

**IN THE IOWA DISTRICT COURT FOR STORY COUNTY**

ALEXANDRA "SONDRA" WILSON,

Plaintiff,

v.

RELIABLE STREET INC., LOCKWOOD  
CAFÉ, LYND SAY NISSEN, SHARON  
STEWART, WILLA COLVILLE, DENISE  
MARTINEZ, and CHARLIE ESKER,

Defendants.

Case No. LACV053674

ORDER GRANTING IN PART AND  
DENYING IN PART DEFENDANTS'  
MOTION TO DISMISS

This matter came before the Court for hearing on August 12, 2024. Before the Court were three matters: (1) Plaintiff's Motion to Estop, filed March 15, 2024 (D0001, pp. 102-103); (2) Defendants' Motion to Dismiss Amended Petition Filed June 17, filed July 5, 2024 (D0022); and (3) Plaintiff's Motion to Estop, filed July 30, 2024 (D0028, pp. 13-14). The hearing was conducted via the Zoomgov.com platform and was reported. Plaintiff, Sondra Wilson, appeared and represented herself. Defendants, Reliable Street Inc., Lockwood Café, Lyndsay Nissen, Sharon Stewart, Willa Colville, Denise Martinez, and Charlie Esker, appeared through their attorney, Paul Esker.<sup>1</sup> The Court heard arguments from the parties and took the matters under advisement. The Court asked Sondra to provide the citation for a case she referenced during the hearing. Sondra filed the case and a clarification and correction that the case arose in Maryland, not Iowa, as she had incorrectly stated during the hearing. She also filed a request for an auxiliary

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<sup>1</sup> Lyndsay, Sharon, Willa, and Charlie appeared; Denise did not. The hearing was not allowed to be recorded, but it was open to the public. Approximately 10 individuals who were not parties viewed the proceedings just as though it had been held in a courtroom.

remedy in the form of injunctive relief, which the Court assumes she wants to add to her Petition. The Court will address Sondra's post-hearing request for auxiliary relief in this Order as well as the three issues argued on August 12th.

Sondra alleges five legal claims in her petition: unjust enrichment, defamation, promissory estoppel, discrimination, and fraud. Defendants have filed a motion to dismiss all five claims on the basis that Sondra has not pled sufficient facts to establish any of the claims against any of the Defendants. After careful consideration of the parties' respective pleadings, filings, and arguments made at the hearing, the Court now grants in part and denies in part the motion to dismiss for the reasons set forth below. The written defamation claim can proceed but the rest of the claims are dismissed.

### **FACTUAL BACKGROUND**

In the context of a motion to dismiss, the Court assumes the facts set forth in the Petition to be true. Therefore, the following facts are based on the contents of the Amended Petition filed June 17, 2024.<sup>2</sup>

This case arises out of an unfortunate conflict within a tight-knit community that has resulted in irreconcilable differences between the parties.

The relationship between the parties is as follows. Lyndsay Nissen is President of Reliable Street Inc. ("Reliable Street"). Reliable Street is a non-profit organization that operates an art gallery and community space in Ames, Iowa. Lockwood Café operates in the same building as Reliable Street. Sharon Stewart is the owner and operator of

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<sup>2</sup> Sondra referenced several exhibits in her Amended Petition. The exhibits are apparently saved in a Google Doc folder. The Court does not have access to the exhibits and does not consider them in addressing the motion to dismiss. *See Rucker v. Taylor*, 828 N.W.2d 595, 598 (Iowa 2013) ("[D]istrict courts generally do not consider facts outside the pleadings in evaluating a motion to dismiss.").

Lockwood Café. Sondra contends Sharon was also Vice President of Reliable Street at all relevant times.<sup>3</sup> Willa Colville is a current employee of Lockwood Café. Denise Martinez is a former employee of Lockwood Café. Charlie Esker is a former customer of Lockwood Café and had a prior social relationship with Willa, Denise, and Sondra. Sondra alleges Charlie displayed their artwork frequently at Reliable Street and was frequently showcased. Despite their professional connection, Charlie was never an employee or otherwise officially affiliated with Reliable Street or Lockwood Café.<sup>4</sup> Sondra is a former customer of Lockwood Café, a former volunteer for Reliable Street and Lockwood Café, and had a prior social relationship with Willa, Denise, and Charlie.

Sondra attended open mic nights at Reliable Street beginning in September 2021. Lyndsay asked the audience for volunteers to arrive early for open mic nights to help set up and stay late to clean up. Sondra and another customer, Travis Lala, volunteered to do this work on numerous occasions. Neither volunteer was paid or offered any compensation for their help. Later, Sondra offered to make a flier for open mic night to increase attendance. After making a first draft of the flier and showing it to Lyndsay for her approval, Lyndsay and Sondra discussed some changes, which Sondra made. Sondra then took it upon herself to distribute the fliers around Ames.

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<sup>3</sup> In Plaintiff's Motion to Estop, filed March 15, 2024 (D0001 at pp. 102-103), Sondra asked the Court to prohibit the Defendants from overlooking Sharon's relationship to Reliable Street. Sharon's identification as Vice President makes no difference to the outcome of the case. The motion is denied on this issue.

<sup>4</sup> This was another issue raised in Plaintiff's Motion to Estop, filed March 15, 2024 (D0001 at pp. 102-103). Sondra asked the Court to prohibit the Defendants from overlooking Charlie's relationship to Reliable Street. Whether or not Charlie was only a friend or was also a featured artist at Reliable Street makes no difference to the Court's analysis. Therefore, the motion is denied on this issue.

Around the same time in mid- to late-September 2021, Sondra noticed that the garden at Lockwood Café was not properly cared for. She approached Sharon and volunteered to help with the garden because Sondra lived nearby, was available during the day, and loved gardening. Sondra had experience in gardening and showed Sharon a booklet she had written about homesteading. The garden at Lockwood Café had been created and managed by the Ames High School gardening club, Students Helping to End Poverty and Hunger (“SHEPH”), but SHEPH was not doing enough upkeep and the garden needed significant work. Sharon spoke with Lyndsay and then asked Sondra to help manage the garden. As a thank you in recognition of this free service, Sondra received a 50% discount on her purchases at Lockwood Café. Lyndsey confirmed in emails in January and February of 2022 that Sondra and SHEPH’s President, Emily, were “in charge” of the garden that growing season (the “garden agreement”).

