of all, Your Honor, I'd like you to know
11 that I am shocked by the statements that David Hansen has
12 made here today accusing me of threats and of slander.

13 First of all, the motion to have the class certified
14 was to have the Attorney General look at the case and he
15 determine whether or not the class action to be certified.
16 It wasn't my regards to have the Court certify a class
17 action lawsuit. The Attorney General's Office has filed
18 class action lawsuits against people recently. The NCAA,
19 the Attorney General filed a class action lawsuit. So for
20 the attorneys to say that --

21 THE COURT: That was on behalf of a governmental
22 organization. Right?

23 MR. WALKER: It was my understanding it was the Board of
24 Regents and who does the Board of Regents represent? Their
25 students. Now, if the Board of Regents isn't going to give

1 that money to their students, then there might be a
2 constitutional law question there.

3 For libel and slander, that would be a separate case,
4 Your Honor. If I did happen to put in the newspaper asking
5 for money, it's -- it's not like the community doesn't
6 already know. Anybody that has Yelp or Google, if you
7 would review my motion for judicial abuse, that these
8 reviews online show a history of assault and battery and of
9 stealing vehicles and I'd ask that the Court please review
10 that motion before the sanctions is ruled on.

11 I object to the Court asking of Cash Anderson to join
12 the motion on the fact that he had no motions filed.

13 THE COURT: I didn't ask him whether he wants to join the
14 motion. I asked him whether he is joining the motion.

15 MR. WALKER: I didn't see anything that was served to me
16 that he wants to do that. I just want to put that down on
17 the record.

18 The attorney went on to say that I'm not pursuing --
19 THE COURT: Just so the record is clear, Mr. Anderson
20 started his argument by saying that he's piggybacking onto
21 Thomas' motion. Isn't that correct, Mr. Anderson?

22 MR. ANDERSON: Yes, Your Honor.

23 THE COURT: And so the Court's question was simply a
24 clarification whether or not he's joining the motion. It
25 wasn't an invitation for him to join the motion.

1 MR. WALKER: Yeah. I don't understand what piggybacking
2 means, I guess, in that situation for the Court but I'll
3 have to look for those types of rulings.

4 THE COURT: Okay.

5 MR. WALKER: The attorney quoted several cases and went on
6 to read some type of thing that I wasn't aware of a copy or
7 presented a copy of the statements he made.

8 The attorney goes on to say that I'm not trying to get
9 evidence. I'm trying to get the evidence. He talks about
10 that -- that there's no resolution. I'm trying to do a
11 motion to compel. He's aware that I want the evidence.
12 The city's aware that they stole other people's vehicles.
13 They have a history of it. They have a history of
14 assaults. The city has that in their police reports. That
15 evidence should be shared for this case so that a jury
16 trial can happen.

17 Terri Guccione's company has been stating that they
18 only have two employees when on the video they show
19 multiple employees and as I've said to the Court, I'm very
20 upset about that issue and slandering my name to say that
21 I'm in the wrong here. They're not sharing that evidence,
22 Your Honor. They're aware of the evidence having been
23 requested. I put it in the court. Maybe there's a backlog
24 of the paperwork that hasn't been presented into the
25 digital records because there are other motions out there.

1 The whole issue with the court reporter -- David
2 Hansen talks about the court reporter. I had a court
3 reporter lined up, Your Honor.

4 THE COURT: Did you pay that court reporter?

5 MR. WALKER: No, I didn't. I had also lined up another
6 court reporter --

7 THE COURT: Who was that court reporter you had lined up?

8 MR. WALKER: It's in my -- it's in my motion.

9 THE COURT: I'm asking you: Who was that court reporter?
10 Was it an online firm?

11 MR. WALKER: There was an online firm and then I found a
12 local lady where we talked on the phone about her coming
13 down and --

14 THE COURT: But that was scheduled as you were sitting
15 there waiting for the depositions to commence. Isn't that
16 true? You didn't have the other court reporter lined up
17 before the deposition, did you?

18 MR. WALKER: I had multiple court reporters lined up. I
19 had --

20 THE COURT: Just answer my question.

21 MR. WALKER: What is the question?

22 THE COURT: You had Mr. Black send out a request to the --
23 there's a general court reporter mailbox asking whether a
24 court reporter could be available. Isn't that right?

25 MR. WALKER: How would the Court have that evidence?

1 THE COURT: I'm asking you: Is that right?

2 MR. WALKER: I don't recall, Your Honor.

3 THE COURT: You don't recall? Just answer. You know,
4 since you're not an officer of the court, I'm going to have
5 you sworn in.

6 Why don't you swear him in, please, Cindy?

7 (Mr. Walker was sworn in at this time.)

8 THE COURT: The court reporter that you claim came from
9 Blaze, she was notified the day of the deposition. Isn't
10 that correct?

11 MR. WALKER: Yes, Your Honor. She was a backup.

12 THE COURT: She wasn't even a backup. She didn't hear
13 about the deposition until the day that you asked for a
14 court reporter. Correct?

15 MR. WALKER: Yes, Your Honor. The previous court
16 reporter --

17 THE COURT: Who was the previous court reporter?

18 MR. WALKER: It was an online company. I have it in the
19 file here.

20 THE COURT: Do you have anything that indicates to me in
21 your file that they were willing to transcribe this
22 deposition and had the ability to do that?

23 MR. WALKER: Your Honor, you stated earlier that you read
24 the motions.

25 THE COURT: Answer my question.

1 MR. WALKER: What is the question, Your Honor?

2 THE COURT: Do you have any documentation, any evidence
3 that you paid and reserved a court reporter to transcribe
4 the depositions that you noticed at the library?

5 MR. WALKER: No, Your Honor. The depositions never took
6 place.

7 THE COURT: Well, you noticed people to show up for a
8 deposition and now you're telling me that you didn't --
9 that the depositions weren't going to take place?

10 MR. WALKER: Your Honor, I had a couple court reporters I
11 had lined up. Two of them fell through. I found this last
12 one at the last minute. Due to David Hansen has his court
13 reporter --

14 THE COURT: Which ones fell through?

15 MR. WALKER: I have them in the record, Your Honor. I
16 would have to take a break to go look at the record to get
17 that evidence if that's what you want me to swear to as to
18 who was the actual person. I believe I can find it right
19 here. If you look at motion for depositions to take at
20 courthouse with a court reporter, I do believe that I did
21 state in there the company's name.

22 THE COURT: Right. And so with that company, do you have
23 any evidence that you actually had reserved them to take
24 this deposition?

25 MR. WALKER: Your Honor, I did not prepay for depositions.

1 I don't believe that that's the norm for -- when you go out
2 to eat, a lot of times you pay for at the end of the -- at
3 the end of the restaurant.

4 THE COURT: You're not going to eat. You're going to take
5 a deposition.

6 All right. What about your refusal to answer more
7 than 10 questions at the deposition? Is that true?

8 MR. WALKER: Your Honor, I did answer each question at the
9 deposition hearing.

10 THE COURT: You know, you seem to not want to answer my
11 questions. My question is super simple.

12 MR. WALKER: Okay.

13 THE COURT: Is it true, as Mr. Hansen said, that you
14 refused to answer more than 10 deposition questions for him
15 and Mr. Anderson?

16 MR. WALKER: Is it true that I refused. Your Honor, when
17 they -- when David Hansen asked me a question, I had a
18 response to each one of his questions, so I just --

19 THE COURT: I don't mean to be rude.

20 MR. WALKER: Yes.

21 THE COURT: And I don't like to interrupt people. I asked
22 you a question that was a simple yes or no.

23 MR. WALKER: I don't know how to answer that question, Your
24 Honor, because --

25 THE COURT: Did you refuse to answer more than 10

1 questions?

2 MR. WALKER: Did I refuse to answer. I made a statement
3 that they had reached the number of questions to be asked
4 under what Judge Pfeifle had ruled and --

5 THE COURT: So the answer is yes. Correct?

6 MR. WALKER: I don't understand the question that you're
7 asking me and ask maybe that it be clarified, but I would
8 like to continue with my rebuttal.

9 THE COURT: I'll let you continue.

10 But I don't know how much clearer, Mr. Walker, I can
11 be then to simply ask you: Did you refuse to answer more
12 than 10 questions for either Mr. Hansen or Mr. Anderson?
13 You know, this is my fourth language. Maybe my English
14 isn't the best in the world. I have no idea how to
15 simplify that question. Did you or did you not refuse to
16 answer more than 10 questions?

17 MR. WALKER: Your Honor, I'm asking that the Court please
18 put that on paper so that I can review that. Making
19 statements under oath right now, I'm not sure. Because
20 when they asked questions -- they were asking questions,
21 what color was my hat, what color pants I'm wearing. Those
22 weren't legitimate questions, Your Honor. Those were
23 frivolous questions.

24 Now, the attorney wants to talk about frivolous here,
25 this whole deposition that they were doing is frivolous.

1 THE COURT: You just told me that you said you answered the
2 limit of questions that you believed were set by Judge
3 Pfeifle, which is 10. Correct? Isn't that what you just
4 said?

5 MR. WALKER: Your Honor, I don't remember what I just said.
6 I haven't -- to get these transcripts is impossible. I
7 can't afford these transcripts. The Court wants me to
8 follow these rules and to get these transcripts. I can't
9 get them. I can't see them. I don't understand why --

10 THE COURT: All right. Continue with your response,
11 please.

12 MR. WALKER: Okay. The court reporter. I had a court
13 reporter lined up, Your Honor. I had one online that was
14 going to do it via zoom and when she fell through, I went
15 through another company --

16 THE COURT: Can you tell me, because you don't -- I've read
17 everything you've submitted, by the way.

18 MR. WALKER: Okay.

19 THE COURT: Can you tell me why she fell through?

20 MR. WALKER: I believe it was a cost issue and there was
21 another issue -- they had two court reporters that one
22 wanted the money up front and the other one said that she
23 couldn't make it and then I got the third one that was
24 coming from Blaze Pizza that you're aware of.

25 And I had submitted some motions to the Court to

1 show that -- I mean, I can't -- I can't go through suing
2 everybody that violates the law. It's not -- it's not fair
3 to me that I can't even get a policeman to take a police
4 report. I'm asking the Court that -- now the police
5 officer wants the judge to rule on whether a police report
6 can be filed even in this court and that's not how our
7 justice system works.

8 And David Hansen is correct where they're saying that
9 these issues for my political or religious beliefs are
10 being violated here.

11 THE COURT: On the record, I want to be very clear. I have
12 zero knowledge of your political or religious beliefs.
13 Zero. They make absolutely no difference what you believe
14 in or what you don't believe in, what your political views
15 are, what they aren't. I could care less about any of
16 that.

17 MR. WALKER: Uh-huh.

18 THE COURT: Just respond to the motion for sanctions at
19 this point.

20 MR. WALKER: Your Honor, I did put my religious beliefs
21 down on the record and it's in the record. It's in the
22 court record. Zero knowledge I feel like --

23 THE COURT: The only thing that I know of is that you tried
24 to get another judge because of religious beliefs. I don't
25 know what they are. I know nothing about them. If they're

1 in the record, I missed them, but I know nothing about your
2 religious beliefs and nor is it relevant. It makes no
3 difference to anything that happens here.

4 MR. WALKER: Your Honor, they're using this, my indigent
5 status, as a tool to get the case dismissed. That has
6 nothing to do with the case. The case has to do with the
7 facts.

8 I've got video evidence of the assault. There's a
9 history under motion for -- a motion for judicial review
10 that the Court hasn't ruled on yet that shows that there's
11 been multiple attacks of people at this Thomas Auto. I
12 contacted tons of attorneys in town and they said that
13 there's also a tow company, I don't know whether this is a
14 tow company or not, that they assaulted somebody with a
15 gun. Now, if this is their case, they should disclose that
16 to me so that I can present it at trial. For those -- for
17 the attorneys to use my indigent status as a tool to get a
18 case dismissed is unconstitutional.

19 I had a court reporter come up. She was on her way.
20 That court reporter talked to David Hansen and all of a
21 sudden she cancelled and said she wanted the money up
22 front. One of the first things she said to me over the
23 phone was she'll do it COD, which is cash on delivery.

24 THE COURT: Is that the one that came from Blaze?

25 MR. WALKER: Yes. I had originally set it up for cash on

1 delivery when she -- when she agreed. David Hansen talked
2 to his court reporter. All of a sudden she texts me and
3 says I just got a text from a court reporter saying that
4 there was already one there and that the cash needs to be
5 up front. What would make her change her mind from going
6 from cash on delivery other than this court reporter and
7 David Hansen slandered my name to say he's probably not
8 going to pay you, ask for the money up front. They used
9 that as a tool, Your Honor, against me and that's -- that's
10 in violation of my constitutional rights.

11 Back to David Hansen's motion for sanction 11. I also
12 have a motion for the -- a reply for the sanctions. Judge
13 Pfeifle set up these rules, these rules of 10, at the very
14 beginning and he was very excited about this because he had
15 implemented this rule, these laws of this expedited civil
16 action that should be done within one year.

17 There's multiple damage of them holding the vehicle,
18 not willing to give it back. I went down there with the
19 money and all kinds of information. They have a history of
20 assaulting people. It's in the record.

21 THE COURT: So let me ask you a question. The rule of 10
22 under SDCL 15-6-73 applies to interrogatories, requests for
23 production, and requests for admissions. I don't see
24 anywhere where it applies to 10 questions in a deposition.
25 Do you have any law that I maybe have missed that would

1 indicate that it applies to depositions?

2 MR. WALKER: Your Honor, the Court has stated that the
3 legislators have made mistakes in certain issues with these
4 laws. This is one of those mistakes because Judge
5 Pfeifle --

6 THE COURT: I don't think I ever stated that the
7 legislature makes mistakes. Some statutes require some
8 interpretation.

9 MR. WALKER: Yes, Your Honor, that was what I meant.

10 THE COURT: Well, words are important.

11 But there's nothing ambiguous or subject to
12 interpretation regarding the 10 interrogatories, 10
13 requests for production, 10 requests for admissions with no
14 limits on the number of questions in a deposition. Do you
15 have any law that justifies you cutting off the depositions
16 at 10 questions each?

17 MR. WALKER: I have a -- there was a court hearing, Your
18 Honor, and that is part of the transcribed record. That's
19 in the record. Judge Pfeifle made those statements in open
20 court that we were supposed to follow those rules. That's
21 the rule that I was following.

22 THE COURT: And did Judge Pfeifle say that neither party is
23 entitled to ask more than 10 questions in a deposition?

24 MR. WALKER: It was the rule of 10, Your Honor. It was 10
25 interrogatories, 10 requests for production. There's only

1 10. That's why -- if they ask 500 million questions,
2 that's going to stretch it out well past the rule of
3 180 days. If there's a limited number of questions, which
4 is supposed to be under the expedited civil action, what
5 Judge Pfeifle had addressed, then there's a conflict of two
6 judges' opinions here and I find that to be extremely
7 uncomfortable with me. Because I've asked for those
8 records, I've asked for those transcribed records to
9 present to the Court and those have been denied.

10 I didn't refuse to answer any questions. They were
11 answering (sic) questions and I was saying, "You have
12 reached the number of questions for depositions." And then
13 they started to ask -- Cash Anderson started to ask what
14 color hat, what color shoes, what color pants. Instead of
15 asking further questions, they were doing frivolous actions
16 to stretch it out because they knew that I couldn't afford
17 a court reporter and that they had just cancelled the one
18 that I had scheduled with another service.

19 And I have her business card, I believe here in the
20 box, but I also believe I put it down to have the
21 courthouse do the court reporters here so they don't -- if
22 they have an objection -- I don't understand why the
23 attorney was making statements on behalf of the Court. He
24 should have just let those depositions take, but instead he
25 became the judge and the jury and he made those decisions.

1 It should have been presented through the judge, not that
2 it wasn't supposed to be done at all.

3 THE COURT: Anything else that you have with respect to
4 this motion for sanctions?

5 MR. WALKER: It's on the back here. I'm almost done here.

6 THE COURT: That's okay.

7 MR. WALKER: I thank you for the time.

8 Mr. Walker wasn't threatening to sue when Mr. Walker
9 was starting a door to door campaign. It's noted in the
10 community that they steal vehicles, Your Honor, under Yelp
11 reviews and under Google reviews, and I've presented those
12 to the Court for that motion for judicial review.

13 If Mr. Walker has to go through his community or his
14 church to ask for assistance to get these depositions, he's
15 willing to do that, but I don't think it's slander if
16 Mr. Walker is saying this -- this company that her father
17 has passed away loved the community and here Terri Guccione
18 is stealing from her community, stealing people's cars, not
19 giving them back, assaulting them. A history of assaults
20 is under the Google reviews and Yelp reviews. I mean, her
21 father is turning over in his grave right now just so she
22 can steal people's vehicles so she can make \$600 per
23 vehicle.

24 I'm not making any -- I'm not making any assault. I
25 said if you have any objections, please let me know. They

1 didn't even respond to that, Your Honor. If they didn't
2 want me to do it, they could have easily said, "Hey, let's
3 talk about this. Let's get this case over with," instead
4 of paying \$30,000 to try to trick me because I'm poor and
5 I'm not getting -- not getting access to justice.

6 Nine years of abuse David Hansen said it would be for
7 others in the community. That's a frivolous statement on
8 its own. I mean, I have multiple evidence of the theft, of
9 the assault, of people -- other assaults being assaulted
10 there and the attorneys don't want to share that
11 information. I mean, these people that have written Google
12 reviews I'm assuming are poor and can't take it to the case
13 like me where I'm here begging the Court to give me access
14 to justice and to provide those names of other employees
15 that were there sitting behind the counter wearing a yellow
16 bright T-shirt, you know, if that T-shirt says Thomas Auto.
17 I feel like the statements they made in open court may have
18 either been perjury. But to say that all the other
19 employees that were walking around when the police showed
20 up, they were walking behind the counter, walking into the
21 back, they're not employees, I find that to be a theft.

22 Terri Guccione perjured herself when she said that the
23 vehicle was abandoned and that was what Mr. -- the argument
24 was it was denied for theft by deception. She committed
25 perjury when she made that statement and I can't even get a

1 police report done and I ask the Court here to either -- to
2 rule on that motion.

3 I'm not sure if it's in your record or not. Because
4 if they don't have the -- the multiple records that I
5 submitted, I'm assuming that the motions that I filed are
6 backlogged and I'd ask that the Court not make the motion
7 on -- for them to -- for me to -- for them to get sanctions
8 for their abuse, that's something that gets handled at the
9 end of the case. They're trying to get the case dismissed
10 because I'm an indigent person that they can't afford
11 certain rules of the courts.

