

House Bill 1058
House Judiciary Committee
Testimony Presented by Sara Behrens
January 4, 2022

Good afternoon Chairman Klemin, members of the committee. My name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. I am here today in support of House Bill 1058. This amendment makes it clear that the Supreme Court can award attorney's fees when a small claims case is appealed from the district court. Section 27-08.1-04 currently mandates an award of attorney's fees to the prevailing plaintiff when the defendant has removed the action from small claims court to district court. However, the statute is silent regarding whether this includes attorney's fees when the action is then appealed. Precluding an award of attorney's fees on appeal could dissipate the recovery. The North Dakota Supreme Court decided a recent case finding that it is consistent with the current statutory language that reasonable attorney's fees should be awarded on appeal. Rather than remanding to the district court to make this determination, this amendment would provide the clear authority for the Supreme Court to make the award of attorney's fees for the appeal. Thank you for your consideration and we urge a do pass.