Sondra learned of a program whereby the City of Ames would reimburse residents for half of the costs incurred to install native prairie. Sondra wanted to install native prairie in Lockwood Café’s garden. She sent her proposal for this project to Lyndsay on October 21, 2021. Lyndsay responded and approved the project on October 27, 2021 (the “prairie project”). The parties did not discuss finances for needed supplies at that time.

From late October 2021 until March 2022, Sondra performed countless hours of volunteer work on the prairie project: researching, planning, organizing volunteers, collecting donations, personally performing manual labor tasks, and more. Willa volunteered multiple times to help with the project. Denise initially expressed some support but was ultimately unable to volunteer her time. Members of SHEPH and other non-employees volunteered labor and donated some items needed for the prairie project

as well. By February 2022, Willa, Denise, and the SHEPH students expressed that they were too busy to volunteer time for the prairie project. Sondra believed there was still a lot to do before planting in April when the students would be available. Throughout this time, Sondra kept in communication with Sharon about the prairie project.

In March 2022, Sondra wanted to acquire various garden supplies (replacement hoses and buckets, basic tools, a door for the tool shed, and more 4"x4" planks for the mulch paths) so they would be ready to plant in April. Sondra asked "everyone involved" in the prairie project if they had cheap or free leads on the 4"x4" planks, which she believed were the biggest expense. No one had any ideas and SHEPH did not have enough funds in their account, so Sondra purchased them herself and posted the receipts on a Discord where she had kept track of various details of the project. Sondra made the purchase "as a donation" because this was her first time working on such a project and she wanted beautiful results. Sondra communicated this to Lyndsay, who was generally unresponsive. Sondra then asked Sharon about a possible plant sale or donation jar for the students to raise money for supplies. In response, Sharon set up a meeting between herself, Lyndsay, and Sondra on March 31, 2022. Sondra believed it was so she could give Sharon and Lyndsay a tour of the garden and show what still needed to be done.

At the March 31 meeting, Sharon and Lyndsay informed Sondra that they had received a complaint about Sondra "making people feel uncomfortable" and "violating a woman's personal space." Sondra could not think of anything she had done to justify such complaints; based upon her text message and in-person conversations, she believed the community was happy with her and her work. Although Sondra asked for more specific details of the complaints regarding her behavior, Sharon and Lyndsay declined to further

elaborate to protect the identity of the person who complained. Lyndsay did report that one of the complaints was “bombarding people with text messages.” At that point, Sondra questioned whether the complainant was Willa. Sharon responded, “There was actually more than one person who complained.” Lyndsay gave Sondra \$300 cash to reimburse her for most of the supplies she had purchased for the prairie project. Finally, Sharon and Lyndsay informed Sondra that she was banned from the property. She would no longer be allowed at events or find any support from the local nonprofit designed to lift up local artists, which would effectively exclude her from a large part of the local art community. Sondra was hurt badly by people whom she trusted and perceived as friends. March 31 was Transgender Day of Visibility, an annual event since 2009. The timing of the meeting was particularly hurtful to Sondra, a trans woman.

On April 12, 2022, Sondra filed a complaint with the Iowa Civil Rights Commission (“ICRC”) in regard to Reliable Street and Lockwood Café’s conduct. In response, the ICRC sent questionnaires to Lockwood Café, Reliable Street, and Sondra. Sharon made a statement to the ICRC on behalf of Lockwood Café that also included a statement from Denise, Lyndsay made a statement to the ICRC on behalf of Reliable Street that included the accusations made by Willa and Denise, and Charlie submitted a letter of support for the Defendants. The ICRC determined that Reliable Street and Lockwood Café had not violated Sondra’s civil rights and administratively closed the case on August 3, 2022.

Between August 3, 2022, and September 7, 2023, Sondra tried to file criminal complaints with the Ames Police Department and the Story County Attorney’s Office against Charlie and Lyndsay for the contents of their ICRC letters. No charges have been filed.

Sondra commenced this case in Polk County on January 29, 2024. On March 19, 2024, the Defendants accepted service of the Original Notice and Petition. On April 9, 2024, this case was transferred from Polk County to Story County.<sup>5</sup>

On June 17, 2024, Sondra filed an Amended Petition at Law. On July 5, 2024, the Defendants filed the pending Pre-Answer Motion to Dismiss Plaintiff's June 17 Amended Petition at Law. The Defendants argue Sondra's claims should be dismissed for failure to state any claims upon which relief may be granted.

### STANDARD OF REVIEW

"A motion to dismiss challenges a petition's legal sufficiency."<sup>6</sup> In evaluating a motion to dismiss, the court may only consider facts contained in the petition.<sup>7</sup> Generally, "[m]otions to dismiss are disfavored."<sup>8</sup> Iowa is a "notice-pleading state."<sup>9</sup> Therefore, "[a] petition need not allege ultimate facts that support each element of the cause of action; however, a petition must contain factual allegations that give the defendant fair notice of the claim asserted so the defendant can adequately respond to the petition."<sup>10</sup>

By attacking a claim via a motion to dismiss, the moving party admits all well-pleaded facts and waives any arguments to ambiguity or uncertainty in the petition.<sup>11</sup> The court "accepts the facts alleged in the petition as true and views the allegations in the light

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<sup>5</sup> The Polk County judge declined to rule on the request for attorney fees and costs at the time of transfer but left the issue open. The Court addresses the request in this Order.

<sup>6</sup> *Meade v. Christie*, 974 N.W.2d 770, 774–75 (Iowa 2022).

<sup>7</sup> *Koestner v. Stewart*, No. 15-1847, 2016 WL 5930841 at \*1 (Iowa Ct. App. Oct. 12, 2016).

<sup>8</sup> *Benskin, Inc. v. West Bank*, 952 N.W.2d 292, 296 (Iowa 2020).