12 They should have never have been stealing people's
13 vehicles. When somebody comes with the cash, they say come
14 down and get it.

15 THE COURT: You're talking about the substance of the case
16 now. I'm going to give you all the time you need, but you
17 need to address the motion for sanctions.

18 MR. WALKER: Okay. Your Honor, I applied -- or I replied
19 with a motion for access to justice and reports which is
20 the plaintiffs are requesting access for justice which is
21 in response to -- to this motion that Mr. Walker isn't
22 going through the process of trying to get things settled
23 here.

24 THE COURT: But do you see -- do you see what the problem
25 is? Let me tell you. You mentioned your motion for

1 judicial review. There's nothing there for me to review.
2 It's completely frivolous.

3 MR. WALKER: Okay.

4 THE COURT: I've looked at your motion for access to
5 justice and report. You think that the Court can force the
6 police department to write a police report. No, the Court
7 cannot do that. So again --

8 MR. WALKER: Thank you, Your Honor. I wanted that to be on
9 the record.

10 THE COURT: -- a completely frivolous motion.

11 Are you done addressing the motion for sanctions or do
12 you have any more there?

13 MR. WALKER: Can I respond to the motion for access to
14 justice?

15 THE COURT: No. Right now we're dealing with the motion
16 for sanctions. Do you have anything else that you wish to
17 add?

18 MR. WALKER: Mr. Walker responded to the plaintiff's
19 motions for Rule 11 objections and filings. Did the Court
20 have a chance to review that?

21 THE COURT: Let's see here. I just want to make sure that
22 I'm looking at the same thing. That's the -- filed on
23 January 30, 2025?

24 MR. WALKER: Correct, Your Honor.

25 THE COURT: Yes, I've reviewed it.

1 MR. WALKER: Oh, good. So in that, Mr. Walker had many
2 demands. Force the city to give the names, address, and
3 phone number for each people that had an action with Thomas
4 Auto, and I can file another motion to compel.

5 Keep the evidence submitted to the Court for access to
6 the right to bring upon appeal.

7 Issue a bond for each defendant for Thomas Auto. They
8 have a history of these assaults and it continues.

9 THE COURT: Again, I don't want to be rude.

10 MR. WALKER: Yes.

11 THE COURT: You're talking about substantive issues here.
12 I want you to address the motion for sanctions. Are you
13 done addressing the motion for sanctions?

14 MR. WALKER: The part that I was going to go through was to
15 address the motion for sanctions.

16 THE COURT: Well, all --

17 MR. WALKER: He -- the other attorney was able to set --
18 set his demands in his. I -- I feel like maybe Mr. Walker
19 could get the same fair chance to -- get the same fair
20 chance that the Court gave David Hansen with his demands.

21 THE COURT: All right. Any reply, Mr. Hansen?

22 MR. HANSEN: Yes, Your Honor. There's a lot to try to
23 refute there. I think I've covered most of it in my
24 additional argument.

25 I particularly want to make a record: Mr. Walker

1 accused Terri Guccione of stealing, assault. He mentioned
2 her father turning over in his grave. He accused her of
3 perjury. He twisted my words that I'm somehow threatening
4 that this will go on for nine additional years; that Terri
5 Guccione perjured herself because she called the title
6 abandoned; that we're somehow attacking him or focusing on
7 him because he's indigent.

8 He's the one who initiated the case, Your Honor.
9 We're defending a case. He can't now say that because he
10 initiated the case against us and we're defending that
11 somehow we're picking on him as an indigent person.

12 He accused me of meddling with the court reporter.
13 That's just not true. He doesn't have any evidence that he
14 can present.

15 He's trying to twist the Court's words, even to the
16 point of implying that the Court somehow solicited from
17 Mr. Anderson a joinder of the motion today.

18 He's said that somehow I have slandered him by
19 responding to his pleadings in a court case which is, by
20 definition, not slander.

21 There are already police reports. He doesn't need
22 additional police reports. There are already police
23 reports that have been provided in discovery. I don't know
24 why he needs additional police reports.

25 And he refused to answer questions under oath, direct

1 simple questions from the Court about the facts of this
2 case.

3 It's clear again, Your Honor, that not only has
4 Mr. Walker decided he is right as is put in the *Ferebee*
5 case, that he's right and no one else is right, he doesn't
6 need to listen to judicial instructions. It's clear here
7 that he is trying to become a law unto himself and not only
8 abuse my client, but also the judicial system.

9 I, again, just emphasize he needs sanctions in order
10 to show him that you can't abuse the judicial system. We
11 have to maintain the integrity of the system.

12 Thank you.

13 THE COURT: Mr. Anderson.

14 MR. ANDERSON: Yes. I'll just kind of piggyback off of
15 what Mr. Hansen said. I guess to, I don't want to call the
16 accusations thrown around kind of offhand, that does bother
17 me.

18 I want to focus on this deposition that has been
19 brought up. We have the transcript. It's incredibly clear
20 he wanted to answer 10 questions and after 10, that was it,
21 period, done.

22 It was clear he didn't have a court reporter set up.
23 We waited an extra 15 minutes for one to come.

24 You know, it's not as, I suppose, as big of a bill for
25 Mr. Hansen in Rapid, but my clients had to pay me to drive

1 out there, to go, to attend, to prep for it, drive back to
2 Pierre. And it's the conduct and the incessant filings, it
3 has just really, really added up and I think, you know, the
4 injunctive relief requested is appropriate but I think
5 dismissal and putting this to bed is appropriate for all
6 the defendants.

7 Thank you.

8 MR. WALKER: Your Honor, the statement that Cash Anderson
9 made about --

10 THE COURT: All right. Go ahead.

11 MR. WALKER: -- about his -- representing his client and
12 paying him to drive all the way here, he's making
13 statements about -- in the transcripts what color hat are
14 you wearing, what color pants are you wearing. David
15 Hansen talks about the facts of the case. Your Honor, I
16 don't believe and I don't believe anybody will believe that
17 when the questions were asked about what type of color my
18 clothing was wearing that the depositions weren't about the
19 facts about the case. They were here to intimidate.

20 THE COURT: Was that asked?

21 MR. HANSEN: Yes, Your Honor.

22 MR. ANDERSON: Your Honor, I was the one who asked those
23 and that was after Mr. Hansen asked 10 questions to which
24 Mr. Walker said, "You've reached your 10 question limit.
25 Under South Dakota codified law you're only allowed to ask

1 10 questions. You have exhausted all your questions for
2 today. Thank you."

3 And then I asked him whether he was going to refuse to
4 participate. He started counting the questions I was
5 asking on his refusal to participate. Then he told me,
6 "You've already asked three or four questions." So I asked
7 boom, boom, boom, boom, simple questions to see if he would
8 cut it off at 10.

9 So that is true. It was what day is it today and
10 what's the color of your hat, what's the color of your
11 shirt, and what's the color of your pants. That's
12 absolutely true.

13 THE COURT: Okay. But that was done after he refused to
14 answer more than 10 questions. Correct?

15 MR. ANDERSON: Correct.

16 THE COURT: Is that correct, Mr. Walker?

17 MR. WALKER: No, it's not correct, Your Honor. I answered
18 these questions when they were asked. There is a
19 transcript of what's happened.

20 THE COURT: Listen again. We're talking around each other.

21 MR. WALKER: Okay.

22 THE COURT: Listen to my question carefully. The questions
23 regarding your clothing, your hat, were those asked after
24 you refused to answer -- after you said that the limit of
25 10 questions had been reached?

1 MR. WALKER: Yes, Your Honor.

2 THE COURT: All right.

3 So -- I've heard enough. Everybody's had an
4 opportunity to be heard.

5 MR. WALKER: I still have a little bit of list to respond
6 to Cash Anderson if the Court would allow it.

7 THE COURT: Okay. Go ahead.

8 Do you have anything else, Mr. Walker?

9 MR. WALKER: Your Honor, I'm extremely hard trying to
10 litigate this under a pro se status.

11 THE COURT: That's not a reply to what Mr. Anderson said.
12 Do you have anything else?

13 MR. WALKER: Well, if he was piggybacking off of David
14 Hansen, I do feel like that is part of it.

15 THE COURT: Well, you had your chance to talk so here's my
16 ruling. To say that the motivation behind any expedited
17 civil action rules have been obliterated by the way this
18 case has dragged on is an understatement of the year.

19 The file, as I indicated when I started, is just a
20 complete mess. It is full, absolutely full of frivolous
21 motions, statements, requests that have no basis in fact,
22 no basis in law, and they're all filed by Mr. Walker.

23 At the hearing today the Court was concerned with what
24 happened at the deposition and the Court held a hearing
25 during the deposition. And first of all, to notice a

1 deposition -- and by the way, there's no evidence here,
2 credible evidence here, that Mr. Walker ever had the court
3 reporter lined up prior to noticing the depositions and
4 certainly prior to attending the depositions causing
5 parties and attorneys to waste their time, to travel, and
6 then when it was Mr. Walker's turn to answer questions, he
7 refused to do so after he believed, what he believed was a
8 limit placed on deposition questions.

9 There's zero support for any of that and Mr. Walker
10 tried mightily in my questioning here to circumvent and not
11 give the Court a straight answer. But the record doesn't
12 lie. His refusal to answer questions, his wasting of time
13 of the witnesses, the attorneys in scheduling depositions
14 which could never go forward because of his failure to
15 secure a proper court reporter.

16 Exhibit 1 is going to be that Clayton Walker e-mail
17 dated January 21, 2025. I do find it to be harassing. The
18 record is full of Mr. Walker's harassing filings that serve
19 no purpose other than to harass, delay, and cause
20 embarrassment instead of getting at the truth.

21 The Court already made reference to the frivolous
22 motion for Brady, the frivolous motion -- there's so many
23 of them that I'm just listing a few of them -- the
24 frivolous motion for theft by deception, the frivolous
25 motion for judicial review, the frivolous motion for

1 probable cause which wasn't even addressed here but on its
2 face is frivolous.

3 You know, dismissal of a case is an extraordinary
4 remedy but it is an appropriate one in this case, so this
5 case is dismissed.

6 In addition, the Court is going to impose sanctions.
7 The attorney's fees paid by the Guccione defendants as well
8 as the attorney's fees which still need to be submitted by
9 the city defendants.

10 Any questions?

11 MR. HANSEN: Just one clarification, Your Honor. There's
12 still a cross motion between Thomas Auto and the city for
13 potential indemnification. Based on today's ruling that
14 may --

15 THE COURT: It's all moot, isn't it?

16 MR. HANSEN: Well, certainly if Mr. Walker pays, it is.
17 But I just wanted to clarify: Is that portion of the case
18 dismissed as well?

19 THE COURT: Everything's dismissed. This case is gone.

20 MR. HANSEN: Understood.

21 THE COURT: Any questions, Mr. Anderson?

22 MR. ANDERSON: No questions from me.

23 THE COURT: Any questions, Mr. Walker?

24 MR. WALKER: Your Honor, assuming the Court's ruling, I'm
25 assuming that the motions for subpoenas and other motions

1 are all moot as well?

2 THE COURT: Correct.

3 MR. WALKER: Your Honor, I'd ask the Court that the record
4 please be prepared for the appeal process for -- I can't
5 afford the court reporter's transcripts and I'm asking the
6 Court -- the legislator has already issued that the part of
7 the judge's bills could be classified as that and I'm
8 asking that the Court please prepare that for the notice of
9 appeal.

10 THE COURT: You've asked for the Court to provide you with
11 transcripts because you're indigent throughout the entirety
12 of these proceedings and the Court has consistently denied
13 it because there's no mechanism for that. In a criminal
14 case, indigent defendants are entitled to the county paying
15 for their attorney and for the transcripts and other things
16 that are necessary to put up a defense. That is not so in
17 a civil case.

18 You certainly have a right to appeal this Court's
19 order but it is up to you, not to the Court, it's up to you
20 to make sure the proper record is secured for the appeal.

21 MR. WALKER: So as part of the sanctions are you saying
22 that I'm not allowed to ask the community for assistance?
23 Is that part of the sanctions?

24 THE COURT: I'm not issuing sanctions. I'm not saying one
25 thing or another. The sanctions are the attorney's fees

1 that had to be expended by these parties for an action that
2 the Court finds frivolous and has been conducted in a way
3 as to do nothing more than to harass, annoy, and embarrass
4 the parties.

5 And so, Mr. Hansen, I want you to prepare the order.

6 We'll be in recess.

7 MR. HANSEN: Thank you, Your Honor.

8 (Proceedings concluded at 12:17 p.m.)

9 * * * * *

1 STATE OF SOUTH DAKOTA)
2) SS. CERTIFICATE
3 COUNTY OF PENNINGTON)
4

5 I, Cynthia M. Weichmann, Registered Professional
6 Reporter and Notary Public, State of South Dakota, do
7 hereby certify that I reported in stenotype the proceedings
8 of the above-entitled action; that I thereafter transcribed
9 said stenotype notes into typewriting; and that the
10 foregoing pages 1 - 55, inclusive, are a true, full and
11 correct transcript of my stenotype notes.

12 IN TESTIMONY WHEREOF, I hereto set my hand and
13 official seal this 21st day of March, 2025.
14

15 /s/ Cynthia M. Weichmann
16

17 _____
18 Cynthia M. Weichmann, RPR
19 Registered Professional Reporter
20 Notary Public
21 My Commission Expires: 11-10-27
22
23
24
25

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Zoom (1) - 2:11

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

Appeal No. 31111

CLAYTON WALKER,
Plaintiff,

vs.

THOMAS AUTO INC., FRANK THOMAS TRUST, TERRI GUCCIONE, MAYOR JASON
SALAMUN, MICHELLE SCHUELKE, INDIVIDUALLY AND IN HER OFFICIAL
CAPACITY, and CITY OF RAPID CITY,
Defendants.

APPEAL FROM THE CIRCUIT COURT
SEVENTH JUDICIAL CIRCUIT
PENNINGTON COUNTY, SOUTH DAKOTA

THE HONORABLE ROBERT GUSINSKY
CIRCUIT COURT JUDGE, PRESIDING

DEFENDANTS THOMAS AUTO INC., FRANK THOMAS TRUST, TERRI GUCCIONE
APPELLEE'S BRIEF

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JURISDICTIONAL STATEMENT

This is an appeal by Clayton Walker (“**Walker**”) from an Order granting Defendants’ Motion for Rule 11 Sanctions entered in the Trial Court following hearing on Thomas Auto, Inc. Frank Thomas Trust, and Terri Guccione’s, (the “**Thomas Auto Defendants**”) Motion for Rule 11 Sanctions. Mayor Jason Salamun, Michelle Schuelke, Individually and in her official capacity, and City of Rapid City (the “**City Defendants**”) joined in the motion. (Thomas Auto Defendants and the City Defendants collectively referred to as (the “**Defendants**”). This Court’s jurisdiction is conferred by SDCL § 15-26A-3(7).

STATEMENT OF ISSUES

After analysis of Walker’s incoherent Appeal Brief, Thomas Auto Defendants are left to guess as to what he seeks to appeal and what this Court may find meritorious, if anything. Notably, Walker never mentions the Trial Court’s award of attorney fees.

Walker’s issues on Appeal are summarized into the following issues:

- I. **Did the Trial Court abuse its discretion when it dismissed Mr. Walker’s case as a sanction under SDCL § 15-6-11 (“Rule 11”) and SDCL § 15-6-37(b)?**

The Trial Court held that due to Mr. Walker’s multiple frivolous filings, his refusal to comply with the Trial Court’s Order regarding discovery, and his behavior during deposition, dismissal of Walker’s claim was appropriate.

The authority most relevant to this issue is:

SDCL § 15-6-11(b)-(c),

SDCL § 15-6-37(b),

Ferebee v. Hobart, 2009 S.D. 102, 776 N.W.2d 58;

Lee v. Rapid City School District No. 51-4, 1995, 526 N.W. 2d. 738.

II. Does the Expedited Civil Procedure under SDCL § 15-6-72 et seq. preclude the Trial Court from disposing of a case under Rule 11 sanctions if the Trial Court has already denied one motion to dismiss?

Although Mr. Walker offered this issue in various arguments, Thomas Auto Defendants cannot find in the record where this issue was formally raised or adjudicated by the Trial Court.

III. Did the Trial Court err when it found the Defendants interrogatories did not exceed the limit imposed under the Expedited Civil Procedure SDCL § 15-6-73(2)(A)?

The Trial Court overruled Mr. Walker's objection, held that the Defendants' interrogatories did not contain discrete subparts, and ordered Mr. Walker to respond to all interrogatories within 14 days of the hearing.

The authority most relevant to this issue is:

SDCL § 15-6-73(2)(A).

STATEMENT OF THE CASE

This case was brought in the Seventh Judicial Circuit. The Honorable Matthew Brown was originally assigned to the case. Judge Brown recused himself due to a conflict of interest. The Honorable Judge Craig A. Pfeifle presided over the case until he retired. Then the case was assigned to the Honorable Robert Guzinsky presides over the case. An appeal by Walker from an Order Granting Defendants' joint Motion for Rule 11 Sanctions which resulted in a complete disposition of Walker's case and an award of Defendants' attorney's fees.

The dispositive hearing was held on February 18, 2025. The Order was filed May 7, 2025. Walker was served with Notice of Entry of Order by mail on May 8, 2025. The Walker's Notice of Appeal was filed with the Pennington County Clerk of Courts on June

3, 2025. Over Defendants' objection, Walker was granted an extension of time to file his brief on or before August 25, 2025. According to Walker's Certificate of Service and Affidavit, Mr. Walker mailed his brief on August 24, 2025. The Second motion was denied. Walker's brief was not received until September 5, 2025. On September 5, 2025, this Court directed Ms. Sarah Gallagher, Deputy Clerk of the South Dakota Supreme Court to accept and file Walker's Appeal Brief.

STATEMENT OF FACTS

A recitation of the facts of this case is provided in the Order being appealed. (Order Granting Defendants' Motion for Rule 11 Sanctions, (hereinafter referred to as the "**Order**" Clerk's Index p. 1303 – 16). (Thomas Auto Defendant's Appendix, Exhibit 2). Additional facts from the record will be cited when needed for argument.

ARGUMENT

Did the Trial Court abuse its discretion when it dismissed Walker's case as a sanction under SDCL § 15-6-11 ("Rule 11") and SDCL § 15-6-37(b)?