<sup>9</sup> *Anderson v. State*, No. 15-0212, 2015 WL 6508508, at \*1 (Iowa Ct. App. Oct. 28, 2015) (citing *Rieff v. Evans*, 630 N.W.2d 278, 292 (Iowa 2001)).

<sup>10</sup> *Id.*

<sup>11</sup> *Young v. HealthPort Technologies, Inc.*, 877 N.W.2d 124, 127 (Iowa 2016) (citing *Shaffer v. Fran Moyer Const., Inc.*, 563 N.W.2d 605, 607 (Iowa 1997)).

most favorable to the plaintiff.”<sup>12</sup> This is “a simple two-step process” wherein the court “presume[s] the well-pleaded facts to be true while eschewing any facts asserted by either party outside the pleading.”<sup>13</sup> The court “accept[s] as true the petition’s well-pleaded factual allegations, but not its legal conclusions.”<sup>14</sup> A moving party is “entitled to dismissal only if the petition shows the claim or claims are legally deficient and the plaintiff has no right of recovery as a matter of law.”<sup>15</sup>

## LEGAL ANALYSIS AND CONCLUSIONS

Sondra has filed five claims: (1) unjust enrichment; (2) defamation; (3) promissory estoppel; (4) discrimination; and (5) fraud. The Court will analyze each claim in turn.

### I. Unjust Enrichment Claim

Unjust enrichment is a “doctrine of restitution.”<sup>16</sup> Unjust enrichment, as a concept, is not a “judicial remedy to correct perceived injustices, unfairness, or inequities in a broad sense.”<sup>17</sup> More accurately, it is a remedy in a narrower set of circumstances in which the facts indicate what might more appropriately be called “unjustified enrichment.”<sup>18</sup> Technically speaking, “unjustified enrichment” is enrichment with no adequate legal basis.<sup>19</sup> The elements of unjust enrichment are “(1) enrichment of the defendant, (2) at

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<sup>12</sup> *Meade*, 974 N.W.2d at 775.

<sup>13</sup> *Anderson*, 2015 WL 6508508, at \*2 (citing *Hawkeye Foodservice Distrib., Inc. v. Iowa Educators Corp.*, 812 N.W.2d 600, 609 (Iowa 2012)).

<sup>14</sup> *Shumate v. Drake Univ.*, 846 N.W.2d 503, 507 (Iowa 2014).

<sup>15</sup> *White v. Harkrider*, 990 N.W.2d 647, 650 (Iowa 2023).

<sup>16</sup> *Rilea v. State*, 959 N.W.2d 392, 393 (Iowa 2021).

<sup>17</sup> *Livingood v. City of Des Moines*, 991 N.W.2d 733, 749 (Iowa 2023).

<sup>18</sup> *Id.* (citing RESTATEMENT (THIRD) OF RESTITUTION & UNJUST ENRICHMENT § 1 cmt. b, at 4 (Am. Law Inst. 2011)).

<sup>19</sup> *Id.*



the expense of the plaintiff, (3) under circumstances that make it unjust for the defendant to retain the benefit.”<sup>20</sup>

Sondra points to a number of parties—Reliable Street, Lockwood Café, Lyndsay, and Sharon—whom she contends were unjustly enriched by her volunteer labor.<sup>21</sup> She seeks compensation for the volunteer labor she estimates to have provided about twenty hours a week for six months. This donation of time was clearly at Sondra’s expense, as she could have spent that time undertaking other projects or work for financial gain. Element two has been met.

Sondra has not alleged that Lyndsay and Sharon received any personal benefit from her labor. While Sondra contends they received the indirect benefits as owners or executives of Reliable Street and Lockwood Café, that is not sufficient to sustain a claim against them individually. Element one has not been met. The Court grants the Motion to Dismiss against Lyndsay and Sharon on this basis.

The Court next addresses the unjust enrichment claims against Reliable Street and Lockwood Café. While it is not strictly financial, there is value to having a nice-looking garden or receiving a grant to restore native prairie. The Court assumes without deciding that element one has been met regarding these two defendants. However, even assuming all facts in the Amended Petition to be true, Sondra has not established element three as a matter of law.

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<sup>20</sup> *Behm v. City of Cedar Rapids*, 922 N.W.2d 524, 577 (Iowa 2019).

<sup>21</sup> Sondra admits she was repaid \$300 for most of the supplies she purchased and that the purchase was a donation in any event. See Pl’s Am. Pet., p. 23. The Court finds there is no legal basis to sustain an unjust enrichment claim that might have been filed for the money Sondra was not reimbursed.

Even if Reliable Street and Lockwood Café received a benefit from Sondra's volunteer efforts, justice does not require payment in this case. Although Sonda is frustrated that she was unable to complete the project and include such volunteer service on her resume, that does not mean it is unjust to allow Lockwood Café and Reliable Street to retain the garden prairie without compensating Sondra. Simply put, Sondra volunteered her time without expectation of payment. There was no agreement between the parties that if Sondra did not finish the garden agreement or the prairie project, she would be entitled to anything. On the flip side, there was no agreement that if Sondra did finish the garden agreement or the prairie project that she would be entitled to anything – including financial remuneration, a positive reference for future paid or unpaid work, or support for her future gubernatorial campaign. She was solely a volunteer. Sondra also volunteered to help set up and take down microphones for open mic nights. Again, she did this work with no expectation of payment.

The Restatement (Third) provides that “[t]here is no liability in restitution for an unrequested benefit voluntarily conferred, unless the circumstances of the transaction justify the claimant's intervention in the absence of contract.”<sup>22</sup> Courts around the country have traditionally followed this line of logic and refused to allow volunteers to recover for unjust enrichment based purely on the time and labor they contributed voluntarily.<sup>23</sup>

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<sup>22</sup> RESTATEMENT (THIRD) OF RESTITUTION & UNJUST ENRICHMENT § 2(3).

<sup>23</sup> See *Lin Gao v. St. Louis Language Immersion Schs., Inc.*, No. 4:13-CV-1956, 2014 WL 6871166 at \*12 (E.D. Mo. 2014) (“it cannot be inequitable for a non-profit organization to accept and retain work done on a volunteer basis”); *Groves Bros. & Co. v. Schell*, 379 S.W.2d 857, 859 (Mo. Ct. App. 1964) (“where one acts as a mere volunteer, he is not entitled to compensation for his services”); *In re Spenger's Estate*, 67 N.W.2d 730, 731 (Mich. 1954) (“No one is bound to pay for volunteered services rendered under circumstances which do not fairly indicate an expectation of reward.”); *Mullins v. Mingo Lime & Lumber Co.*, 10 S.E.2d 492, 494 (Va. 1940) (“A volunteer who performs services

Because the labor of a volunteer is freely given, it explicitly cannot be unjust for the beneficiary to retain the benefit of that volunteer labor.

In reviewing Sondra's amended petition in the light most favorable to her, Sondra has not alleged sufficient facts to support a claim for unjust enrichment as a matter of law. Therefore, the motion to dismiss must be granted on this claim.

## II. Defamation Claims

"Defamation includes the twin torts of libel and slander. Libel involves written statements, while slander involves oral statements."<sup>24</sup> Sondra's petition alleges both slander and libel. The Iowa Supreme Court has addressed the various types of defamation claims which may be filed:

Our defamation law "embodies the public policy that individuals should be free to enjoy their reputation unimpaired by false and defamatory attacks. An action for defamation ... is based upon a violation of this right." We recognize two types of defamation: per quod and per se.

Defamation per quod "refer[s] to facts or circumstances beyond the words actually used to establish the defamation." To succeed in proving defamation per quod, a party must prove six elements: (1) publication, (2) a defamatory statement, (3) falsity, (4) maliciousness, (5) the statement was of or concerning the party, and (6) a resulting injury.

Defamation per se, alternatively, exists when a statement has a "natural tendency to provoke the plaintiff to wrath or expose h[er] to public hatred, contempt, or ridicule, or to deprive h[er] of the benefit of public confidence or social intercourse." If a statement is defamatory per se, the elements of falsity, malice, and injury are legally presumed and the statement is actionable without proof of the same.

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for another without any promise, express or implied, of compensation therefor, cannot recover for those services.").

<sup>24</sup> *Bierman v. Weier*, 826 N.W.2d 436, 444 (Iowa 2013) (quoting *Kiesau v. Bantz*, 686 N.W.2d 164, 174 (Iowa 2004)).

“An attack on the integrity and moral character of a party is libelous per se.” We have found defamation per se in statements accusing an individual of being a liar, accusing an individual of an indictable crime of moral turpitude or that carries a jail sentence, and accusing an individual of falsifying information.<sup>25</sup>

It is clear from Sondra’s Amended Petition that the statements in question (set forth in detail on pages 48-58) concern her, the plaintiff. She further asserts that the statements were false, were made with malice, and resulted in injury to her reputation and other general defamation damages.<sup>26</sup> Therefore, this Court must determine if sufficient facts were pleaded to find that such statements were defamatory and were published.

In order to recover for defamation, the statement in question must have been defamatory.<sup>27</sup> Black’s Law Dictionary defines “defamatory matter” as “[a] statement that (1) imputes a crime or official misconduct in public office to a person, (2) is likely to impair a person’s ability to perform in an occupation, calling, or office, or (3) exposes the person to general hatred, contempt or ridicule.”<sup>28</sup> The Court determines whether a statement is capable of a defamatory meaning.<sup>29</sup> One important limitation on a claim for defamation is that “[o]pinion is absolutely protected under the First Amendment.”<sup>30</sup> The Court uses a four-factor test to determine whether an alleged defamatory statement could be reasonably interpreted to allege actual facts or is protected as an opinion:

First, we consider “whether the alleged defamatory statement ‘has a precise core of meaning for which a consensus of

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<sup>25</sup> *Bandstra v. Covenant Reformed Church*, 913 N.W.2d 19, 46-47 (Iowa 2018) (internal citations omitted).

<sup>26</sup> See Pl’s Am. Pet., pp. 58-63.

<sup>27</sup> *Bandstra*, 913 N.W.2d at 46.

<sup>28</sup> BLACK’S LAW DICTIONARY 526 (11th ed. 2019).

<sup>29</sup> *Bauer v. Brinkman*, 958 N.W.2d 194, 198 (Iowa 2021).

<sup>30</sup> *Andrew v. Hamilton Cnty. Pub. Hosp.*, 960 N.W.2d 481, 489 (Iowa 2021).

understanding exists or, conversely, whether the statement is indefinite and ambiguous.” Second, we consider to what degree the statement is “objectively capable of proof or disproof.” Third, we examine “the context in which the alleged defamatory statement occurs.” Fourth, we contemplate “the broader social context” the alleged defamatory statement fits into.<sup>31</sup>

Another essential element to recovery from defamation is that such a defamatory statement be published.<sup>32</sup> To satisfy the publication requirement, a party must demonstrate that the communication was made “to one or more third persons.”<sup>33</sup> Such a third person must not only have heard the statement but also have understood the statement to be defamatory.<sup>34</sup> The court examines whether a listener understood the statement to be defamatory by viewing it “in the context of the surrounding circumstances and within the entire communication.”<sup>35</sup>

#### A) Slander

On her claim for slander, Sondra points to the three items: (1) Denise’s statement to Sharon and Lyndsay in February 2022 that “she felt unheard and disrespected as well as overwhelmed by the volume of texts and communication coming from Sondra,”<sup>36</sup> (2) Willa’s statements to Sharon about “feeling harassed by Sondra,”<sup>37</sup> and (3) the subsequent discussion between Lyndsay, Denise, Willa, and Sharon regarding the employees’ feelings.<sup>38</sup>

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<sup>31</sup> *Bauer*, 958 N.W.2d at 198.

<sup>32</sup> *Id.*

<sup>33</sup> *Bandstra*, 913 N.W.2d at 47.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Pl’s Am. Pet., p. 56.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

These statements do not rise to the level of defamatory. The statements regarding how Denise and Willa *felt* — such as *feeling* unheard, disrespected, and harassed—are indefinite and ambiguous, and they cannot objectively be proven or disproven. These reflect the opinions of the speakers. Viewing these statements within the greater context of circumstances, Lyndsay and Sharon could have understood these to be accusations against Sondra, or instead, they could have understood the statements as Denise and Willa sharing their concerns and feelings with their continued employment and presence at Lockwood Café. Sharon reported that she wanted to “provid[e] a safe space for employees of Lockwood [Café]” in response to the employees’ concerns.<sup>39</sup> Considering these factors, the petition does not allege sufficient facts to support a legal claim for slander. The Defendants’ motion to dismiss the slander claim is granted.