The South Dakota Rules of Civil Procedure are "construed to secure the just, speedy, and inexpensive determination of every action." SDCL § 15-6-1. A pleading must contain a "short and plain statement of the claim showing that the pleader is entitled to relief...." SDCL § 15-6-8(a). South Dakota case law favors having a case heard and disposed of on its merits rather than dismissed prior to trial. See *Healy Ranch P'ship v. Mines*, 2022 SD 44, 978N.W.2d 768; *Mach v. Conners*, 2022 SD 48, 979 N.W.2d 161; *Accord Olson v. Huron Reg'l Med. Ctr., Inc.* 2025 SD 34, 24 N.W.3d 405.

However, Courts are not constrained to allow every case to proceed to a trial. Rule 11 acts as an "escape hatch" for the Court when it is persuaded that one party's

actions are clearly frivolous, made in bad faith, or with the intent to harass. SDCL § 15-6-11. *Tri-State Refining and Inv. Co., Inc. v. Apaloosa Co.*, 1988, 431 N.W.2d 311; *Thomas v. Thomas*, 2003 S.D. 39, 661 N.W.2d 1; *Smizer v. Drey*, 2016 S.D. 3, 873 N.W.2d 697.

Here, in compliance with SDCL § 15-6-11(C)(3) the Trial Court described the conduct determined to constitute a violation. (The Order, p. 12-13; Clerk's Index p. 1314-15).

- Walker improperly attempted to certify a class action against the Thomas Auto defendants. *Id.* at 12, Clerk's Index 1314.
- Walker filed frivolous motions including a *Brady* Motion, and two motions for Theft by Deception, which are Criminal Procedures. *Id.* at 12, Clerk's Index 1314 (Pleadings found at Clerk's Index 647; 653, 988).
- Walker filed frivolous Motions for Judicial Review and Motion for Access to Justice which have no basis in the law in these circumstances. *Id.* at 12, Clerk's Index 1314 (Pleadings found at Clerk's Index 980, 1028).
- Mr. Walker motioned to amend his complaint to include Governor Noem and Attorney General Jackley without reciting any legal basis for their potential culpability. *Id.* at 12, Clerk's Index 1314 (Pleadings found at Clerk's Index 22).
- Mr. Walker threatened to initiate a door-to-door campaign against Thomas Auto defendants. *Id.* at 12, Clerk's Index 1314; Hearing Transcript 2/18/25 21:14-22:5, Clerk's Index 1216-7.¹

¹ The Court Ordered that Mr. Walker's email should be Exhibit 1 and specifically found that the email was harassing. Hearing Transcript 2/18/25 51:16-20, Clerk's Index 1246. That email does not appear in the record before the Court. The substance of the email was read into the record by Attorney David R. Hansen. Hearing Transcript 2/18/25 21:14-22:5, Clerk's Index 1216-7. Find a true and correct copy of the email as Thomas Auto Defendant's Appendix Exhibit 4.

- Mr. Walker blocked council from entering the room where depositions were to be held. *Id.* at 12, Clerk's Index 1314.
- Mr. Walker did not secure a court reporter prior to noticing or attending the deposition, and therefore wasted the time of the parties and their counsel. *Id.* at 12, Clerk's Index 1314; Hearing Transcript 2/18/25 32:2-6, Clerk's Index 1227.

Additional actions taken by Mr. Walker that were not included in the Trial Court's summary, however, appear in the record:

- The Trial Court file was a mess. It was almost impossible to go through it at the fault of Mr. Walker. Hearing Transcript 2/18/25 2:18-3:3, Clerk's Index 1197-8; and again 50:19-22, Clerk's Index 1245.
- Mr. Walker accused the Court of requesting that the City Defendants join the motion for sanctions, which was a gross mischaracterization of the Court's statement. Hearing Transcript 2/18/25 28:11-29:3, Clerk's Index 1223-4.
- During the deposition Mr. Walker intended to have one of his witnesses (Jacob Black) create an audio recording of the deposition rather than hiring a court reporter to properly conduct the deposition. Hearing Transcript 2/18/25 2:18-3:3, Clerk's Index 1197-8.
- Mr. Walker refused to answer more than 10 questions during his deposition with no legal basis for doing so. *Id.* at 12, Clerk's Index 1314; Hearing Transcript 2/18/25 20:10-13; Clerk's Index 1215.
- During the hearing held on February 18, 2025, Mr. Walker was elusive and non-responsive to examination by the Trial Court here are just two examples:

Court: Just answer my question.

Walker: What is the question?

Court: You had Mr. Black send out a request to the-- there's a General Court reporter mailbox asking whether a court reporter would be available. Isn't that right?

Walker: How would the court have that evidence?

Court: I'm asking you: is that right?

Walker: I don't recall, Your Honor.

Court: You don't recall? Just answer....

Hearing Transcript 2/18/25 30:20-31:3 Clerk's Index 1225-6.

Court: All right. What about your refusal to answer more than 10 questions at the deposition. Is that true?

Walker: I did answer each question at the deposition hearing.

Court: You know, you seem to not want to answer my questions. My question is super simple.

Walker: Okay.

Court: Is it true, as Mr. Hansen said, that you refused to answer more than 10 deposition questions for him and Mr. Anderson?

Walker: It is true that I refused. Your Honor, when they -- when David Hansen asked me a question, I had a response to each one of his questions, so I just --

...

Court: Did you refuse to answer more than 10 questions?

Walker: Did I refuse to answer. [sic] I made a statement that they had reached the number of questions to be asked under what Judge Pfeifle had ruled and--

Court: So the answer is yes. Correct?

Walker: I don't understand the question that you're asking me and ask maybe that it be clarified, but I would ask to continue with my rebuttal.

Hearing Transcript 2/18/25 33:6-34:8, Clerk's Index 1228-9.²

- During the February 18 hearing Mr. Walker directly insulted Terri Guccione in open court by stating "I mean, her father is turning over in his grave right now just so she can steal people's vehicles so she can make \$600 per vehicle." Hearing Transcript 2/18/25 41:20-23, Clerk's Index 1196-1261.
- Mr. Walker continually tried to revive issues that had been settled by the court. Hearing Transcript, Clerk's Index 1236.
- Mr. Walker, with no legal basis, continually tried to imply that the Trials Court's actions were oppressive to his religious and political beliefs. Hearing Transcript 2/18/25 36:8-37:7, Clerk's Index 1231-2.
- Due to Walker's abusive treatment of the Clerk of Courts and her staff, there was a standing order at the Pennington County Courthouse that Mr. Walker could not enter the Courthouse without an escort by a Pennington County Sheriff's Deputy. Letter to Judge Gusinsky filed June 6, 2024, Clerk's Index 340.

² To examine the Court's full line of questioning about the refusal to complete the deposition See Hearing Transcript 2/18/25 28:11-41:2, Clerk's Index 1228-1236 and further Hearing Transcript 2/18/25 47:18-50:4, Clerk's Index 1242-5.

- At the end of the February 18, 2025 hearing the Court concluded, “There’s zero support [that Walker obtained a Court Reporter prior to the deposition] and Mr. Walker tried mightily in my questioning here to circumvent and not give the court a straight answer, but the record doesn’t lie. His refusal to answer questions, his wasting of time of the witnesses, the attorneys and scheduling depositions which could never go forward because of his failure to secure a proper court reporter.” Hearing Transcript 2/18/25 51:9-15, Clerk’s Index 1246.

In short, the Trial Court appropriately found Walker’s actions were analogous to those of the plaintiff in *Ferebee* and therefore Walker’s case should be dismissed as a sanction for both Walker’s harassing conduct under Rule 11 and Walker’s failure to obey the Court’s discovery orders under SDCL § 15-6-37(b).

The Trial Court concluded:

“[t]herefore, given Walker’s multiple frivolous filings..., Walker’s refusal to comply with the Court’s orders regarding discovery and his behavior during the deposition, the dismissal of Walker’s claim, while severe, is appropriate.” (The Order, p. 13; Clerk’s Index p. 1315).

Additionally, the Trial Court took actions throughout the underlying proceedings to deter Walker’s abusive behavior by ordering less extreme measures designed to move the case toward trial.

- The Trial Court ordered this matter be handled under the Expedited Civil Procedure at Mr. Walker’s motion. (Hearing Transcript 5/30/24 8:8 Clerk’s Index 359).
- It ordered a telephonic Mr. Walker and counsel for the Defendants “meet and confer” telephonically to try to resolve the discovery disputes. (Order on Motions

to Compel Dated August 6, 2024, and September 5, 2024, dated November 7, 2024, Clerk's Index 588).

- On 1/21/25, which was the telephonic hearing that took place during the depositions, notwithstanding Walker's abusive behavior, the Trial Court ordered that the deposition must go forward. (Hearing Transcript 1/21/25 8:6-17, Clerk's Index 1068).
- The Trial Court specifically reviewed the Defendants responses to Plaintiffs request for production in accordance with Plaintiffs assertions that Defendant's Counsel was nonresponsive.
- The Trial Court attempted to correct Mr. Walker's misapprehension of the law regarding his Motion to Compel Discovery. (Hearing Transcript 2/18/25 3:15-9:11, Clerk's Index 1198-1204).

In short, the Trial Court gave Mr. Walker every opportunity to have his case heard on the merits. Mr. Walker chose instead to focus on bad faith, malicious, and abusive behavior, which ultimately warranted dismissal of his case.

Because the Trial Court gave Mr. Walker every opportunity to move his case toward trial by less extreme means and Mr. Walker chose the path of bad faith and harassment, the Court should find that the Trial Court did not abuse its discretion in dismissing the case and awarding attorney's fees.

Does the Expedited Civil Procedure under SDCL § 15-6-72 *et seq.* preclude the Court from disposing of a case by Rule 11 sanction if the Court already denied one motion to dismiss?

The Thomas Auto Defendants believe that the only issue over which this Court has jurisdiction in this matter is the Order under SDCL § 15-26A-3(7). The Trial Court

record is replete with arguments on this issue; however, this specific issue was never formally raised or adjudicated. However, the Thomas Auto Defendant's Motion to Dismiss was adjudicated. Due to the incoherent condition of Walker's Appeal Brief, the Thomas Auto Defendants are left to guess what issues Walker is raising and what issues this Court may take up. In the event this Court claims jurisdiction over this issue under SDCL § 15-26A-3(6), without conceding jurisdiction on this issue, Thomas Auto Defendants present the following argument.

The Thomas Auto Defendants moved for dismissal of Mr. Walker's case on November 15, 2023, under SDCL 15-6-12(b)5, for failure to state a claim upon which relief can be granted. The Trial Court denied this motion and allowed Mr. Walker's claim to proceed. On appeal, Walker raises two points for review: (1) Under the Expedited Rules only one motion to dismiss is allowed (Walker's Appeal Brief p. 8, ¶ 30); and (2) the Trial Court judge ordered that Thomas Auto Defendants could only bring one motion to dismiss. (Walker's Appeal Brief p. 11 ¶ 64).

(1) Here, Walker's first basis misapprehends the law and the procedure. Despite various statements on the record about this statute, the Expedited Civil Procedure does not impose any limit on the number of motions to dismiss. See SDCL 15-6-74(1). Rather, it imposes a limit of only one motion for summary judgment. SDCL § 15-6-74(2)(B). There were no motions for summary judgment filed in this matter.

Mr. Walker erroneously believes the Trial Court allowed the Thomas Auto Defendants to bring two motions to dismiss. Mr. Walker erroneously believes this to be a reversible error by the Trial Court in violation of SDCL §15-6-74. Under the Expedited Rules Thomas Auto Defendants could have made as many motions to dismiss as they had

grounds to do so. However, even if there were a limit, Walker's case was dismissed pursuant to a motion for Rule 11 sanctions and not a motion to dismiss. Therefore, Walker's argument that the Trial Court should be reversed on these grounds fails.

(2) Walker argues that the Trial Court's decision should be reversed because Judge Pfeifle ordered that the Thomas Auto Defendants were limited to only one motion to dismiss. (Walkers Appeal Brief p. 11 ¶ 64). Walker mischaracterized Judge Pfeifle's statement. The record shows that Judge Pfeifle did not order anything of the sort. Rather, he was merely providing a "bare bones outline" of the procedure in response to the questioning from Attorney Hansen³.

Hansen: Agreed. Oh, as far as the dispositive motions, I hope to file only one, Your Honor, but do you know, is there a limitation?

Court: One.

Hansen: Do you know specifically how many is allowed under that proceeding?

Court: I think it's one motion to dismiss and one motion for summary judgment. Mr. Galbraith's nodding yes, so I'm going to assume his legal research is the same as mine.

Walker: Your Honor, I looked it up as well and I seen it was only one motion to dismiss as well.

Court: Yeah. One motion to dismiss and one request for summary judgment.

Hansen: Is that per party?

Court: Correct.

³ For the full context see Hearing Transcript 3/21/2024 5:4 – 8:7, Clerk's Index 126-129.

Hansen: Okay. Well, considering that, Your Honor, I think that we will object to that motion....

Hearing Transcript 3/21/2024 6:23–7:16, Clerk’s Index 127-128.

Judge Pfeifle issued no subsequent order to the effect of limiting the number of motions to dismiss. Further, Judge Gusinsky clarified that there was no limitation on the number of motions to dismiss. (Hearing Transcript 11/5/24 14:7-8, Clerk’s Index 1045).

Further, even if the Court’s statement at the December 7, 2023, hearing was an order limiting the number of motions to dismiss allowed in this matter, as stated above, Walker’s case was dismissed on a motion for sanctions under Rule 11 and SDCL § 15-6-37(b) and not on a motion to dismiss under SDCL 15-6-74(1). Therefore, Walker’s argument fails.

Thus, the Trial Court should not be reversed because the Expedited Civil Procedure does not preclude the Trial Court from dismissing the case as a sanction even if the Trial Court had previously denied a motion to dismiss.

Did the Trial Court abuse its discretion when it found the clarifying subparts of Defendants’ interrogatories did not violate the limit imposed under the expedited Civil Procedure SDCL § 15-6-73(2)(A).

The Thomas Auto Defendants believe that the only issue over which this Court has jurisdiction in this matter is the Order under SDCL § 15-26A-3(7). This specific issue was formally raised or adjudicated. Due to the incoherent condition of Walker’s Appeal Brief, the Thomas Auto Defendants are left to guess which issues Walker is raising and which issues this Court may take up. In the event this Court claims jurisdiction over this

issue under SDCL § 15-26A-3(6), without conceding jurisdiction on this issue, Thomas Auto Defendants present the following argument.

Under South Dakota law, unless a trial court is interpreting the statute, which is reviewed *de novo* (*Ferguson v. Thaemert*, 2020 SD 69 ¶11, 952 N.W.2d 277), a trial court's decision pertaining to application of discovery rules is reviewed under the abuse of discretion standard. This standard is applied to evaluate whether the trial court made a fundamental error of judgment, acted outside the range of permissible choices, or rendered a decision that is arbitrary or unreasonable. *Krueger v. Grinnell Mut. Reinsurance Co.*, 2018 SD 87 ¶ 12, 921 N.W.2d 689 (Internal citations omitted).

In *Krueger*, the South Dakota Supreme Court emphasized that discovery sanctions under S.D. Codified Laws § 15-6-37 are reviewed for abuse of discretion, while also noting that the trial court's latitude in such matters is broad but not limitless. *Id.* Similarly, in *Ferguson*, the Court reiterated that discovery orders are reviewed for abuse of discretion, defining it as a decision that is arbitrary or unreasonable upon full consideration *Ferguson* at ¶ 11. Counsel can find no binding precedent where this Court has reviewed specifically what constitutes "discrete subparts" for purposes of interrogatories under SDCL § 15-6-73(2)(A).

Here, the City Defendants served Walker with interrogatories, requests for production, and requests for admission. A few days later Thomas Auto Defendants served Walker with interrogatories, requests for production, and requests for admission. Walker did not respond to any of the discovery requests within the statutory time frames. The City Defendants filed a Motion to Compel scheduled a hearing on May 30, 2024. A few days later Thomas Auto Defendants also filed a motion compel. Walker filed motions to

quash all the discovery requests for all parties on the grounds that the Defendants had exceeded the number of interrogatories allowed under the Expedited Rule.

The Trial Court held that the form of the interrogatories was not in violation of the law because they did not include distinct subparts within the meaning of the statute, rather they contained statements that clarified the underlying interrogatory.⁴ Order on Motion to Compel. Clerk's Index 328-29; The form of the interrogatories is quotidian. They were not exceptional in any way. They were not overly complex or overburdensome. In fact, the purpose of the clarifying statements is to limit or narrow the information that is being requested. This is typical in the industry.

The Trial Court took pains to clarify Mr. Walker's understanding of the Trial Court's application of the statute in this case:

Court: For example, one of the interrogatories is something to the effect of what evidence do you have as to count 2, I'll call it. If you have that evidence, who has it and what evidence do they have? I think those are not what would otherwise be considered to be discreet subparts. I view discrete subparts as asking a wholly separate question, not clarification of the answer for the same question.

Hearing Transcript 5/30/24 10:13-12:12, Clerk's Index 361-3.

The Trial Court's application of the statute to these discovery requests is the standard practice in the industry. The Trial Court acted well within its discretion. The Trial Court denied the motions to quash, granted the motions to compel, and ordered Mr.

⁴ Examples of the interrogatories are found at Clerk's Index 316-321.

Walker to respond to all discovery requests. It even allowed Walker an additional 14 days for Mr. Walker to respond, which was reasonable, given the fact there were only 10 each and Walker had already had over 30 days to respond. Order on Motion to Compel. Clerk's Index 328-29.

The Trial Court's holding that there were no discrete subparts and its order to compel Mr. Walker to answer the discovery requests within 14 days was standard practice, reasonable, and squarely within the broad discretion granted to the Trial Court. Because it did not abuse its discretion, the Trial Court should not be reversed.

CONCLUSION

Because of Walker's frivolous filings; his failure to comply with the Trial Court's discovery orders; his harassing behavior at the depositions, toward Court staff and Defendants; and after several attempts to deter Mr. Walker's abusive behavior by less extreme means, the Trial Court did not abuse its discretions when it dismissed the case and ordered attorney's fees to protect the Defendants and the integrity of the judicial system. The Trial Court did not abuse its discretion when it dismissed the case as a sanction rather than on a motion to dismiss. The Trial Court did not abuse its discretion in its application of discovery rules.

THEREFORE, Thomas Auto, Inc., Terri Guccione, and the Frank Thomas Trust respectfully pray this Honorable Court to affirm the Trial Court's decision to dismiss the case as it pertains to Mr. Walker.

Dated: October 7, 2025.