#### B) Libel

Sondra next alleges that all five individual defendants and the two business defendants committed libel in retaliation against her for filing a complaint with the ICRC against Reliable Street, Lockwood Café, and Love Club, LLC.<sup>40</sup> The allegedly libelous statements are set forth in detail on pages 48-58 of the Amended Petition.<sup>41</sup> As set forth above, Sondra has alleged that the statements concerned her, were false, were made

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<sup>39</sup> *Id.*

<sup>40</sup> Sondra alleges that Love Club, LLC, was the registered owner of the real property. Love Club, LLC, is not a named defendant in this case.

<sup>41</sup> Charlie did not own or work for Reliable Street or Lockwood Café. He was merely a customer, highlighted artist, and friend. The Court cannot determine why Charlie chose to be involved in the ICRC process at all. However, they did so, and their statements made to the ICRC may open them up to liability in this lawsuit just like the businesses and their employees’ statements.

with malice, and resulted in damage to her reputation. The Court only addresses the elements of publication and whether they were defamatory.

The Defendants claim the documents submitted to the ICRC are confidential and were not otherwise published outside of their small group. Sondra contends that the documents submitted to the ICRC are public records. She cites an advisory opinion from the Iowa Public Information Board in support of her allegation.<sup>42</sup> However, it is clear that Sondra's argument is taken out of context and the rest of the Advisory Opinion reflects that ICRC complaints and responses are subject not only to Chapter 22, the open records law, but also to Chapter 216, the Chapter governing the Iowa Civil Rights Act ("ICRA"). Contrary to Sondra's assertion that the documents are open to the public upon request, Iowa Code section 216.15(5) provides,

The members of the commission and agency staff shall not disclose the filing of a complaint, the information gathered during the investigation, or the endeavors to eliminate such discriminatory or unfair practice by mediation, conference, conciliation, and persuasion, unless such disclosure is made in connection with the conduct of such investigation.

The Iowa Office of Civil Rights has created regulations pursuant to its mandate from the Iowa legislature.<sup>43</sup> One such regulation provides further confidentiality:

Disclosure of the existence or contents of a case file is prohibited, except:

- a. Upon filing an appeal in district court of a final action, parties and their attorneys may access their case file.

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<sup>42</sup> 13AO:0001 *Request for Advisory Opinion, Iowa Civil Rights Commission*. Iowa Pub. Info. Bd. (Oct. 3, 2013) (<https://ipib.iowa.gov/advisory-opinion-icrc>) (last accessed Oct. 1, 2024).

<sup>43</sup> Iowa Code § 216.15(12) (2024) (requiring the agency to "establish rules to govern, expedite, and effectuate the procedures" of the ICRA); Iowa Code § 216.2(01) (defining "agency" as the "administrative function of the Iowa office of civil rights" and excluding members of the Iowa state civil rights commission).

- b. When a case has been set for a contested case hearing and notice has been mailed, parties and their attorneys may access their case file through discovery pursuant to rule 161-4.7(17A).
- c. Parties and their attorneys may access the case file upon appeal of a decision rendered by an administrative law judge in a contested case. The introduction of documents into evidence from a case file during a contested case hearing does not waive the confidentiality of other documents within that case file.<sup>44</sup>

There is a more basic issue at hand. Although the ICRC staff are duty bound not to share the information publicly, the statements made by the defendants **to** the ICRC investigator in the course of the investigation still constitute “publication” for purposes of a defamation claim. “Publication . . . simply means a communication of statements to one or more third persons.”<sup>45</sup> Contrary to the defendants’ assertions, the statements were published to the ICRC investigator. No further publication of the statements is required. This element has been met.

The question of whether the ICRC investigator would consider the statements to be defamatory is a closer call. Some of the alleged statements are capable of having defamatory meaning: they may impute crimes to Sondra (most notably, harassment and stalking), may be likely to impair Sondra’s ability to work, and/or may expose Sondra to general hatred, contempt or ridicule. The Court cannot say as a matter of law that there is no set of facts upon which Sondra could recover damages for libel.

Viewing the facts in the light most favorable to Sondra, she has pled sufficient facts to support her written defamation claim to survive a motion to dismiss. The motion to

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<sup>44</sup> Iowa Admin. Code r. 161-3.56(216) (2024).

<sup>45</sup> *Bierman*, 826 N.W.2d at 464 (quoting *Huegerich v. IBP, Inc.*, 547 N.W.2d 216, 221 (Iowa 1996)).



dismiss Sondra's claim for libel is denied. The Defendants shall file their Answer to this claim within 20 days of entry of this Order.

### III. Promissory Estoppel Claim

Iowa has established four required elements of promissory estoppel:

(1) a clear and definite promise; (2) the promise was made with the promisor's clear understanding that the promisee was seeking an assurance upon which the promisee could rely and without which [s]he would not act; (3) the promisee acted to h[er] substantial detriment in reasonable reliance on the promise; and (4) injustice can be avoided only by enforcement of the promise.<sup>46</sup>

Although promissory estoppel was previously viewed more narrowly as merely a substitute for consideration, more recent cases in Iowa have shifted to a broader emphasis on reliance.<sup>47</sup>

Sondra alleges two instances in which she argues she is owed compensation under the theory of promissory estoppel: (1) the garden agreement, in which Lockwood Café agreed to give Sondra a 50% discount on all purchases at Lockwood Café as gratitude for Sondra's volunteer efforts in helping to manage their garden; and (2) the prairie project, in which Lockwood Café allowed Sondra to expand her volunteer garden project to install native tallgrass prairie. In this second agreement, Lockwood Café did not promise any additional compensation or discounts to Sondra. Sondra contends that Lyndsay promised Sondra and Emily, President of SHEPH, that they were "in charge" of the garden through the 2022 growing season. Although Sondra concedes that all of the work she performed per these two agreements was done on a volunteer basis, she argues

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<sup>46</sup> *Kunde v. Est. Bowman*, 920 N.W.2d 803, 810 (Iowa 2018) (quoting *Schoff v. Combined Ins. Co. Am.*, 604 N.W.2d 43, 49 (Iowa 1999)).

<sup>47</sup> *Id.* at 810.

that she should be compensated for her labor in planning the projects and for the value by which she anticipated they would enhance her resume and portfolio.

The Court first looks for a clear and definite promise. A “promise” is the “manifestation of an intention to act ... in a specified manner, conveyed in such a way that another is justified in understanding that a commitment has been made.”<sup>48</sup> A promise is “clear” when it is free from doubt and unambiguous.<sup>49</sup> A promise is “definite” when “the assertion is explicit and without any doubt or tentativeness.”<sup>50</sup> Upon careful examination, Lockwood Café did not make any clear and definite promise in the prairie agreement. It merely approved the proposal, which expanded the volunteer activities Sondra already performed for Lockwood Café. Lockwood Café offered her no further benefits or compensation upon which Sondra could have reasonably relied in consideration of the prairie project. Because Lockwood Café made no clear and definite promise in the prairie project, the promissory estoppel claim must be dismissed as it relates to that project.

In reviewing the garden agreement, Sondra contends that Lyndsay affirmed that Sondra and Emily from SHEPH were “in charge” of the garden throughout the 2022 growing season and that is the promise upon which Sondra relies to form the basis of her promissory estoppel claim. However, her contention is misplaced. Sondra was an unpaid volunteer. There was no clear and definite promise that if the project were not completed for any reason, Sondra would be entitled to any compensation. For example, if a derecho had taken out the garden, Sondra would not have completed the 2022 growing season and Sondra would not have been entitled to any particular financial benefit in exchange

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<sup>48</sup> BLACK’S LAW DICTIONARY 1466.

<sup>49</sup> *Id.* at 317.

<sup>50</sup> *Schoff*, 604 N.W.2d at 51.

for her volunteer work to that point. Similarly, if Emily moved out of state or dropped out of SHEPH to focus on schoolwork or other activities, Emily would no longer be “in charge” of the project contrary to Lyndsay’s statement.

The Iowa Supreme Court has applied promissory estoppel in the employment at will context.<sup>51</sup> Sondra’s volunteer work was likewise at will, terminable by either party at any time. In *Schoff*, the Iowa Supreme Court distinguished between a promise and a representation. A representation is “a statement . . . made to convey a particular view or impression of something with the intention of influencing opinion or action.”<sup>52</sup> Lyndsay’s message that Sondra and Emily were “in charge” during the 2022 growing season merely conveyed her impression or understanding of a certain fact – that Sondra and Emily would be primarily the individuals handling all aspects of the volunteer work surrounding the garden during the time in question. The statement was a representation, not a promise that Lyndsay forbear from taking action on employee complaints or that Sondra and Emily would be “in charge” regardless of any other issues that could arise.

Alternatively, if the “promise” alleged to form the basis of the claim is a 50% discount on all purchases made at the café while Sondra volunteered on the garden projects, there is no allegation that this promise was ever breached. Sondra’s Amended Petition reflects that she received the discount through March 31, 2022. Therefore, there was no detriment to Sondra in relying on the promised discount – she got exactly what she bargained for in that respect.

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<sup>51</sup> *Id.* at 50.

<sup>52</sup> *Id.* at 51.

Because Sondra has not alleged sufficient facts to maintain a promissory estoppel claim based on either the garden agreement or the prairie project, the claim must be dismissed.

#### IV. Discrimination Claim

Sondra alleges that Lockwood Café and Reliable Street discriminated against her in the course of her employment on the basis of her gender identity in violation of the ICRA.<sup>53</sup> The ICRA states, pertinent part,

It shall be an unfair or discriminatory practice for any [p]erson ... to discharge any employee, or to otherwise discriminate against ... any employee because of ... gender identity ..., unless based upon the nature of the occupation.<sup>54</sup>

This is a “general proscription against discrimination” and the Court looks to federal statutes to “help establish the framework to analyze claims and otherwise apply our statute.”<sup>55</sup> Because the ICRA is modeled after Title VII of the United States Civil Rights Act, the Court looks to federal cases interpreting Title VII for guidance in evaluating the ICRA where there are no Iowa cases on point.<sup>56</sup>

The ICRA prohibits discrimination in *employment*. Sondra was a *volunteer*. Sondra points to a case in the United States District Court for the District of Maryland to support her stance that unpaid volunteers are protected by Title VII (and her argument that such protections should be extended to Iowa volunteers under the ICRA).<sup>57</sup> In *Finkle*, the

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<sup>53</sup> The Defendants’ Motion to Dismiss and Sondra’s Resistance thereto address a possible public accommodation discrimination claim but the Amended Petition does not allege any facts or claims based upon public accommodation. The Court only addresses Sondra’s ICRA discrimination claim in the context of employment just as she did in the Amended Petition.

<sup>54</sup> Iowa Code § 216.6(1)(a).

<sup>55</sup> *Hedlund v. State*, 930 N.W.2d 707, 719 (Iowa 2019).

<sup>56</sup> *Id.*

<sup>57</sup> See *Finkle v. Howard County, Md.*, 12 F. Supp. 3d 780 (D. Md. 2014).

federal court held that an unpaid volunteer's "employment" fell within the scope of Title VII because her volunteer work as an Auxiliary Police Officer entitled her to "significant remuneration benefits available upon injury or death."<sup>58</sup> That court followed the test laid down by the Fourth Circuit which asks whether "as a matter of economic reality [an individual is] dependent upon the business to which they render services."<sup>59</sup> Even if this Court were to apply the Fourth Circuit test to this fact pattern, Sondra would not fall under the protection of the ICRA, as the economic reality shows that she was not economically dependent upon the businesses (Reliable Street and Lockwood Café) to which she rendered volunteer labor. Although she received the benefit of an in-store discount on any purchases from the café, that is not significant enough to qualify for employment protections. Sondra alleges that, but for the offered discount, she would not have performed the volunteer labor. While the Court is dubious of Sondra's assertion, even assuming that is true, such a discount is not in any way comparable to the types of benefits to which Finkle was entitled.