COMPASS ROSE LAW FIRM

/s/ David R. Hansen

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IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

Appeal No. 31111

CLAYTON WALKER,
Plaintiff,

vs.

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SALAMUN, MICHELLE SCHUELKE, INDIVIDUALLY AND IN HER OFFICIAL
CAPACITY, and CITY OF RAPID CITY,
Defendants.

CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that this brief complies with SDCL § 15-26A-66(b). It complies with the type-volume limitation of no more than 10,000 words or 50,000 and contains 3,922 words in the principal brief.

Dated: October 14, 2025.

COMPASS ROSE LAW FIRM

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Defendants.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 14, 2025, he served copies of the **Thomas Auto Defendant's Reply Brief** on the parties indicated hereinbelow on the date and in the manner indicated. In the case of service via US Postal Service, documents are mailed by first class mail, postage prepaid.

Clayton Walker 1515 St. Patrick St Lot 356 Rapid City, SD 57703	Via US Postal Service
Cash Anderson Attorney for City of Rapid City Mayor Jason Salamun Michelle Schuelke PO Box 160 503 S. Pierre St. Pierre, SD 57501	Via Odyssey File and Serve cea@mayadam.net

Dated: October 14, 2025.

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THOMAS AUTO DEFENDANT'S APPENDIX

Exhibit 1 – Categorization of Walker's Brief

Exhibit 2 – Order on Defendants' Motion for Rule 11 Sanctions

Exhibit 3 – Email accepted as Exhibit 1 at Hearing held on 2/18/25

Exhibit 1

Categorization of Walker's Brief

I. Might Appeal: Dispositive Motions: Motion to Dismiss (MTD)/Motion for Summary Judgment (MSJ)

1. "Multiple motions to dismiss permitted" (Questions, p. 5; Argument, p. 10).
2. "Failure to require defendants to move for summary judgment" (Legal Issues, p. 8).
3. "Dismissal before one-year timeline expired" (Legal Issues, p. 8).
4. "The joined both claims page 135 and then Robert separated them" (Argument, p. 10).
5. "Joined claims mishandled" (Argument, p. 10).
6. "Multiple motions to dismiss improperly allowed" (Argument, pp. 10–11).

II. Might Appeal: Sanctions & Litigation Conduct

1. "Can Sanctions be dispositive motions" (Questions, p. 5).
2. "Sanctions without sufficient cause" (Legal Issues, p. 8).
3. "Sanctions based on frivolous motions" (Order reference, pp. 10–13 of Order).
4. "Error by first judge vs. second judge inconsistency" (Questions, p. 5).
5. "Judge failed to recuse for bias" (Federal Questions, p. 6).
6. "Granting defendants more than one dispositive motion" (Statement of Case/Facts, p. 9).

III. Cannot Appeal: Issues with Discovery, Transcripts & Depositions

1. "Not answering typed depositions, asking questions about the appellant's clothing and not asking real questions" (Abstract, p. 4).
2. "Disputable facts at depositions of being assaulted" (Abstract, p. 4).
3. "Failure to produce subpoenaed video recordings of assault/police body cam" (Abstract, p. 4).
4. "Spoilation of evidence when judge Pfeifle granted protection order then Judge Gusinsky denied" (Questions, p. 5).
5. "Entitlement to transcripts for appeal" (Federal Questions, p. 6; Argument, p. 11).
6. "Errors in handling interrogatories" (Questions, p. 5; Legal Issues, p. 8; Argument, p. 10).
7. "Errors in depositions" (Questions, p. 5; Federal Questions, p. 6).
8. "Denial of opportunity to subpoena witnesses due to lack of transcripts" (Conclusion, p. 12).
9. "Expedited civil action procedures mishandled" (Questions, p. 5; Legal Issues, p. 8; Argument, p. 11).

IV. Cannot Appeal: Facts to be established by Plaintiff at Trial (City of Rapid City / Bendts /Rent/Leasing)

1. "Jeffery Bendt rent/leasing" (Background, p. 7).
2. "City interfered with premises" (Background, p. 7).
3. "City council property/security deposit" (Questions, p. 5).
4. "False testimony re: employees at tow yard" (Questions, p. 5).
5. "Court failed to address number of employees in video" (Questions, p. 5).
6. "Attorney misunderstood expedited procedure" (Legal Issues, p. 8).
7. "Attorney discovery misconduct — withholding file" (Argument, p. 9).

V. Cannot Appeal: To be established by Plaintiff at Trial: Relief & Damages

1. "Plaintiff's losing a 12,000.00 Land Rover" (Conclusion, p. 12).
2. "Reversal and new trial" (Relief, p. 13).
3. "Compensatory damages \$75,000 and \$3.5 million punitive" (Relief, p. 13).
4. "Award of \$75,000 in fees against AG's office" (Relief, p. 13).
5. "Order to investigate AG office" (Relief, p. 13).
6. "Any other relief Court deems just" (Relief, p. 13).

VI. Cannot Appeal: Irrelevant (Constitutional, Political, Federal Questions)

1. "14th Amendment Due Process" (Table of Authorities, pp. 3, 8, 11).
2. "5th Amendment life liberty" (Table of Authorities, p. 3; Argument, p. 8).
3. "9th Amendment" (Legal Issues, p. 8; Argument, p. 11).
4. "Religion" (Questions, p. 5; Federal Questions, p. 6).
5. "Certiorari / Supremacy Clause" (Federal Questions, p. 6).
6. "Recusal of SD Supreme Court" (Federal Questions, p. 6).
7. "Basic concept of American Justice" (Relief and Demands, p. 13).
8. "Denial of jury trial under 7th Amendment" (Questions, p. 5; Legal Issues, p. 8; Statement of Case, p. 9).
9. "Costs and transcripts under Rule 11" (Argument, p. 11).
10. "Did the attorney understand the bones of the expedited procedure." (Legal Issues, p. 8).
11. "Motion to protect substantial rights." (Legal Issues, p. 8).
12. "See transcripts 15 and see the 5th and 9th amendment." (Legal Issues, p. 8).
13. "In FY1993, why the number of federal judges only increased by 4% and pleadings have increased to 20% per judge." (Legal Issues, p. 8).
14. "Motion to protect substantial rights page 202 paragraph." (Argument, p. 10).
15. "Plaintiff told the judge he had a copy to protect substantial rights page 202 paragraph 23." (Argument, p. 10).
16. "Violation of law of the land" (Argument, p. 10).
17. "212 ¶ 4 which is the law of the land." (Argument, p. 10).
18. "SDCL § 20-13-1(7) and SDCL § 20-13-1(6)." (Argument, p. 11).
19. "Williams v. Pennsylvania evaluating potential errors made on recusal by the SD Supreme Court." (Argument, p. 11).
20. "Fix Transcript page 212 was recording. #225 ¶13." (Argument, p. 11).

VII. Cannot Appeal: Incomprehensible

1. "Did the attorney understand the bones of the expedited procedure." (Legal Issues, p. 8).
2. "Motion to protect substantial rights." (Legal Issues, p. 8).
3. "See transcripts 15 and see the 5th and 9th amendment." (Legal Issues, p. 8).
4. "In FY1993, why the number of federal judges only increased by 4% and pleadings have increased to 20% per judge." (Legal Issues, p. 8).
5. "Motion to protect substantial rights page 202 paragraph." (Argument, p. 10).
6. "Plaintiff told the judge he had a copy to protect substantial rights page 202 paragraph 23." (Argument, p. 10).
7. "212 ¶ 4 which is the law of the land." (Argument, p. 10).
8. "SDCL § 20-13-1(7) and SDCL § 20-13-1(6)." (Argument, p. 11).

9. "Williams v. Pennsylvania evaluating potential errors made on recusal by the SD Supreme Court." (Argument, p. 11).
10. "Fix Transcript page 212 was recording, #225 ¶13." (Argument, p. 11).

STATE OF SOUTH DAKOTA)	IN CIRCUIT COURT
)SS	
COUNTY OF PENNINGTON)	SEVENTH JUDICIAL CIRCUIT
)	
CLAYTON WALKER,)	FILE NO. CIV 23-1329
Plaintiff,)	
v.)	ORDER GRANTING DEFENDANTS'
)	MOTION FOR RULE 11 SANCTIONS
THOMAS AUTO, INC., FRANK)	
THOMAS TRUST, TERRI)	
GUCCIONE, MAYOR JASON)	
SALAMUN, MICHELLE SCHUELKE)	
INDIVIDUALLY AND IN HER)	
OFFICIAL CAPACITY, and CITY OF)	
RAPID CITY,)	
Defendants.		

This matter is before the Court on Thomas' Defendants Motion for Rule 11 Sanctions ("Motion"). At the hearing on February 18, 2025, the City Defendants orally joined the Motion.

Having reviewed the motions, notices, and other submissions by parties, having heard arguments by parties, and being otherwise familiar with the record, Defendants' Motions for Rule 11 Sanctions is **GRANTED** in part and **DENIED** in part.

BACKGROUND

This action was commenced by Clayton Walker on October 13, 2023. The Complaint is rambling and difficult to understand. But a liberal construction of the allegations in the Complaint follows:

- Plaintiff entered into an agreement with Defendant Dr. Jeffery Bendt for the lease of a parking spot on a lot owned by 605 Storage. Dr. Jefferey Bendt and Jodi Bendt are members of 605 Storage. Defendants Dr. Jeffery Bendt, Jodi Bendt, and 605 Storage will be referred to as the Bendt Defendants. As evidence of the agreement, Walker attaches Exhibit "A" which is nothing more than acknowledgement that Jodi Bendt is authorized to sign a document on behalf of 605 Storage

and in fact appears to be page 2 of Exhibit "C" which is the warranty deed transferring the parking lot to the City of Rapid City. In paragraph 6, Walker alleges that he and a "possible Co-Plaintiff" paid for the parking spot lease.

- Bendt Defendants sold the parking lot to the City of Rapid City. Defendants Mayor Jason Salamun and Michelle Schuelke will collectively be referred to as City Defendants.
- Bendt Defendants never informed the City Defendants of the alleged lease.
- On September 23, 2023, a 2002 Range Rover Discovery was stolen from the parking lot now owned by Rapid City.
- Walker alleges that the vehicle is owned by Jacob Black and Clayton Walker. Paragraphs 9 of the Complaint states: "Owners being of Jacob Black and Clayton Walker. Please see Bill of sale. Waiting on finalizing the contract/final \$500 lease payment. Attached hereto as Exhibit 'D.'" Paragraph 10 states: "Clayton walker is part owner of a Blue Land Rover Range Rover Vin number Salt115402a736383 attached hereto as Exhibit 'E.'"
- Exhibit D is nothing more than an undated statement that Walker sold the 2002 Range Rover to Jacob Black and signed by Jacob Black. Exhibit "E" is a registration document with an issue date of October 12, 2023, with no mention of Jacob Black.
- The Complaint then jumps to an allegation that Defendant Thomas Auto had a Range Rover on its lot with the same license plate as Walker's Range Rover. Walker does not allege how the Range Rover came to be on Thomas Auto's lot.
- Walker claims that a Thomas Auto employee called Walker a "dirty whore" and later assaulted him.
- Walker claims that the "plaintiffs" formally demanded the return of their vehicle from Thomas Auto. As evidence, he attaches Exhibit "G." Exhibit "G" is an undated and unsigned letter in which Jake Black, not Walker, demands the return of the vehicle plus \$6,216.90 in litigation costs.

- As relief, Walker requests the return of his property, punitive damages in the amount of \$23,000, compensatory damages of \$1081.52, as well as interest and other accrued damages.

Walker requested and was granted permission to proceed under the rules governing an expedited civil action. On October 13, 2023, Walker also filed a separate document styled "Entitled to Relief."

On October 16, 2023, Walker filed a motion to amend his complaint and add Governor Noem and Attorney General Marty Jackley as additional defendants. The motion is handwritten and barely legible. There is no indication as to Governor Noem's and Attorney General Jackley's alleged culpability.

On November 2, 2023, Walker filed a document titled "Motion of waiver of additional services and summons," wherein he complained that he was not allowed to file a video. He also complains that not all defendants are listed and requested a waiver of additional service and summons.

The Bendt Defendants filed a Motion to Dismiss which was Granted by Judge Pfeifle on April 19, 2024. Thomas Auto Defendants also filed a Motion to Dismiss, which was Denied by Judge Pfeifle on the record on March 14, 2024,¹ but there does not appear to be an Order on file to confirm that.

DISCOVERY

On May 7, 2024, City Defendants filed a Motion to Compel alleging that Walker failed to respond to First Set of Interrogatories and Requests for Production initially served on February 23, 2024. Apparently, Walker refused receipt of the certified letter and Motion to Compel filed on May 7, 2024.

On May 8, 2024, Thomas Defendants served interrogatories and requests for production.

¹ Hearing Transcript, Motion to Dismiss, March 14, 2024, filed on April 3, 2024, at 16.

On May 22, 2024, Walker moved to quash alleging that with subparts, Thomas Defendants have exceeded the 10 interrogatories and requests for production allowed by the rules. Also on May 22, 2024, Walker objected to the City Defendants' discovery requests on the same grounds and requested that the City's Motion to Compel be denied. It is noteworthy that most of Walker's filings request that the court construe his motions liberally.

Following a hearing held on May 30, 2024, Judge Pfeifle granted the City Defendants' Motion to Compel, set a June 14, 2024, deadline for Walker to respond, and held the City Defendants' request for costs and fees in abeyance. *See* Orders filed on June 4, 2024. Judge Pfeifle also converted Walker's Motion to Quash the Thomas Defendants discovery requests to a Motion for a Protective Order and Denied the same. Judge Pfeifle also found that while the interrogatories and requests for production served on Walker had subparts, such subparts were not "discrete subparts within the meaning of the statute, rather they merely seek to clarify the respective discovery requests." *See* Order on Motion to Compel, June 4, 2024.

Despite the Court's clear and unambiguous finding that the 10-question limit was not exceeded, Walker filed a Motion for Extension of Time and Objection on June 13, 2024. Specifically, Walker stated that the City Defendants asked more than 10 questions. Without any specificity, Walker alleged that City Defendants did not follow the court's order and that he should be allowed to ask questions as well. According to Walker he needed more time so that he could obtain responses from the defendants. Finally, and consistent with many pleadings filed by Walker, he once again highlights his indigent status.

On the same date, Walker also objects to the court's previous order denying his motion to quash, essentially arguing that Judge Pfeifle failed to review discovery requests, that he was tricked into granting the Thomas Defendants' motion, and that Judge Pfeifle's actions violate his rights

under the 9th Amendment to the United States Constitution as well as his due process rights. *See* Objection to Order Denying Plaintiff Clayton Walkers [sic] to Quash, June 13, 2024.

On August 6, 2024, Walker filed a Motion to Compel Production of Documents and Affidavit, wherein he argues that Defendants' attorneys have not participated in discovery. *See* Motion to Compel Production of Documents and Affidavit, filed on August 6, 2024.

On September 4, 2024, Walker requested that subpoenas be issued for the production of documents and "all vehicles" towed by Thomas Auto to the Defendants. *See* Plaintiff's Subpoena for Documents, September 4, 2024. Both the Thomas Auto Defendants and the City Defendants filed Motions to Quash the subpoenas. On October 10, 2024, this Court issued an Order Granting the Defendants' Motion to Quash in part, holding that because the rules for expedited civil actions apply in this case, the use of subpoenas on party opponents are not permitted in discovery. However, the Court declined to award attorneys' fees or sanctions.

On September 20, 2024, Walker filed Objections for Request for Admission of City, wherein he argues that the Defendants "are breaking the law of SDCL § 15-6-36 and SDCL § 15-6-73 (C) [sic]." *See* Plaintiff's Objection for Request for Admission for City, Ect. [sic] All. Walker further argues that the Defendants' Request for Discovery exceeded the 10-question limit, an issue that had been previously ruled on by Judge Pfeifle. *Id.* Walker requested punitive damages in the amount of \$75,000.00 for "emotional distress and their continued abuse of these Rules and laws" and for an award of \$600,000.00 "to be paid by the Law Office for Wanton disregard on the complaints made by [Walker]." *Id.*

The City Defendants filed a Second Motion to Compel or, in the Alternative, Dismiss on October 7, 2024, for Walker's failure to respond to the Requests for Admissions. In Walker's Reply, he alleges, among other things, that the City Defendants attorney, Cash Anderson, "sees this is an opportunity for political gain," and reasserts his arguments regarding the 10-question limit. *See* Reply

to Defendants Mayor Jason Salamun, Michelle Schuelke, and City of Rapid City's Second Motion to compel or in the Alternative Dismiss, request for stay, filed on October 15, 2024. Walker requests, among other things, that the Court "[c]ontact the State Bar about the attorney's misconduct." *Id.*

On October 15, 2024, Walker filed a Motion for Stay. It is unclear what the grounds are for the Motion, but the Court understands that Walker disagrees with Attorney Cash Anderson's assertion that Walker was not participating in discovery. *See* Motion for Stay, filed October 15, 2024.

On November 7, 2024, the Court issued an Order Denying Walker's Motion to Compel, Granting the Thomas Auto Defendants' Motion to Compel, and Striking Walker's Motion to Compel for an improper caption with a warning that if further filings have improper captions, he may be subject to contempt. *See* Order on Motions to Compel Dated August 6, 2024, and September 5, 2024. The Court also ordered Walker to respond to Thomas Auto Defendants' requests by November 13, 2024, and that the parties must use telephone communication to resolve future discovery disputes.

On December 2, 2024, the Court issued an Order Partially Granting the City Defendants' Motion to Compel and further Ordered that the City Defendants' Requests for Admissions were deemed admitted, that the requirement to meet and confer regarding discovery disputes was suspended, that Walker's "Motion to Stay" was denied, that Walker's Motion for Order of Transcripts was denied in part and granted in part, and that Walker's "Motion to Protect Substantial Rights" was denied. *See* Order issued on December 2, 2024.

On December 13, 2024, Walker sent an Informal Request for Judge Disqualification to the Court, which provided that he had "[d]oubts about the judge [sic] ability to be impartial, due process of statements made in court, canons, religion." *See* Informal Request for Judge Disqualification, filed on December 20, 2024. The Court denied this request. On December 16, 2024, Walker filed a Motion for Transcripts cost and Endorsement, wherein he requested that "each court reporter fill out the Endorsement under the Penalty of Law, this is used to know the cost and the type of the Stenograph

Machine Used.” *See* Plaintiff’s Motion for Transcripts cost and Endorsement, filed on December 16, 2024. The Court denied this Motion, noting that there was no legal authority for the request. *Id.*

On December 30, 2024, Walker filed an Affidavit for Change of Judge and a Motion for a Change for Judge. On January 12, 2025, Walker submitted a Motion for a Court Hearing on the matter. On January 21, 2025, Circuit Court Judge Matt Brown Denied Walker’s Motion for Change of Judge.