In a case before the United States Court of Appeals for the Eighth Circuit, the appellate court held that a volunteer researcher for the United States Department of Agriculture Forest Service could not be considered an employee for the purposes of Title VII because she "was not paid, did not receive annual and sick leave benefits or coverage under any federal retirement program, and she was not entitled to merit promotion, holiday pay, insurance benefits, or competitive status."<sup>60</sup> The court determined that,

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<sup>58</sup> *Id.* at 785-786.

<sup>59</sup> *Haavistola v. Comm. Fire Co. of Rising Sun, Inc.*, 6 F.3d 211, 220 (4th Cir. 1993).

<sup>60</sup> *Jacob-Mua v. Veneman*, 289 F.3d 517, 521 (8th Cir. 2002).

because she was not an "employee", she could not bring a Title VII claim.<sup>61</sup> The United States District Court for the Northern District of Iowa applied the analysis of *Jacob-Mua* in holding that an unpaid volunteer basketball scorekeeper did not have an employment relationship with the school district for which he kept score.<sup>62</sup> The volunteer was unable to prove an adverse employment action was taken against him because he could make no showing of employment.<sup>63</sup> The Court finds the cases arising in the Eighth Circuit to be more persuasive and applicable to the present case.

Sondra was not paid for her volunteer work. The only tangible benefit she derived was a discount to the coffee shop she at which she volunteered. She did not receive pay, holiday pay, retirement benefits, health, disability, or life insurance benefits, sick leave benefits, or entitlement to any promotion based on merit. Simply put, Sondra was an unpaid volunteer and has not made any showing of employment that could support a claim based on employment discrimination under the ICRA. Therefore, the Motion to Dismiss must be granted on the discrimination claim.

Sondra has asked for injunctive relief in the form of changing in the law to create a new protection for volunteers under the ICRA. Sondra relies primarily on the *Finkle* case.<sup>64</sup> The Court does not believe the case supports her claim, as the Maryland plaintiff was "entitled to significant remuneration benefits available upon injury or death,' as well

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<sup>61</sup> *Id.*

<sup>62</sup> *Newbrough v. Bishop Heelan Cath. Schs.*, No. C13-4114, 2015 WL 759478 at \*10 (N.D. Iowa Feb. 23, 2015).

<sup>63</sup> *Id.*

<sup>64</sup> *Finkle*, 12 F. Supp. 3d at 780.

as ‘good and valuable training service opportunities.’”<sup>65</sup> There were no training or financial benefits extended to Sondra in consideration of her volunteer service other than a discount on items purchased from the café.

This Court must apply the law currently in place as created by the Iowa legislature and as interpreted by the Iowa Supreme Court and Iowa Court of Appeals. The Court declines to grant Sondra’s request for injunctive relief by establishing a new protection for volunteers under ICRA that neither the legislature nor the appellate courts have previously addressed. Sondra’s post-hearing request for auxiliary relief is denied.

## V. Fraud Claim

Not every lie or false statement will create an actionable fraud claim. To prevail in a claim for common law fraud, the plaintiff must prove each of the following elements:

(1) [the] defendant made a representation to the plaintiff, (2) the representation was false, (3) the representation was material, (4) the defendant knew the representation was false, (5) the defendant intended to deceive the plaintiff, (6) the plaintiff acted in [justifiable] reliance on the truth of the representation ..., (7) the representation was a proximate cause of [the] plaintiff’s damages, and (8) the amount of damages.<sup>66</sup>

In support of her fraud claim, Sondra points to a “fraud scheme agreement” between the defendants to harm her reputation and integrity. She argues that the acts in support of this fraud were the allegations the defendants made to the ICRC that Sondra engaged in racism, stalking, and harassment. This appears to be an extension of the libel claim in Count II.

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<sup>65</sup> *Id.* at 782; *see also id.* at 785 (distinguishing cases in which plaintiff volunteers were not entitled to sufficient benefits to justify including the volunteers as employees for Title VII, the Federal statute comparable to ICRA).

<sup>66</sup> *Dier v. Peters*, 815 N.W.2d 1, 7 (Iowa 2012) (quoting *Gibson v. ITT Hartford Ins. Co.*, 621 N.W.2d 388, 400 (Iowa 2001)).

Even taking the petition's claims of a fraud scheme among the defendants as true, the facts do not support an actionable claim. The fraudulent misrepresentation must have been made *to Sondra*. The only allegedly false statements made to Sondra were those made during the March 31, 2022, meeting with Lyndsay and Sharon. Sharon and Lyndsay told Sondra that some accusations had been made (which Sondra later learned were made by Denise and Willa). There is no allegation that Sharon and Lyndsay falsely reported their employees' statements to Sondra – merely that they initially withheld identifying the complainants for fear of reprisal. Further, Sondra did not (and still does not) believe these accusations to be true, which means she could not have acted in justifiable reliance on the representations. Therefore, her reliance cannot be the proximate cause of her damages. The Motion to Dismiss the fraud claim is granted.

#### **VI. Attorney Fees and Costs to Transfer Case**

Mr. Esker requests an award of reasonable attorney fees and expenses incurred by the Defendants in transferring the case to Story County. Sondra resists the request. She alleges in her petition that she filed her lawsuit in Polk County for three reasons: (1) she relied upon information she received from the Story County Attorney's Office via the Ames Police Department that this case was not within Story County's jurisdiction; (2) she did not believe she would be able to receive a fair trial in Story County due to experiences in 2006, 2009, and 2022; and (3) the popularity of Reliable Street and Lockwood Café.

Sondra made the same arguments before the case was transferred and the Polk County judge determined the lawsuit was wrongly filed in Polk County. It was subsequently transferred to Story County, the proper county, upon the Defendants' pre-answer motion. Contrary to Sondra's objections, this Court need not re-litigate whether



the case was properly or improperly transferred. The only question is whether Sondra is responsible for the payment of attorney fees and costs as a result of filing the case in the wrong county.