On January 3, 2025, Walker submitted a flash drive with a document titled, “What’s on the Flash Drive.” Also, on January 3, Walker filed a Motion for Brady Rule and Possible Violation and a Motion for Theft by Deception. Walker also filed a 129-page Motion to Compel, wherein he argues that the Defendants’ attorneys are “hiding information.” *See* Motion to Compel, filed January 3, 2025.

On January 10, 2025, the Thomas Auto Defendants filed a Motion for Rule 11 Sanctions and Response to Recent Filings, wherein they asserted that Walker gave them a “Notice to Certify a Class Action.” *See* Defendant Thomas Auto’s Motion for Rule 11 Sanctions and Response to Recent Filings. Walker informed the parties via email that he planned to “start a Door to Door campaign with flyers to get the Money needed for Deposition to put and [sic] end to the Defendants alleged theft,” and that he’d be asking “his church, and community for assistance to put an end to the Defendants thefts, Assault, battery and deception’s of stealing from Indigent Citizens.” *See* Thomas Auto Defendants’ Exhibit 1 to their Motion for Rule 11 Sanctions and Response to Recent Filings.

On January 16, 2025, Walker filed a Motion for Judicial Review, a Motion for Inspection of Property, a Motion to Quash Subpoenas, and a Motion for Theft by Deception. Walker also filed a Motion for Sufficient Probable Cause on January 30, 2025. Walker filed a Motion for Access to Justice, and Reports on February 12, 2025.

Depositions by both parties were scheduled to take place on January 21, 2025. On that date, the parties contacted the Court to explain various issues with the depositions. Counsel for Defendants, Attorneys David Hansen and Cash Anderson, informed the Court both on the phone on January 21,

2025,² and at the motions hearing on February 18, 2025, that Walker failed to obtain a court reporter prior to the depositions. Walker informed the Court that he was in the process of getting a court reporter. *Id.* Attorney Hansen also informed the Court that Walker attempted to block Attorney Anderson from gaining entry to the room where the depositions were to take place. *Id.* Walker informed the Court that he filed a Motion to Quash the Thomas Auto Defendants' subpoena for improper service. *Id.* Attorney Hansen explained that they provided Walker with a Notice of Deposition. *Id.*

The Court Denied Walker's Motion and ordered that the parties conduct Walker's deposition, and that Walker could conduct the Defendants' deposition if he obtained a court reporter and there was sufficient time to do so. *Id.* The Court also informed Walker that Attorney Anderson was allowed to be in the room during the deposition. *Id.* Walker then asked whether the Court would provide him with access to a court reporter, and again, the Court informed him that it was his responsibility to obtain a court reporter.

A motions hearing was held on February 18, 2025, where the Court denied Walker's *Brady* Motion, Walker's Motion for Court to Settle Discovery Disputes, Walker's Motion for Theft by Deception, and Walker's Motion to Compel for Requests for Admissions.³ The Court found Walker's *Brady* Motion, the Theft by Deception Motion, the Motion for Judicial Review, and the Motion for Access to Justice and Report to be frivolous. The Court also found that Walker's Motion to Settle Discovery Disputes lacked sufficient detail for the Court to rule on. Walker requested that the Court review a video recording he received in discovery to help explain the dispute,⁴ and argued that the Thomas Auto Defendants did not provide all their employees' names. Attorney Hansen confirmed

² See Motions Hearing Transcript, January 21, 2025, filed on February 14, 2025.

³ See Motions Hearing Transcript, February 18, 2025, filed on March 21, 2025.

⁴ The Court has reviewed the video that Walker submitted and does not find that it lends any credibility to his argument regarding the discovery dispute. Walker also referenced a binder that he dropped off at the courthouse, but the Court is unaware of any such binder's existence. The Court reviewed all filed materials prior to the hearing.

that they had complied with Walker's discovery requests and all names had been provided. The Court also heard arguments on Thomas Auto Defendants' Motion for Rule 11 Sanctions. Attorney Hansen argued that the motion was brought in response to Walker's Notice to Certify a Class Action, noting that Walker is not an attorney and cannot represent a class of people.

Attorney Hansen further informed the Court of Walker's behavior at the deposition. According to Attorney Hansen, Walker did not have a court reporter, and Walker attempted to block the Attorneys' entry to the room. Walker also refused to answer more than ten questions from either attorney, citing the rules governing expedited civil actions as the basis for his refusal. Attorney Anderson confirmed that Mr. Hansen's recount of Walker's behavior at the deposition was accurate. The Court found that no credible evidence was presented to suggest that Walker had secured a court reporter lined up prior to noticing or attending the deposition, and as a result, he wasted the parties' and attorneys' time.

When asked by the Court about his behavior at the deposition and whether he refused to answer more than ten questions, Walker was evasive. Walker eventually agreed that he did not answer more than ten questions. Walker also reiterated that he believes he is being targeted based on his political or religious beliefs. The Court informed Walker that it has no knowledge of his political or religious beliefs, and it makes no difference what they are.

Based on Walker's voluminous frivolous filings, his repeated refusal to comply with the Court's discovery orders, and his behavior at the deposition, the Court ruled that the dismissal of Walker's case was appropriate. The Court also imposed sanctions, ordering Walker to pay the attorneys' fees for the Defendants.

Again, in March 2025, Walker filed a document titled "Plaintiffs request Clerks Response," wherein he requested to be provided with "the Court Reporters Endorsement from [his] last court Hearing." *See* Plaintiffs request Clerks Response, filed on March 19, 2025.

DISCUSSION

"South Dakota utilizes the American rule that each party bears the burden of the party's own attorney fees." *Ctr. of Life Church v. Nelson*, 2018 S.D. 42, ¶ 34, 913 N.W.2d 105, 114 (quoting *In re S.D. Microsoft Antitrust Litig.*, 2005 S.D. 113, ¶ 29, 707 N.W.2d 85, 98. "However, two exceptions to this general rule exist, first when a contractual agreement between the parties entitles the prevailing party to attorney fees, and second when an award of attorney fees is authorized by statute." *In re S.D. Microsoft Antitrust Litig.*, 2005 S.D. 113, ¶ 29, 707 N.W.2d at 98 (citing *Crisman v. Determan Chiropractic, Inc.*, 2004 SD 103, ¶ 26, 687 N.W.2d 507, 513). SDCL 15-6-11(c) authorizes a court to "impose an appropriate sanction upon the attorneys, law firms, or parties that have violated § 15-6-11(b) or are responsible for the violation." SDCL 15-6-11(c). Under this section, a party may make a motion for sanctions, or the Court, "[o]n its own initiative ... may enter an order describing the specific conduct that appears to violate § 15-6-11(b) and directing an attorney, law firm, or party to show cause why it has not violated § 15-6-11(b) with respect thereto." SDCL 15-6-11(1)(A)-(B).

A sanction imposed for violation of this rule shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. Subject to the limitations in subparagraphs (A) and (B), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

SDCL 15-6-11(c)(2). However, "[s]ections 15-6-11(a) through 15-6-11(c) do not apply to disclosures and discovery requests, responses, objections, and motions that are subject to the provisions of §§ 15-6-26 through 15-6-37." SDCL 15-6-11(d).

SDCL 15-6-11(b) provides that:

By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

- (1) It is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

- (2) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (3) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

Chapter 15-6-37 outlines the consequences for refusing to make discovery. SDCL 15-6-37(b)

provides the following consequences for failing to comply with an order:

- (1) Sanctions by court in circuit where deposition is taken. If a deponent fails to be sworn or to answer a question after being directed to do so by the court in the circuit in which the deposition is being taken, the failure may be considered a contempt of that court.
- (2) Sanctions by court in which action is pending. If a party or an officer, director, or managing agent of a party or a person designated under subdivision 15-6-30(b)(6) or § 15-6-31(a) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under § 15-6-37(a) or 15-6-35, the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:
 - (A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;
 - (B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence;
 - (C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;
 - (D) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination;
 - (E) Where a party has failed to comply with an order under § 15-6-35(a) requiring that party to produce another for examination, such orders as are listed in paragraphs (A), (B), and (C) of this subdivision, unless the party failing to comply shows that that party is unable to produce such person for examination.

In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or the attorney advising that party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

SDCL 15-6-37(b).

Here, the Thomas Auto Defendants filed a Motion for Rule 11 Sanctions on January 11, 2025, relating to Walker's attempt to certify a class action. The Rule 11 Motion was joined by the City Defendants. The Court heard arguments on the Rule 11 Motion at the Motions Hearing on February 18, 2025. At the hearing, the Court found that Walker had violated Rule 11 by filing frivolous motions as well as through his behavior during the depositions on January 21, 2025, and his harassing communications with the Defendants.

Attorney Hansen likened Walker's behavior throughout the proceedings to the actions of the plaintiff in *Ferebee v. Hobart*, 2009 S.D. 102, 776 N.W.2d 58. In *Ferebee*, the plaintiff "barraged the court and opposing counsel with numerous pro se motions and requests, sometimes issuing multiple pleadings and letters on the same day." *Id.* ¶ 6 at 60-61. The Court noted that the plaintiff would not accept a ruling, and once the trial court addressed one motion, he would subsequently file another motion or letter that relitigated the prior argument. *Id.*

Regarding the frivolousness and maliciousness of the plaintiff's actions, the trial court found:

The continual litigation stems from Mr. Ferebee's intransigent view that he is right and Mr. Hobart, Judge Davis, Judge Fuller, the South Dakota Supreme Court, and Judge Bogue (and this Court) are all wrong in their positions and rulings. The very nature of Mr. Ferebee's continual litigation is frivolous and malicious since Mr. Ferebee continues to raise the same issues over and over, even though the issues have been previously decided in Mr. Hobart's favor.

Id. ¶ 26 at 65. The South Dakota Supreme Court held that "[w]hile some of these practices could perhaps be attributed to Ferebee's pro se status and lack of familiarity with proper procedures, Ferebee can claim no advantage from his status," and that this behavior "exhibit[ed] a strategy designed to utilize the court system and rules of procedure as tools to further harass and intimidate [the defendant] as much as to obtain valid redress for a wrong." *Id.* ¶ 27 (citing *Oesterling v. Oesterling*, 354 N.W.2d 735, 736-37 (S.D. 1984)).

Here, Walker's behavior somewhat mirrors the facts of *Ferebee*. Walker repeatedly violated the Court's discovery orders by not responding to opposing counsel's requests for admissions. He also made several repetitive arguments on issues that the Court had previously ruled on, such as his repeated requests for the court reporter's "endorsement." Walker filed several frivolous motions, including his *Brady* Motion, the Theft by Deception Motion, the Motion for Judicial Review, and the Motion for Access to Justice and Report.

Walker also exhibited harassing behavior throughout this case. Walker's Motion to Amend his Complaint to add Governor Noem and Attorney General Jackley, without mentioning their culpability, was harassing and had no legitimate purpose. The Court also found that Walker's email to Defendants' counsel, wherein he informed them that he was going to initiate a door-to-door campaign, was harassing. Walker's behavior at the deposition further indicates an intent to harass or intimidate the Defendants and their counsel. Walker's attempt to block Defendants' counsel from entering the room where the depositions were scheduled is clearly harassing and inappropriate. It is also clear that Walker did not secure a court reporter prior to noticing or attending the deposition, and therefore wasted the time of the parties and their counsel.

Therefore, given Walker's multiple frivolous filings, the Court finds it appropriate to grant the Defendants' Motion for Rule 11 Sanctions. The Court further finds that, given Walker's refusal to comply with this Court's orders regarding discovery and his behavior during the deposition, the dismissal of Walker's claim, while severe, is appropriate.

The issue currently before the Court is determining the amount to award the Defendants under either SDCL 15-6-11 or SDCL 15-6-37(b). The South Dakota Supreme Court has previously recognized that "the purpose of sanctions under SDCL 15-6-11 is to deter abuse by parties and counsel." *Smitzer v. Dry*, 2016 S.D. 3, ¶ 18, 873 N.W.2d 697, 703 (citing *Anderson v. Prod. Credit Ass'n*, 482 N.W.2d 642, 645 (S.D. 1992)). In *Tri-State Refining and Inv. Co., v. Apalooza Co.*, the South Dakota

Supreme Court affirmed the trial court's ruling of imposing a penalty sanction under SDCL 15-6-11. 431 N.W.2d 311, 316 (S.D. 1988) (citing *Creek v. Doe*, 828 F.2d 395 (7th Cir.1987)). In *Creek*, the court held that Federal Rule 11 permits "penalty" sanctions where there is obvious bad faith and intent to harass. *Creek*, 828 F.2d at 397 (7th Cir. 1987).

In the present case, Attorneys Hansen and Anderson have provided Affidavits of their attorneys' fees for their respective clients. The Court declines to grant the entire amount requested by the attorneys in this matter. While Walker's behavior and filings throughout the duration of this case have largely been inappropriate, the amount in sanctions will be limited to those attorneys' fees earned while responding to Walker's Motions that this Court found frivolous, costs associated with the depositions, and costs associated with the Rule 11 motion. Based on Attorney Hansen's Affidavit, a total of \$5,014.72 will be awarded. Based on Attorney Anderson's Affidavit, a total of \$4,352.00 will be awarded.

ORDER

Considering the foregoing, it is hereby **ORDERED** that:

1. Defendants Thomas Auto, Inc., Frank Thomas Trust, and Terri Guccione's Motion for Rule 11 Sanctions is **GRANTED** in part and **DENIED** in part.
2. Plaintiff Walker must pay \$5,014.72 to the Thomas Auto Defendants.
3. Plaintiff Walker must pay \$4,386.00 to the City Defendants.

Dated this 7 day of May 2025.

ATTEST:

AMBER WATKINS
CLERK OF COURTS



[Signature]
Deputy
(SEAL)

BY THE COURT

[Signature]
The Honorable Robert Gusinsky
Circuit Court Judge
Seventh Judicial Circuit Pennington County, SD
IN CIRCUIT COURT

MAY - 7 2025

Amber Watkins, Clerk of Courts
By *[Signature]* Deputy

Notice of Go Fund me Page, and door to door Assistance

From Clayton Walker <walkerforsenate247@gmail.com>

Date Tue 1/21/2025 5:22 PM

To Cash Anderson <cea@mayadam.net>; David Hansen <david@compassroselawfirm.com>

The plaintiff hereby gives notice to the Defendants that the plaintiff will start a Door to Door campaign with flyers to get the Money needed for Deposition to put and end to the Defendants alleged theft, if you have any objections i will review them, please let me know as i'll be making flyers tonight and asking my church, and community for assistance to put an end to the Defendants thefts, Assault, battery and deception's of stealing from Indigent Citizens.

It was the Judge Pfeifle that said the parties need to follow the Rule of ten for expedited civil actions.

ten interrogatories
ten admissions
ten request for production
ten Depositions Questions
and one MSJ

OCT 23 2025

Debra A. Hansen
Clerk

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

Clayton Walker,

Appellant/Plaintiff,

v.

Jeffery Bendt, Extra Storage, Jodi Bendt
605 Storage Thomas Auto Inc., Frank
Thomas Trust, Terri Guccione Jason
Salamon, Michelle Schuelke, City of
Rapid City, ect all,

Appellee/ Defendants

Supreme Court # 31111

54 CIV 23 01329

Appellants Reply Brief

From 7th Circuit Court Robert Gusinsky, and Craig Pfeifle to review the
dispositive Motion to dismiss and Sanctions on May 7th 2025

Clayton G. Walker
1515 E. St. Patrick St # 356

Rapid City, SD 57703

Claytonwalker.com

Claytonwalker.us

Please contact by US Mail

Daryl R. Hansen at 1830 W. Fulton St. Suite
102 Rapid City SD 57702 Attorney for Frank
Thomas Trust Terri Guccione, Thomas Auto

Cash Anderson at PO Box 169 Pierre SD
57501 by attorney for Jason Salamon,
Michelle Schuelke city of Rapid City

Robert J. Gilbrith at 226 Founders Park
Drive Rapid City, SD 57709-8030 attorney for
Jeffery and Jodi Bent 605 Storage and
Extra Storage

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Table of Authorities

Cases

Williams v. Pennsylvania.....	5, 6, First Brief
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SEC. v. Jarkesy.....	first brief
Qualcomm Inc. v. Broadcom Corp.	first brief
Jones v. Riot Hospitality Group, LLC	first brief

Statutes

SDCL § 43-32-13 ...SDCL § 43-32-6 SDCL §15-6-26(c)	first brief
--	-------------

Other Authorities:

The 1st Amendment	5,8
Under SDCL § 1-26-31 4 Within the Computation of Time under SDCL § 15-6-6(a) The Appellant must disclose the Case is Over the \$2500.00.	

Jurisdictional Statement

1. Date from Hearing was on Feb.18 2025, Ruling sought to be reviewed is the Order from the 7th of May. First Notice of Appeal June 3rd 2025, The Appeal from Circuit Court from Judge Pfeifle, and Robert Gusinsky, Appealed to South Dakota Supreme Court, Order Granted of Extension to Aug. 25, 2025 from Steven R. Jensen, Chief Justice, The appellant is working on his brief with limited access. Don't let Terri Guccione "Little Muck" tricks deceive the court. Appellant received appellees brief on October 14th 2025.

Statement

Is Freedom of Speech and Freedom of Religion allowed in South Dakota when asking his community for help? The appellees have diverging stories that were told to the police and to the courts, making bad faith representation alone with engaging in fraudulent behavior and transactions. Let's be Honest, this lower court was not going to give a pro se plaintiff who is a politician with strong views and protection of religious freedoms a trial. A Miscarriage of Justice is at stake here, along with Judges misconduct being ignored. The appellants brief was not incoherent, David Hansen can't understand Numerical Numbers. Walker asserts that Attorney misconduct is getting out of control and overcharging attorney's fees, by not following the United States Constitution, in the Right to Speedy Public Trial. the plaintiff has brought up the issue in both state courts and in the South Dakota Supreme Court and yet in both he refused to defend his action.

1. **Freedom of Speech.** in South Dakota Freedom of Speech protections are found in Article 6 § 5 of the South Dakota Constitution, which guarantees every person the right to freely speak, write and publish on all subjects. Freedom of Speech is also protected in United States Constitution of the First Amendment a jury will have to decide if statements are Untrue, although Mr. Walker has showed the on mutable occasions Thomas auto employees have assaulted people before under google reviews. Freedom of Religion is also protected by the First Amendment of the United states Constitution of free exercise which protects individuals right to practice their religion freely, without government interference from the Government . Judge Robert Gustosky was aware of my Religion in 2020 page 651 and 654. Motion on Judicial Notice page 612 ¶11

The courts have developed the doctrine of constitutionally protected opinion. *Gertz v Robert welch*, 418 U.S. 323, 339-40 (1974) (“there is no such thing as a false idea”) see *Ollman v Evans*, 750 F.2d 970 (D.C.Cir 1984)determining of opinion freedom of speech must be determined whether the process the state provided was constitutionally adequate *Zimmerman v. Burch*, 494 us 113 126,110 s. ct 975,108 L.Ed .2d 100 (1990) *Mathews v. Eldridge*, 424 U.S. 319,333,96 S Ct. 893, 47 L.ed.2d 18(1976) in most cases “a meaningful time” means prior to the deprivation of the liberty or property right at issue *Zimmerman*, 494 U.S. at 127,110 s. Ct 975. There was no court date set for the eviction processes, nor papers served by the city:

2. Expedited Civil Procedure, page 351 ¶1, oh please the plaintiff asserted in the record about not getting a hearing and stating in his briefs about how the courts just sat on walkers motions for 3 months when he was filed for a motion for a Court Hearing see page 993 ¶4. When it was Forwarded to Judge Brown. Brings a question How can Judge Matthew Brown recused himself as seen in page 44 ¶1 that's personal Bias dated the 6th day of November but then he comes back and rule on motions page 995,996, its clear that the judges in South Dakota will not let him have a fair chance in court and deprive him of his constitutional rights to know who his accuser is, freedom of religion, and freedom of speech, the right to a speedy Expedited Civil Action/trial. In the case of Williams v. Pennsylvania page 11 ¶ # 53 in the walkers brief of the Argument, the attorney makes no reference to dispute the issue of having the Supreme Court Rule on the Recusal of the Judge, I when objected Judge Brown 995 and 996 In the case of That's personal prejudice against a party.

In Fact the Record has mutable pages missing when the Plaintiff filed a motion to compel. Supreme court letter of recusal. See appellants Motion for Judicial Review page 980 ¶ 6. A motion to Compel documents page 396 and the plaintiff answering page 384 to get a speedy trial page 351.

3. Number of interrogatories. the Clerk was unaware if she needed to issue the Subpoena see page 978-979, in discovery disputes. the court/ clerks could not handle the amount of cases as they were failing to get things done and papers gone missing. In discovery disputes the receipt shows rent transferred to the city.

A motion to compel documents page 396 plaintiff answering page 384 and to get a speedy trial page 351. The Questions being asked about clothes and hats at the deposition by Cash Anderson did disrupt the flow of the trial for no good reason and serve no useful purpose of any kind. *Kelin v Aronchick*, 85A 3d 487,500 Pa Superior Ct 2014)

The Attorney refused to reply to all Federal Questions and other issues questions for the court to decide..

Substantial rights Statute of Frauds and enough to make a binding contract. See *Cotton v. Kennedy*, 140 Ill. App.3d 209, 293 488 NE 2d 682-III: Appellate court, 5th Dist. 1986. To obtain relief walker must show an error that is plain like bias from Judges, that effects the fairness of integrity or public reputation of Judicial proceedings. *United states v. Mull* π 24-2822, 2025 WL 236459 at 2 (8th Cir August 14th 2025) lets look at the rolling to protect other witness, the new judge can not, change the substantial right the city would have to disclose who else had a stolen vehicles or towed by the city. Please see motion for sufficient probable cause asking for discovery that judge Pfeifle said the defendants must protect and save that discoverable materials page 1018 motion to protect substantial rights page 117. But the Next Judge did not adhere to his decision.

Please see the Plaintiffs Reply brief of objections and oppositions. The Story of "Little Muck" can be found in a reply brief not placed in the record the clerk gave the Appellant. Although state supreme court rulings on matters of federal law (generally made under the

state courts concurrent jurisdiction) can be appealed to the Supreme Court of the United States. The law of the land also known as the supremacy clause has presidents. The court can keep denying discovery of other witness to be subpoena and the attorney to refuse to challenge the court must REMAND. Here we go again the courts are trying to hide other facts that the appellant has a right to subpoena witness and use the this action to have the case dismissed. Key evidence was wrongly kept out of trial/hearing and improperly admitted. Procedural errors affect the fairness of the trial and hearings. The need for more evidence and more facts needs to be established before a final decision can be made. And because the error was made before the trickery and fraudulent statements made in court for Sanction the court must remand. Judge Pfeifle stated the rights of others laws was to be protected and this Judge Robert Gusmsky denied the right to have that discovery to protect witness. Come on you have the first judge ruling on motions to protect substantial rights and then the second judges denies that right of other witness.

A countability needs to apply for acts against political candidates when the police went. The right to call witness and get discovery is a fundamental right and that was denied. here are the federal cases where David stretched of the cases to line his pockets with money of fraudulent charges and attorney fees must be denied. Federal cases are part of Exhibit E, the Plaintiff's Exhibit A-E are sealed as part of SDCL. Exhibit G shows how David lied in court and 11 waiver of fees Department of Government Efficiency (DOGE) was created with the stated goal of reducing wasteful spending and maximizing efficiency across federal agencies. Those are presented here in which the attorney refusing to answer or defend in the record that I got a lot of reply briefs seem to be missing or just my flash drive that was given to me as part of the record. The court will

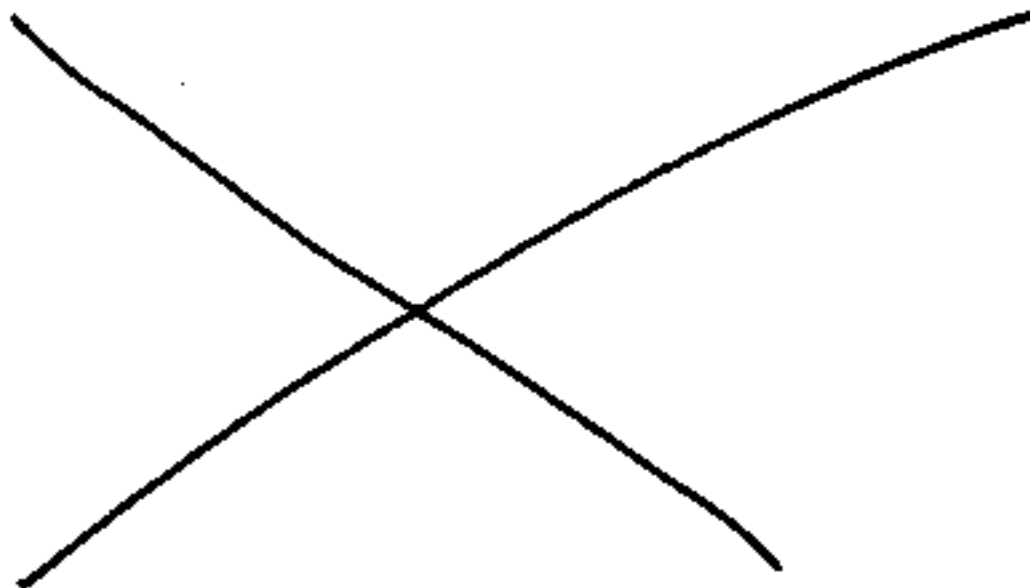
have to review all the questions that should be decided and not just what the appellees thinks the court should decide the appellant is referencing his Brief filed with the Supreme Court.

Conclusion

The courts are based on Objectivity and fairness, were the approach for a fair and unbiased assessment, ensuring that the case is based on the substance of the matter at hand. The Erosion of Public trust is in the hands of this court, the appellant has a video of the assault and google reviews show that this company has a history of assaults, and the appellant is entitled to get discovery for the error that happened before the sanction 11 rule which is unconstitutional and the case should be based on its merits. The case was simple Terri Guccione/ Thomas auto knew who the owner was but refused to release the Land Rover, what she didn't know was that I fight for Unconstitutional Rights as a Pro Se litigator with strong religious beliefs and political views, she was trying to take advantage of me just as she did with other people as seen in the Google reviews and Yelp reviews, but I believe she continued to get away with these thefts because of indigent citizens and the unknowing of the laws and Constitutional rights. don't let her "Little Muck" tricks deceive the court.

Judge Pfeifle told the defendants/ appellees to protect evidence about the information about other thefts and the second Judge (well third because Judge Matt Brown recused himself and then later came back on to rule on motions) Judge Gosinko overturned the ruling on Discovery from Judge Pfeifle. Which is a violation of constitutional rights with Discovery and the public trust/ confidence in the Judicial System.

Sealed Documents -




This is an opportunity to correct error and for fairness with Discovery of other witness denied that could testify..

Relief and Demands

Wherefore, the Appellant respectfully requests that this Court:

- A. Grant a Reversal for the error and send the case back for a fair trial
- B. Grant a "Liberal Construed." and Grant "Based on its Merits"
- C. Award the Appellant for David Hansen lying at the hearing, submitting altered documents, and ignoring discovery. Award the Appellant \$75,000.00 in Compensatory Damages and \$5,3000,000.00 in Punitive Damages.
- D. Award the Appellant 75,000 00 for Cash Anderson using the AG office for the appellants records being placed into the record.
- E. Contact the Disciplinary Board and refer for the action in this brief case.
- F. Order Doge to Investigate alleged attorney fraud of the "Right to Speedy Trial"
- G. Demands a fair hearing so he may to be able to get discovery and call witness to come testify.
- H. Grant Basic concept of American Justice.
- I. Award the Appellant any other relief the Court thinks is Just.

Dated this 16 Day of October, 2025



Clayton G. Walker
1515 East Saint Patrick Street #356
Rapid City SD 57703
605-431-4086 H

Preselitation217@hotmail.com or claytonwalker.com

Request respond by U S Mail

South Dakota Supreme Court

Certificate of Service and Affidavit

I Clayton G. Walker the Plaintiff states that all is true to the best of my knowledge.

That I the Plaintiff sent a copy of the following:

I certify that the original was mailed to the clerks of the Supreme Court of South Dakota at 500 E. Capitol Ave Pierre SD 57501

Certified Mail # 9589 0710 5270 1322 6270 19

I certify that a copy was served to Attorneys for the Defendants with Robert J. Galbraith at 326 Founders Park Drive Rapid City SD 57709-8030 by U S Mail

I certify that a copy was served to David R. Hansen at 1830 W. Fulton St. Suite 102 Rapid City SD 57702. Sent by US Mail

I certify that a copy was Sent to Cash Anderson at PO Box 160 Pierre SD 57501 by US Mail

A copy thereof on the United States mail, postage paid for First Class Mail to the following persons above.

Compliance § 15-26A-66. Word Count is ³⁰¹⁷~~182~~. Times New Roman, 12-point 1.5 Margins.
received appellees brief on October 14th 2025

Dated this 16th Day of October, 2025



Clayton G. Walker

1515 East Saint Patrick Street #356

Rapid City SD 57703

605-431-4086 H

Prosecution247@gmail.com or claytonwalker.com

Request respond by U S Mail

Sealed Documents

Exhibit

A-E



In Red Folder

COURT:USDC-SD-RC
 515 9TH ST STE 203
 RM 203
 RAPID CITY, SD 57701
 (605) 877-8965

SALE

REF#: 00000001

Batch #: Z27001 RR# 200100001

8/15/25 15:53:05

APPR CODE 684269

ISA Chip

Amount: \$1.90

U.S. District Court

South Dakota None - Rapid City



Receipt Date: Aug 15, 2025 4:54PM

AMOUNT \$1.90

APPROVED

Trans. Date: Aug 15, 2025 4:54PM

Cashier ID: #JMSm (6445)

	Case/Party/Defendant	Qty	Price	Amt
SA DEBIT	Fee	19	0.10	1.90
CA: A0000000031010				
TR: 00 00 00 00 00				
& 00 00				
				Amt
CUSTOMER COPY				\$1.90
Total Due Prior to Payment:				\$1.90
Total Tendered:				\$1.90
Total Cash Received:				\$0.00

Only when the bank clears the check, money order, or verifies credit of funds, is the fee or debt officially paid or discharged. A \$53 fee will be charged for a returned check.

**U.S. District Court
District of South Dakota (Western Division)
CRIMINAL DOCKET FOR CASE #: 5:20-cr-50035-KES-5**

Case title: USA v. Flying Horse et al

Date Filed: 06/11/2020

Date Terminated: 02/10/2021

Assigned to: U.S. District Judge Karen E.
Schreier
Referred to: US Magistrate Judge Daneta
Wollmann

Defendant(s)

Blake Two Eagle
TERMINATED: 02/10/2021

represented by **David R. Hansen**
Compass Rose Law Firm
1830 W. Fulton St
Suite 102
Rapid City, SD 57702
605-721-3958
Email: david@compassroslawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Pending Counts

18 U.S.C. §§ 922(n) and 924(a)(1)(D);
POSSESSION OF A FIREARM WHILE
UNDER INDICTMENT
(7)

Disposition

12 months and 1 day imprisonment, 2 years
supervised release, \$100 VAF

Highest Offense Level (Opening)

Felony

Terminated Counts

18 U.S.C. §§ 922(j) and 924(a)(2) and 2;
POSSESSION OF A STOLEN FIREARM
and AIDING AND ABETTING
(3)

Disposition

Dismissed

Highest Offense Level (Terminated)

Felony

**U.S. District Court
District of South Dakota (Western Division)
CRIMINAL DOCKET FOR CASE #: 5:16-cr-50139-KES-I**

Case title: USA v. Makes Good

Date Filed: 11/16/2016

Date Terminated: 10/24/2017

Assigned to: U.S. District Judge Karen E.
Schreier
Referred to: US Magistrate Judge Daneta
Wollmann

Defendant (1)

Stevie Ray Makes Good
TERMINATED: 10/24/2017

represented by **Thomas M. Diggins**
Federal Public Defender's Office
655 Omaha Street, Suite 100
Rapid City, SD 57701
(605) 343-5110
Fax: (605) 343-1498
Email: Thomas_Diggins@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Federal Public Defender

David R. Hansen
Compass Rose Law Firm
1830 W. Fulton St
Suite 102
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605-721-3958
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TERMINATED: 03/05/2020
Designation: CJA Appointment

Erin Bolinger
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655 Omaha Street, Suite 100
Rapid City, SD 57701
(605) 343-5110
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Email: mary_katke@fd.org
TERMINATED: 07/03/2018
Designation: Federal Public Defender

Justin A. DiBona

03/19/2021	<u>194</u>	JUDGMENT ON REVOCATION of Supervised Release as to Stevie Ray Makes Good. Signed by U.S. District Judge Karen E. Schreier on 3/19/2021. (CLR) (Entered: 03/19/2021)
03/19/2021	<u>195</u>	CONSENT to Video Conference signed by Stevie Ray Makes Good . (Diggins, Thomas) (Entered: 03/19/2021)

U.S. District Court
District of South Dakota (Western Division)
CRIMINAL DOCKET FOR CASE #: 5:17-cr-50033-JLV-1

Case title: USA v. Weber

Date Filed: 02/22/2017

Date Terminated: 02/13/2020

Assigned to: Chief Judge Jeffrey L. Viken
Referred to: US Magistrate Judge Daneta
Wollmann

Appeals court case number: 20-1391 8th
Circuit

Defendant (1)

Stanley Patrick Weber
TERMINATED: 02/13/2020

represented by **Jonathan P. McCoy**
Costello Porter Hill Heisterkamp Bushnell
& Carpenter, LLP
PO Box 290
704 St. Joseph St.
Rapid City, SD 57709
(605) 343-2410
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

David R. Hansen
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1830 W. Fulton St
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Rapid City, SD 57702
605-721-3958
Email: david@compassroselawfirm.com
TERMINATED: 11/13/2020
Designation: Retained

Harvey A. Steinberg
Springer & Steinberg, P.C.
1600 Broadway, Suite 1200
Denver, CO 80202
303-861-2800
Fax: (303) 832-7116
Email: hsteinberg@springersteinberg.com
PRO HAC VICE

		government counsel. Objections to draft PSR due by 12/20/2019. (Leiseth, Diana) (Entered: 12/06/2019)
12/20/2019		USA has No Objections re <u>134</u> DRAFT Presentence Report as to Stanley Patrick Weber. (Collins, Sarah) (Entered: 12/20/2019)
12/20/2019	<u>135</u>	(FILED IN ERROR) OBJECTION by Stanley Patrick Weber as to <u>134</u> Draft Presentence Report (Stiles, Phillip) Modified on 12/23/2019 (SAC). (Entered: 12/20/2019)
01/13/2020	<u>136</u>	Application for Writ of Habeas Corpus ad Testificandum by USA as to Stanley Patrick Weber (Attachments: # <u>1</u> Proposed Order)(Collins, Sarah) (Entered: 01/13/2020)
01/14/2020	<u>137</u>	ORDER granting <u>136</u> Application for Writ of Habeas Corpus ad Testificandum and WRIT ISSUED as to Stanley Patrick Weber (1). Signed by U.S. District Judge Jeffrey L. Viken on 1/14/20. (SLW) (Entered: 01/14/2020)
02/03/2020	<u>138</u>	FINAL PRESENTENCE REPORT as to Stanley Patrick Weber. In a multi-defendant case, access to this document is restricted to counsel of record for the defendant and government counsel. (Leiseth, Diana) (Entered: 02/03/2020)
02/03/2020	<u>139</u>	ADDENDUM to <u>138</u> FINAL Presentence Report as to Stanley Patrick Weber. In a multi-defendant case, access to this document is restricted to counsel of record for the defendant and government counsel. (Leiseth, Diana) (Entered: 02/03/2020)
02/03/2020	<u>140</u>	Recommended Special Conditions as to Stanley Patrick Weber. (Leiseth, Diana) (Entered: 02/03/2020)
02/06/2020	<u>141</u>	SEALED Victim Impact Statement as to Stanley Patrick Weber. The filing attorney MUST manually serve an exact copy of this document and a copy of the NEF receipt screen on the appropriate case participants. (Collins, Sarah) (Entered: 02/06/2020)
02/07/2020	<u>142</u>	SEALED OBJECTIONS by Defendant re <u>138</u> FINAL Supplemental Presentence Report as to Stanley Patrick Weber. The filing attorney MUST manually serve an exact copy of this document and a copy of the NEF receipt screen on the appropriate case participants. (Stiles, Phillip) (Entered: 02/07/2020)
02/07/2020	<u>143</u>	Second ADDENDUM to <u>138</u> FINAL Presentence Report as to Stanley Patrick Weber. In a multi-defendant case, access to this document is restricted to counsel of record for the defendant and government counsel. (Leiseth, Diana) (Entered: 02/07/2020)
02/10/2020	<u>146</u>	ORDER as to Stanley Patrick Weber. Signed by U.S. District Judge Jeffrey L. Viken on 2/10/2020. (Attachments: # <u>1</u> Standing Order 18-03, # <u>2</u> Criminal Local Rule of Practice 57.5) (CLR) (Entered: 02/10/2020)
02/10/2020	<u>147</u>	AMENDED BY ORDER OF THE COURT FINAL PRESENTENCE REPORT as to Stanley Patrick Weber. In a multi-defendant case, access to this document is restricted to counsel of record for the defendant and government counsel. (Leiseth, Diana) (Entered: 02/10/2020)
02/10/2020	<u>148</u>	Minute Entry for proceedings held before U.S. District Judge Jeffrey L. Viken: Sentencing held on 2/10/2020 for Stanley Patrick Weber (1). Count(s) 1, 11s, 12s, 1s, 2-3, 2s-3s, 4-5, 4s-5s, 6, 6s, 7, 7s, 8, 8s, 9-10, 9s-10s, Superseded; Count(s) 10ss, 15 years imprisonment consecutive to counts 2-3, 4-5, 7-8, and 11 and consecutive to the sentence in the District of Montana case number 4:18-cr-00014, lifetime supervised release, \$100,000 fine, \$100 VAF, Restitution Deferred; Count(s) 11ss, life imprisonment consecutive to counts 2-3, 4-5, 7-8, and 10 and consecutive to the sentence in the District of Montana case number 4:18-cr-00014, lifetime supervised release, \$100,000 fine, \$100 VAF, Restitution Deferred; Count(s) 12ss, 1ss, 6ss, 9ss,