Iowa Rule of Civil Procedure 1.808(1) provides:

An action brought in the wrong county may be prosecuted there until termination, unless a defendant, before answer, moves for change to the proper county. Thereupon the court shall order the change at plaintiff's costs, which may include reasonable compensation for defendants' trouble and expense, including attorney's fees, in attending in the wrong county.

Pursuant to the Rule, the court "**shall**" require Sondra to pay the costs, including Defendants' attorney fees in appearing in Polk and having to transfer the case to the correct venue. The Rule is clear: the Court does not have discretion in this regard. It must order Sondra to pay Mr. Esker's reasonable attorney fees and expenses related to the motion to transfer. Mr. Esker filed an itemized attorney fee statement (D0001, pp. 75-76) reflecting that the defendants incurred attorney fees of \$478 plus \$41 in costs advanced.<sup>67</sup> The Court finds the fees and costs to be reasonable. Sondra shall pay no less than \$50 per month beginning with the first payment due on October 15, 2024, and she shall make payments of no less than \$50 each successive month thereafter due on the 15<sup>th</sup> of each month until the total amount (\$519) is paid in full. Such payments shall be mailed to Mr. Esker's business address and made payable to Mr. Esker. Mr. Esker shall file a receipt and satisfaction when full payment has been received.

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<sup>67</sup> The Defendants' Motion to Enlarge Order Granting Motion to Change Venue (D0001, pp. 80-82) and the Polk County Order regarding this topic both list attorney fees of \$478 and costs advanced of \$41. (D0001, p. 5).

## CONCLUSION

As stated at the beginning of this Order, the case arises from an unfortunate conflict between individuals in a tight-knit community in Ames. In reviewing the Amended Petition, it is painfully evident to the Court that Sondra was very excited and enthusiastic about everything she did at and for Reliable Street and Lockwood Café, and that the others may have maintained excitement in their responsive text messages to her even if they were not quite as positive about all of Sondra's involvement in reality. In an apparent effort to spare Sondra's feelings, they were not entirely truthful with her. Eventually, one or more employees of Lockwood Café complained to the owner about Sondra. In response, Sharon supported her employees. While Reliable Street and Lockwood Café undoubtedly benefited from Sondra's volunteering – working in the garden, setting up open mic nights, etc. – Sondra was merely a volunteer and had no right to expect payment when she was asked to no longer return to the facilities.

There is no evidence that Sondra was asked to leave because she is a trans woman. There is no evidence that any of the Defendants ever said or did anything to treat Sondra differently due to her identity. Just the opposite – it appears that each of the individual defendants went out of their way to be nice to Sondra and avoid saying anything directly to her that would upset her. Unfortunately, that is precisely why Sondra was blindsided and hurt when she was ejected from the premises and later when she read the documents presented to the ICRC.<sup>68</sup>

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<sup>68</sup> This Conclusion section is in no way intended to comment on the validity of the remaining claim. The Court wants Sondra to know she has been heard on her other complaints, but the dismissed claims have no legal basis.

The Defendants have accused Sondra of “harassing” them by filing this lawsuit, pursuing depositions and other discovery methods.<sup>69</sup> The Court believes the Defendants chose a poor word. Litigation is always uncomfortable, inconvenient, and expensive. It inherently takes time away from other pursuits. The Court does not perceive this lawsuit as being filed for any hurtful or vindictive purpose but because Sondra felt hurt by those she considered to be close friends and she is trying to find a reason for them hurting her.<sup>70</sup> Rather than seeing that her friends were not as appreciative of her efforts and enthusiasm as she was, she accuses them of having nefarious intentions from the start. Simply put, that was not the case. Even assuming all of Sondra’s well-pleaded facts to be true, she has failed to demonstrate that she has a right of recovery under the law for any of the claims based upon unjust enrichment, slander, promissory estoppel, discrimination, and fraud, and those claims must be dismissed.

### ORDER

**IT IS ORDERED** as follows:

- 1) Defendants’ Motion to Dismiss Amended Petition Filed June 17 (D0022), which was filed on July 5, 2024, is **GRANTED IN PART AND DENIED IN PART**. All claims other than the libel claim contained in Count II are dismissed with prejudice.

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<sup>69</sup> Sondra asks the Court to prohibit the Defendants from using the words “harassment” or “harassing conduct” in describing her court filings and claims. See Motion to Estop, filed July 30, 2024 (D0028, pp. 13-14). The motion is denied, although the Court might have preferred the Defendants to use a different term.

<sup>70</sup> The Court has greater concerns regarding Sondra’s efforts to get charges filed against Lyndsay and Charlies by the Ames Police Department or the Story County Attorney’s Office, but no charges have been filed and the Court does not know whether Lyndsay and Charlie were even aware of the efforts until Sondra included them in her Amended Petition.

- 2) Defendants shall file their Answer to Count II (libel) within 20 days of entry of this Order.
- 3) Sondra's Motion to Estop (D0001, pp. 102-103), filed March 15, 2024, is **DENIED**.
- 4) Sondra's Motion to Estop (D0028, pp. 13-14), filed July 30, 2024, is **DENIED**.
- 5) Sondra's Request for Auxiliary Remedy (D0034), filed August 13, 2024, is **DENIED**.
- 6) Defendants' request for attorney fees and expenses incurred in transferring the case to the correct venue is **GRANTED**. Sondra shall pay a total of \$519 in monthly payments of no less than \$50 per month beginning with the first payment due on October 15, 2024, until paid in full. Such payments shall be mailed to Mr. Esker's business address and made payable to Paul Esker. Mr. Esker shall file a receipt and satisfaction when full payment has been received.

Copies to:  
Sondra Wilson  
Paul Esker

If you need assistance to participate in court due to a disability, call the disability coordinator at 515-576-6336. Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942).

**Disability coordinators cannot provide legal advice.**



State of Iowa Courts

**Case Number**  
LACV053674

**Case Title**  
(BJC) ALEXANDRA WILSON VS RELIABLE STREET INC ET

**Type:**

AL  
OTHER ORDER

So Ordered

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Bethany Currie, District Court Judge  
Second Judicial District of Iowa

Electronically signed on 2024-10-04 15:05:23