FIRST_STEP_Act,INTERMEDIATE_PRIORITY,CLOSED

**U.S. District Court
District of South Dakota (Western Division)
CRIMINAL DOCKET FOR CASE #: 5:18-cr-50020-KES-3**

Case title: USA v. Peters et al

Date Filed: 02/21/2018

Date Terminated: 12/03/2018

Assigned to: U.S. District Judge Karen E.
Schreier
Referred to: US Magistrate Judge Daneta
Wellmann

Defendant (3)

David Jackson, Jr.
TERMINATED: 12/03/2018

represented by **Mallory Schulte**
Birmingham & Cwach Law Offices, PLL
202 West 2nd Street
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

David R. Hansen
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TERMINATED: 04/09/2020
Designation: CJA Appointment

Molly C. Quinn
Federal Public Defender's Office
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Sioux Falls, SD 57104
(605) 330-4489
Fax: (605) 330-4499
Email: molly_quinn@fd.org
TERMINATED: 01/27/2021
Designation: Federal Public Defender

Pending Counts

Disposition

**U.S. District Court
District of South Dakota (Western Division)
CRIMINAL DOCKET FOR CASE #: 5:19-cr-50063-KES-2**

Case title: USA v. Sanders et al

Date Filed: 05/14/2019

Magistrate judge case number: 5:19-mj-00049-JLV

Date Terminated: 04/17/2020

Assigned to: U.S. District Judge Karen E.
Schroier
Referred to: US Magistrate Judge Daneta
Wollmann

Defendant (2)

Gregory Charles Murphy
TERMINATED: 04/17/2020

represented by **Jonathan P. McCoy**
Costello Porter Hill Heisterkamp Bushnell
& Carpenter, LLP
PO Box 290
704 St. Joseph St.
Rapid City, SD 57709
(605) 343-2410
Fax: (605) 343-4262
Email: jmcocoy@costelloporter.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

David R. Hansen
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TERMINATED: 05/06/2021
Designation: Retained

Ellery R. Grey
Grey & Eisenbraun Law Prof. LLC
909 Saint Joseph Street
Suite 1000
Rapid City, SD 57701
605-791-5454
Fax: 605-791-5459
Email: ellery@greycisenbraunlaw.com

CLOSED

**U.S. District Court
District of South Dakota (Western Division)
CRIMINAL DOCKET FOR CASE #: 5:19-cr-50159-JLV-2**

Case title: USA v. Bartels et al

Date Filed: 12/17/2019

Date Terminated: 10/30/2020

Assigned to: Chief Judge Jeffrey L. Viken
Referred to: US Magistrate Judge Daneta
Wollmann

Defendant (2)

Raina Strickland

TERMINATED: 10/30/2020

represented by **David R. Hansen**

Compass Rose Law Firm

1830 W. Fulton St

Suite 102

Rapid City, SD 57702

605-721-3958

Email: david@compassroselawfirm.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Designation: CJA Appointment

Pending Counts

21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)
(A) CONSPIRACY TO DISTRIBUTE A
CONTROLLED SUBSTANCE
(1)

Disposition

120 months imprisonment; 5 years
supervised release; \$100 special assessment

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

None

Disposition

**U.S. District Court
District of South Dakota (Western Division)
CRIMINAL DOCKET FOR CASE #: 5:20-cr-50023-JLV-1**

Case title: USA v. LeBeau

Date Filed: 02/19/2020

Date Terminated: 01/05/2022

Assigned to: U.S. District Judge Jeffrey L. Viken

Referred to: US Magistrate Judge Daneta Wolinmann

Appeals court case number: 22-1091 8th Circuit

Defendant (1)

Michael Jonathan Lebeau
TERMINATED: 01/05/2022

represented by **Stanton A. Anker**
Anker Law Group, P.C.
1301 W. Omaha St.
Suite 207
Rapid City, SD 57701
605-718-7050
Fax: 605-718-0700
Email: stanton@ankerlawgroup.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

David R. Hansen
Compass Rose Law Firm
1830 W. Fulton St
Suite 102
Rapid City, SD 57702
605-721-3958
Email: dhansen@compassroselawfirm.com
TERMINATED: 07/31/2020
Designation: CJA Appointment

Paul R Winter
Winter Law Office, PC
731 St. Joseph Street
Suite 267
Rapid City, SD 57701
605-716-2151
Email: paul@winterattorney.com

CLOSED

U.S. District Court
District of South Dakota (Western Division)
CRIMINAL DOCKET FOR CASE #: 5:21-cr-50184-RAL-1

Case title: USA v. Richards

Date Filed: 12/21/2021

Date Terminated: 06/30/2022

Assigned to: Chief Judge Roberto A. Lange
Referred to: US Magistrate Judge Dareta
Wollmann

Defendant (1)

Christine Richards
TERMINATED: 06/30/2022
also known as
Christine Gay
TERMINATED: 06/30/2022

represented by **David R. Hansen**
Compass Rose Law Firm
1830 W. Fulton St
Suite 102
Rapid City, SD 57702
605-721-3958
Email: david@compassroselawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Pending Counts

21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)
(A); CONSPIRACY TO DISTRIBUTE
CONTROLLED SUBSTANCE
(1)

Disposition

120 months imprisonment, 5 years
supervised release, \$170 restitution and
\$100 VAF

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

None

Disposition

**U.S. District Court
District of South Dakota (Western Division)
CRIMINAL DOCKET FOR CASE #: 5:21-cr-50113-KES-3**

Case title: USA v. Jaramillo et al

Date Filed: 07/22/2021

Date Terminated: 08/18/2022

Assigned to: U.S. District Judge Karen E
Schreier
Referred to: US Magistrate Judge Daneta
Wollmann

Defendant (3)

Amber Atchley
TERMINATED: 08/18/2022

represented by **Amber Atchley**
#57494-509
WASECA
FEDERAL CORRECTIONAL
INSTITUTION
Inmate Mail/Parcels
P.O. BOX 1731
WASECA, MN 56093
PRO SE

David R. Hansen
Compass Rose Law Firm
1830 W. Fulton St
Suite 102
Rapid City, SD 57702
605-721-3958
Email: david@compassroselawfirm.com
TERMINATED: 12/08/2022
Designation: CJA Appointment

Molly C. Quinn
Federal Public Defender's Office
101 South Main Avenue, Suite 400
Sioux Falls, SD 57104
(605) 330-4489
Fax: (605) 330-4499
Email: molly_quinn@fd.org
TERMINATED: 12/13/2022
Designation: Federal Public Defender

Pending Counts

Disposition

**U.S. District Court
District of South Dakota (Western Division)
CRIMINAL DOCKET FOR CASE #: 5:21-cr-50078-KES-4**

Case title: USA v. Provost et al

Date Filed: 04/23/2021

Date Terminated: 04/07/2023

Assigned to: U.S. District Judge Karen E.
Schreier
Referred to: U.S. Magistrate Judge Daneta
Wollmann

Defendant (4)

Jesse Grass

TERMINATED: 04/07/2023

represented by **Terry L. Pechota**

Pechota Law Office

1617 Sheridan Lake Rd.

Rapid City, SD 57702

605-341-4400

Fax: 605-341-0716

Email: tpechota@1868treaty.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Designation: CJA Appointment

David R. Hansen

Compass Rose Law Firm

1830 W. Fulton St

Suite 102

Rapid City, SD 57702

605-721-3958

Email: david@compassroselawfirm.com

TERMINATED: 05/13/2022

Designation: CJA Appointment

Pending Counts

21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)
(C); CONSPIRACY TO DISTRIBUTE A
CONTROLLED SUBSTANCE
(1s)

Disposition

37 months imprisonment, 3 years supervised
release, \$100 VAF

Highest Offense Level (Opening)

Felony

**U.S. District Court
District of South Dakota (Western Division)
CRIMINAL DOCKET FOR CASE #: 5:20-cr-50123-KES-1**

Case title: USA v. Reddy

Date Filed: 09/17/2020

Date Terminated: 08/06/2021

Assigned to: U.S. District Judge Karen E.
Schreier
Referred to: US Magistrate Judge Daneta
Wollmann

Defendant(1)

William Reddy
TERMINATED: 08/06/2021
also known as
Billy Reddy
TERMINATED: 08/06/2021

represented by **David R. Hansen**
Compass Rose Law Firm
1830 W. Fulton St
Suite 102
Rapid City, SD 57702
605-721-3958
Email: david@compassroselawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Pending Counts

None

Disposition

Highest Offense Level (Opening)

None

Terminated Counts

21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)
(A); CONSPIRACY TO DISTRIBUTE A
CONTROLLED SUBSTANCE
(1)

21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)
(A); CONSPIRACY TO DISTRIBUTE A
CONTROLLED SUBSTANCE
(1s)

18 U.S.C. §§ 922(g)(3) and 924(a)(2);
POSSESSION OF A FIREARM BY A

Disposition

Superseded

Count transferred to 20-50065

Count transferred to 20-50065

**U.S. District Court
District of South Dakota (Western Division)
CRIMINAL DOCKET FOR CASE #: 5:20-cr-50112-KES-1**

Case title: USA v. Cross

Date Filed: 09/17/2020

Date Terminated: 07/28/2021

Assigned to: U.S. District Judge Karen E.
Schreier
Referred to: US Magistrate Judge Daneta
Wollmann

Defendant (1)

Griffin Lee Cross
TERMINATED: 07/28/2021

represented by **David R. Hansen**
Compass Rose Law Firm
1830 W. Fulton St
Suite 102
Rapid City, SD 57702
605-721-3958
Email: david@compassroselawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Alecia E. Fuller (FPD)
Federal Public Defender's Office
655 Omaha Street, Suite 100
Rapid City, SD 57701
(605) 343-5110
Fax: (605) 343-1498
Email: alecia_fuller@fd.org
TERMINATED: 11/20/2020
Designation: Federal Public Defender

Pending Counts

18 U.S.C. § 111(a)(1); ASSAULT ON A
FEDERAL OFFICER
(1)

Highest Offense Level (Opening)

Felony

Terminated Counts

Disposition

2 years probation and \$100 VAF

Disposition

**U.S. District Court
District of South Dakota (Western Division)
CRIMINAL DOCKET FOR CASE #: 5:20-cr-50112-KES-1**

Case title: USA v. Cross

Date Filed: 09/17/2020

Date Terminated: 07/28/2021

Assigned to: U.S. District Judge Karen L.
Schreier
Referred to: US Magistrate Judge Daneta
Wollmann

Defendant (1)

Griffin Lee Cross
TERMINATED: 07/28/2021

represented by **David R. Hansen**
Compass Rose Law Firm
1830 W. Fulton St
Suite 102
Rapid City, SD 57702
605-721-3958
Email: david@compassroselawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

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Federal Public Defender's Office
655 Omaha Street, Suite 100
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(605) 343-5110
Fax: (605) 343-1498
Email: alecia_fuller@fdl.org
TERMINATED: 11/20/2020
Designation: Federal Public Defender

Pending Counts

18 U.S.C. § 111(a)(1); ASSAULT ON A
FEDERAL OFFICER
(1)

Disposition

2 years probation and \$100 VAF

Highest Offense Level (Opening)

Felony

Terminated Counts

Disposition

5:20-cr-50065-KES-4 USA v. Brewer et al

Date filed: 07/23/2020

Date terminated: 02/18/2022

Date of last filing: 05/30/2025

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Name Matched	David R. Hansen

**U.S. District Court
District of South Dakota (Western Division)
CRIMINAL DOCKET FOR CASE #: 5:20-cr-50065-KES-4**

Case title: USA v. Brewer et al

Date Filed: 07/23/2020

Date Terminated: 12/16/2021

Assigned to: U.S. District Judge Karen E.
Schreier
Referred to: US Magistrate Judge Daneta
Wollmann

Defendant (4)

William Reddy

TERMINATED: 12/16/2021

also known as

Billy Reddy

TERMINATED: 12/16/2021

represented by **Jennifer R. Albertson**

Federal Public Defender's Office

655 Omaha Street, Suite 100

Rapid City, SD 57701

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Fax: (605) 343-1498

Email: jenn_albertson@fd.org

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Designation: Federal Public Defender

David R. Hansen

Compass Rose Law Firm

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605-721-3958

Email: david@compassroselawfirm.com

TERMINATED: 08/12/2021

Designation: CJA Appointment

Scott Armstrong

1719 West Main

Rapid City, SD 57702

(605) 399-3994

Fax: (605) 348-0325

Email: scottarmstrong1235@earthlink.net

TERMINATED: 05/01/2023

Designation: Retained

Pending Counts

Disposition

CLOSED

U.S. District Court
District of South Dakota (Western Division)
CRIMINAL DOCKET FOR CASE #: 5:20-cr-50035-KES-5

Case title: USA v. Flying Horse et al

Date Filed: 06/11/2020

Date Terminated: 02/10/2021

Assigned to: U.S. District Judge Karen E.
Schreier
Referred to: US Magistrate Judge Daneta
Wollmann

Defendant (5)

Blake Two Eagle

TERMINATED: 02/10/2021

represented by **David R. Hansen**
Compass Rose Law Firm
1830 W. Fulton St
Suite 102
Rapid City, SD 57702
605-721-3958
Email: david@compassroselawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation. CJA Appointment

Pending Counts

18 U.S.C. §§ 922(n) and 924(a)(1)(D);
POSSESSION OF A FIREARM WHILE
UNDER INDICTMENT
(7)

Disposition

12 months and 1 day imprisonment, 2 years
supervised release, \$100 VAF

Highest Offense Level (Opening)

Felony

Terminated Counts

18 U.S.C. §§ 922(j) and 924(a)(2) and 2;
POSSESSION OF A STOLEN FIREARM
and AIDING AND ABETTING
(3)

Disposition

Dismissed

Highest Offense Level (Terminated)

Felony

CLOSED

**U.S. District Court
District of South Dakota (Western Division)
CRIMINAL DOCKET FOR CASE #: 5:20-cr-50035-KES-5**

Case title: USA v. Flying Horse et al

Date Filed: 06/11/2020

Date Terminated: 02/10/2021

Assigned to: U.S. District Judge Karen E.
Schreier
Referred to: US Magistrate Judge Daneta
Wollmann

Defendant (5)

Blake Two Eagle
TERMINATED: 02/10/2021

represented by: **David R. Hansen**
Compass Rose Law Firm
1830 W. Fulton St
Suite 102
Rapid City, SD 57702
605-721-3958
Email: david@compassroslawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Pending Counts

18 U.S.C. §§ 922(n) and 924(a)(1)(D);
POSSESSION OF A FIREARM WHILE
UNDER INDICTMENT
(7)

Disposition

12 months and 1 day imprisonment, 2 years
supervised release, \$100 VAF

Highest Offense Level (Pending)

Felony

Terminated Counts

18 U.S.C. §§ 922(j) and 924(a)(2) and 2;
POSSESSION OF A STOLEN FIREARM
and AIDING AND ABETTING
(3)

Disposition

Dismissed

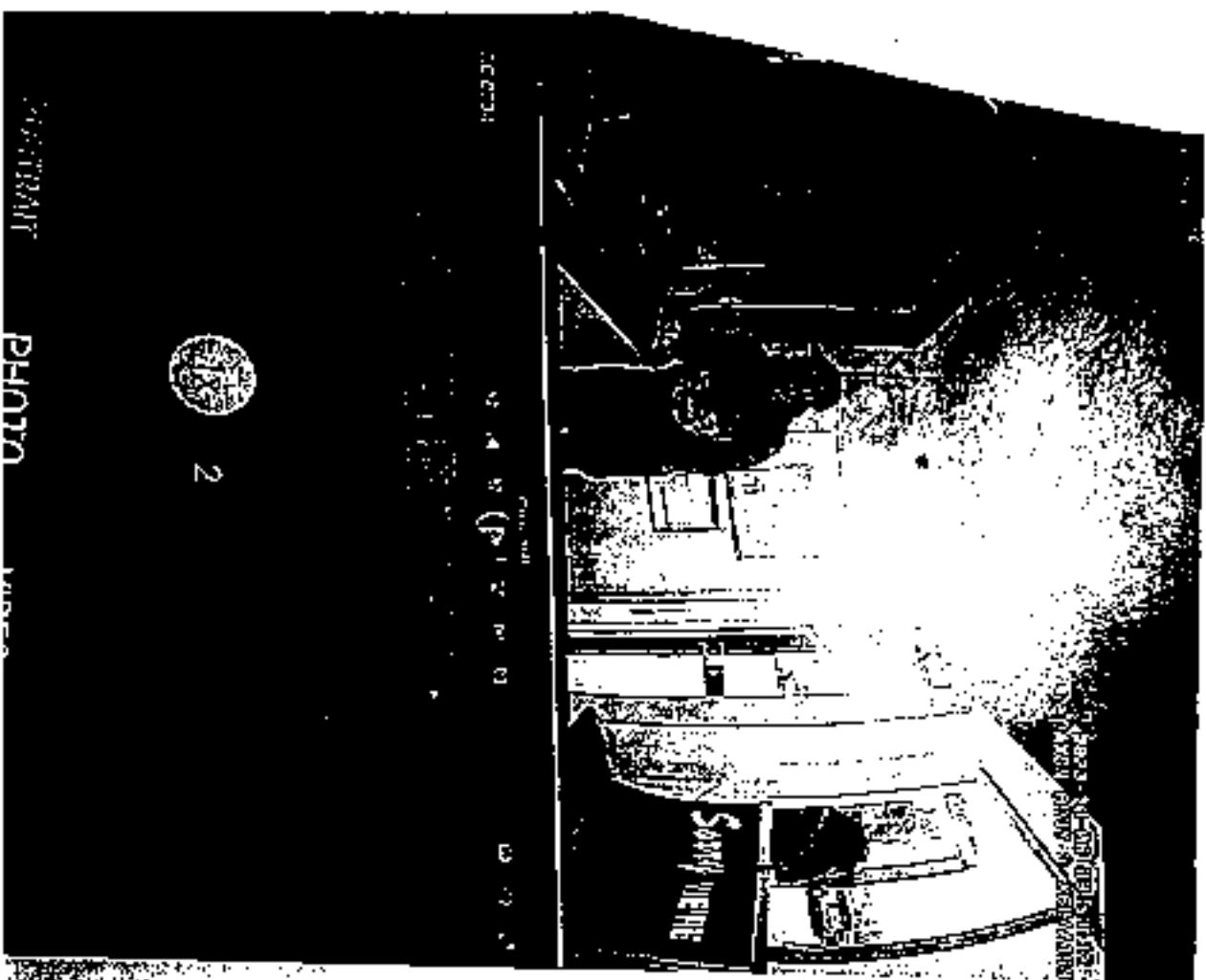
Highest Offense Level (Terminated)

Felony

Travis Walker

PLAINTIFF'S
EXHIBIT

6



SECTION

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Source: SDC 1939, §§ 32.0503, 32.0504; SL 1957, ch 173; SDCL, §§ 16-7-12, 16-7-13; SL 1970, ch 136, §§ 1, 2; SL 1974, ch 152, § 1; SL 1976, ch 148; SL 1980, ch 164; SL 1984, ch 146; SL 1986, ch 27, § 5; SL 1988, ch 177; SL 2003, ch 116, § 1; SL 2022, ch 52, § 1, eff. Jan. 1, 2023.

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Shirley A. Jensen Legal
Clerk

South Dakota Supreme Court

Certificate of Completion and Affidavit

I Clayton G. Walker the Appellant states that all is true to the best of my knowledge.
the APPELANT sent a copy of the following:

Appellants Appeal brief, 9589 0710 5270 1583 8365 88 Aug 25th 2025

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Appellants reply brief of David Hansen, 9589 0710 5270 1322 6270 19 Oct. 16th 2025

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I certify that the original and copies was mailed to the clerks of the Supreme Court of South Dakota at 500 E Capitol Ave Pierre SD 57501

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to Attorneys for the Defendants with Robert J. Galbraith at 326 Founders Park Drive Rapid City SD 57709-8030, to David R. Hansen at 1830 W. Fulton St. Suite 102 Rapid City SD 57702. to Cash Anderson at PO Box 160 Pierre SD 57501 by US Mail

Compliance § 15-26A-66, Times New Roman, 12-point 1.5 Margins,

Dated this 20th Day of October, 2025



Clayton G. Walker

1515 East Saint Patrick Street #356

Rapid City SD 57703 walkerclayton150@gamil.com



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**PLAINTIFF'S
EXHIBIT**
A

STATE OF SOUTH DAKOTA

COUNTY OF PenningtonClayton Walker

Plaintiff,

VS.

Thomas Asda, Terri Quercia et al

Defendant,

IN CIRCUIT COURT
FIRST JUDICIAL CIRCUIT
South51CV# 23-001329INFORMAL REQUEST FOR
JUDGE DISQUALIFICATION

As the attorney of record or a party in the above cited case, I, Clayton Walker, would like to request per SDCL 15-12-21.1 that Judge Robert Gusinsky, recuse himself/herself from presiding over this matter as my client believes they cannot receive a fair and impartial hearing from this judge; or

☐ I believe the judge has a conflict:

☒ Other: Dispute about the judge ability to be impartial due previous statements
☒ No court date has been set ☐ The next court date is: made in court, Canons, Belgium

Dated this 13th day of December, 2024
Clayton Walker

ATTORNEY OF RECORD/PARTY

This matter having been assigned to me, _____ Judge of the First Judicial Circuit, and after consideration of the above request to recuse, I have determined that:

☐ It is necessary to recuse myself, and I hereby recuse myself from presiding over this matter.

☐ I am aware of no reason to recuse myself and the request is denied.

☐ It is my belief that the parties have waived their right to a change of judge per SDCL 15-12 and the request to recuse is denied. MM/DD/YYYY HH:MM:SS AM

Informal request is Denied.

RC

Reviewed
Gusinsky, Robert
**PLAINTIFF'S
EXHIBIT**
A
NOT IN ATTORNEY'S NOTICE OF RECORD, Revised 06/20/17
Filed on 12/20/2024 - Pennington County, South Dakota 51CV23-001329



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Source: SDC 1939, §§ 32.0503, 32.0504; SL 1957, ch 173; SDCL, §§ 16-7-12, 16-7-13; SL 1970, ch 136, §§ 1, 2; SL 1974, ch 152, § 1; SL 1976, ch 148; SL 1980, ch 164; SL 1984, ch 146; SL 1986, ch 27, § 5; SL 1988, ch 177; SL 2003, ch 116, § 1; SL 2022, ch 52, § 1, eff. Jan. 1, 2023.

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Clayton Walker,

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Shirley A. Johnson-Leged
Clerk

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

Clayton Walker, Appellant/Plaintiff, v. Jeffery Bendt, Extra Storage, Jodi Bendt 605 Storage Thomas Auto Inc., Frank Thomas Trust, Terri Guccione Jason Salamun, Michelle Schuelke, City of Rapid City, ect all. Appellee/ Defendants	Supreme Court # 31111 SI CIV 23 01329 Appellants Reply Brief for Cash Anderson
--	--

From 7th Circuit Court Robert Gusinsky, and Craig Pfeifle to review
the dispositive Motion to dismiss and Sanctions on May 7th 2025

Clayton G. Walker 1515 E. St. Patrick St # 356 Rapid City, SD 57703 Claytonwalker.com Walkerclayton150@gmail.com Please contact me by US Mail	David R. Hansen at 1830 W. Fulton St. Suite 102 Rapid City SD 57702 Attorney for Frank Thomas Trust Terri Guccione, Thomas Auto Cash Anderson at PO Box 160 Pierre SD 57501by attorney for Jason Salamun, Michelle Schuelke city of Rapid City Robert J. Galbraith at 326 Founders Park Drive Rapid City SD 57709-8030 attorney for Jeffery and Jodi Bent 605 Storage and Extra Storage
---	---

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--	--

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Under SDCL § 1-26-31.4 Within the Computation of Time under SDCL. § 15-6-6(a) The Appellant must disclose the Case is Over the \$2500.00.	

Jurisdictional Statement

1. **Date from Hearing** was on Feb. 18 2025. **Ruling** sought to be reviewed is **the** **Order** from the 7th of May, **First Notice of Appeal** June 3rd 2025, **The Appeal** from Circuit Court from Judge Pfeifle, and Robert Giusinsky, **Appealed to** South Dakota Supreme Court, **Order Granted of Extension** to Aug. 25, 2025 from Steven R. Jensen, Chief Justice, The appellant is working on his brief with limited access. Don't let The States "Little Muck" tricks deceive the court. Appellant received appellees brief on October 16th 2025.

Statement

For case or a motion's to be frivolous, it often involves an intent to cause a problem, such as causing unnecessary delay, lack of factual basis, or increasing cost. The motions filed did not lack any factual basis, it would not cause any delay, and when getting evidence that the prior judge stated save, is not an increase in litigation cost. The appellants motions were "not" made in bad faith, nor did it lack of legal basis and it was not used for improper purpose. Freedom of Speech and Freedom of Religion are allowed in South Dakota. This lower court was not going to give a pro se plaintiff, who is a politician with strong views of protecting of his religious freedoms, a trial. A Miscarriage of Justice is at stake here, Judges misconduct should not be ignored. This situation is crucial for

fairness, and the integrity of the legal system. The appellants rights are being violated and this is a broader threat to basic rights under the United States Constitution. An expedited action was denied by Gusinsky after waiting 3 months for a court hearing. The Supreme court can not rule its own findings when asking the Judge to recuse. The Appellant has multiple things for the court to decide if applicable law applies. When the deprivation of rights occurred first and the Sanctions second the Court must remand. The plaintiff also has a reply brief from David Hansen. No Brief from Robert J. Galbraith has been Received.

Reply on Legal Issues

1. The appellant attempted to get an expedited civil action. but this was denied and delayed by the court. The appellant filed a motion to compel to get the discovery that judge Pfeifle ordered to protect the appellants Substantial Rights.

For a lack of good faith is often central to the concepts of a frivolous action, the plaintiff believes that his motions were both factually grounded and legally warranted and there are arguments to change existing laws if needed. The lack of legal basis was not there, asking the AGI office to investigate thefts of the city. do not lack legal bases, they have legal purposes when withholding evidence, (of other thefts the city wants to

hide witness). This filing was not baseless. The parties have not set forth any case laws that state a Brady Motion is for criminal cases only.

Freedom of Speech, in South Dakota Freedom of Speech protections are found in Article 6 § 5 of the South Dakota Constitution, which guarantees every person the right to freely speak, write and publish on all subjects. Freedom of Speech is also protected in United States Constitution of the First Amendment a Jury will have to decide if statements are Untrue, The courts have developed the doctrine of constitutionally protected opinion. Gertz v Robert welch, 418 U.S. 323, 339-40 (1974) ("there is no such thing as a false idea") see Ollman v. Evans, 750 F.2d 970 (D.C.Cir 1984)determining of opinion . freedom of speech must be determined whether the process the state provided was constitutionally adequate Zinnermon v. Burch, 494 us 113 126,110 s. ct 975,108 L.Ed .2d 100 (1990) Mathews v. Eldridge, 424 U.S. 319,333,96 S CL 893, 47 Led.2d 18(1976) in most cases "a meaningful time" means prior to the deprivation of the liberty or property right at issue Zinnermon, 494 U.S. at 127,110 s. Ct 975. See AA050 page 36 ¶ 11.. There was no court date set for the eviction processes, nor papers served by the city. Expedited Civil Procedure, page 351 ¶1 , oh please the plaintiff asserted in the record about not getting a hearing and stating in his briefs about how the courts just sat on walkers motions for 3 months when he was filed for a motion for a Court Hearing

see page 993 ¶ 4. When it was Forwarded to Judge Brown. Brings a question How can Judge Matthew Brown recused himself as seen in page 44 ¶ 1 that's personal Bias dated the 6th day of November but then he comes back and rule on motions page 995,996, after a letter was sent from the Supreme Court of South Dakota. its clear that the judges in South Dakota will not let him have a fair chance in court and deprive him of his Constitutional Rights to know who his accuser is, Freedom of Religion, and Freedom of Speech, the right to a speedy Expedited Civil Action/trial. In the case of Williams v. Pennsylvania page 11 ¶ # 53 in the walkers brief of the Argument, the attorney makes no reference to dispute the issue of having the Supreme Court Rule on the Recusal of the Judge, 1 when objected Judge Brown 995 and 996 That's personal prejudice against a party. In Fact the Record has mutable pages missing when the Plaintiff filed a motion to compel. Supreme court letter of recusal. See appellants Motion for Judicial Review page 980 ¶ 6. A motion to Compel documents page 396 and the plaintiff answering page 384 to get a speedy trial page 351. In discovery disputes the receipt shows rent transferred to the city. A motion to compel documents page 396 plaintiff answering page 384 and to get a speedy trial page 351.

The Questions being asked about clothes and hats at the deposition by Cash Anderson did disrupt the flow of the trial for no good reason and serve no useful purpose of any kind. *Kelin v Aronchick*, 85A 3d 487,500 Pa Superior Ct 2014). As the Defendants had no case but fairytales. See the Appellants Description of "Little Muck." The Appellant questions, if 180 right to Speedy Trial cant be given then how can an expedited Trial be given.

The Attorney refused to reply to all Federal Questions and other issues questions for the court to decide.. Substantial rights Statute of Frauds and enough to make a binding contract. See *Cottom v. Kennedy*, 140 Ill. App.3d 209, 293 488 NE 2d 682-III: Appellate court, 5th Dist. 1986. To obtain relief walker must show an error that is plain like bias from Judges, that effects the fairness of integrity or public reputation of Judicial proceedings. *United states v. Mull* # 24-2822, 2025 WI 236459 at 2 (8th Cir August 14th 2025) lets look at the rulling to protect other witness, the new judge can not, change the substantial right the city would have to disclose who else had a stolen vehicles or towed by the city. Please see motion for sufficient probable cause asking for discovery that judge Pfeifle said the defendants must protect and save that discoverable materials page 1018 motion to protect substantial rights page 117. But the

Next Judge did not adhere to his decision. Please see the Plaintiffs Reply brief of objections and oppositions. The Story of "Little Muck" can be found in a reply brief not placed in the record the clerk gave the Appellant. Although state supreme court rulings on matters of federal law (generally made under the state courts concurrent jurisdiction) can be appealed to the Supreme Court of the United States. The law of the land also known as the Supremacy Clause has presidents. The court can not keep denying discovery of other witness to be subpoena and the attorney to refuse to challenge, the court must REMAND. And because the error was made before the trickery and fraudulent statements made in court for Sanction the court must remand. Judge Pfeifle stated the rights of other towns was to be protected and this Judge Robert Gusinsky denied the right to have that discovery to protect witness. Come on you have the first judge presiding on motions to protect substantial rights and than the second judges denies that right of other witness.

Conclusion

The courts are based on Objectivity and fairness, were the approach for a fair and unbiased assessment, ensuring that the case is based on the substance of the matter at hand. The Erosion of Public trust is in the hands of this court, the appellant has a video of the assault and google reviews show that this company has a history of assaults, and the appellant is entitled to get discovery for the error that happened before the sanction 11 rule which is unconstitutional and the case should be based on its merits. Freedom of Speech is a Constitutional Right. The Supreme court can not rule its own finding when asking the Judge to recuse. There was no court date set for the eviction processes, nor papers served by the city. Don't let the city "Little Muck" tricks deceive the court. Judge Pfeifle told the defendants/ appellees to protect evidence about the information about other thefts and the second Judge (well third because Judge Matt Brown recused himself and than later came back on to rule on motions) Judge Gusinky overturned the ruling on Discovery from Judge Pfeifle. Which is a violation of Constitutional Rights with Discovery and the public trust/ confidence in the Judicial System. This is an opportunity to correct error and for fairness with Discovery of other witness denied that could testify.

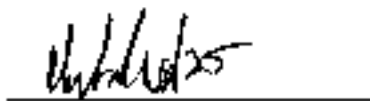
The appellant had his brief returned for his margins being set at one inch, after asking the Court to waive rules, but yet this court has allowed Cash Anderson to have his brief with Margins at 1.25 and for this reason his brief must fail. A frivolous motion would need to be intentional. The Appellant is knocking on your glass door, you see me, I see you, but you close the blinds again, open the blinds against corruption. The Appellant is talking about Due Process, the Ex Post Facto doctrine would apply. The rights were violated before the Tricks were played.

When the Deprivation of Rights occurred first and the Sanctions second the Court must remand.

Relief and Demands

Wherefore, the Appellant respectfully requests that this Court:

- A. Grant a Reversal for the error and send the case back for a fair trial
- B. Grant a "Liberally Construed," and Grant "Based on its Merits"
- C. Award the Appellant for David Hansen lying at the hearing, submitting altered documents, and ignoring discovery. Award the Appellant \$75,000.00 in Compensatory Damages and \$5,3000,000.00 in Punitive Damages.
- D. Award the Appellant 75,000.00 for Cash Anderson using the AG office for the appellants records being placed into the record,
- E. Contact the Disciplinary Board and refer for the action in this brief/case,
- F. Order Doge to Investigate alleged attorney fraud of the "Right to Speedy Trial"
- G. Demands a fair hearing so he may to be able to get discovery and call witness to come testify,
- H. Grant Basic concept of American Justice,
- I. Award the Appellant any other relief the Court thinks is Just.



Dated this 20th, Day of October 2025

Clayton G. Walker


1515 East Saint Patrick Street #356, Rapid City SD 57703

South Dakota Supreme Court

Certificate of Service and Affidavit

I Clayton G. Walker the Plaintiff states that all is true to the best of my knowledge.

That I the Plaintiff sent a copy of the following:

I certify that the original was mailed to the clerks of the Supreme Court of South Dakota at 500 E Capitol Ave Pierre SD 57501, *sent Outside on the 16th sent outside on the 20th* 
Certified Mail # 9589 0710 5270 1322 6268 83

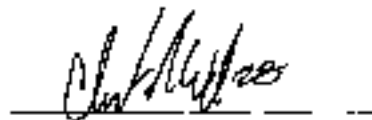
I certify that a copy was served to Attorneys for the Defendants with Robert J. Galbraith at 326 Founders Park Drive Rapid City SD 57709-8030 by U S Mail

I certify that a copy was served to David R. Hansen at 1830 W. Fulton St. Suite 102 Rapid City SD 57702. Sent by US Mail

I certify that a copy was Sent to Cash Anderson at PO Box 160 Pierre SD 57501 by US Mail

A copy thereof on the United States mail, postage paid for First Class Mail to the following persons above.

2462 words
Compliance § 15-26A-66. Word Count is ~~4852~~ 4852, Times New Roman, 12-point 1.5 Margins. received appellees brief on October 14th 2025



Dated this 20th Day of October, 2025

Clayton G. Walker

1515 East Saint Patrick Street #356 Rapid City SD 57703

605-431-4086 H

Proseligion247@hotmail.com or claytonwalker.com

Request respond by U S Mail