

**State of Minnesota
In the Court of Appeals**

Nicholas Rekieta and
Rekieta Law, LLC,
Appellants

Appellate Court Case #
District Court # 34-CV-23-12

vs.

**Statement of the case
of Appellant**

Steve Quest
Respondent.

1: Originating court

This case originates from the Kandiyohi County District Court,
Hon. Jennifer K. Fischer, District Judge, presiding.

2: Jurisdictional statement

This is an interlocutory appeal from a district court order denying summary judgment and immunity from suit pursuant to Minn. R. Civ. App. P. 103.03(j) and Colo. Rev. Stat. §§ 13-20-1101(7) and 13-4-102.2. The order appealed from was filed on July 10, 2023, and the judgment was entered on July 11, 2023. The notice of appeal

was due within 60 days of the order appealed from. Minn. R. Civ. App. P. 104.01, subd. 1. No motions tolled the appeal time. The notice of appeal was timely filed 59 days after the order, on September 7, 2023.

The order appealed from does not dispose of all claims by and against all parties, nor did the district court enter a final partial judgment for immediate appeal. This interlocutory appeal is taken pursuant to a statute which authorizes an immediate appeal from the denial of a special motion to dismiss and because this is an appeal of the denial of immunity from suit. *McGovern v. Minneapolis*, 475 N.W.2d 71, 72 (Minn. 1991).

3: Type of litigation and statutes at issue

This appeal arises out of a defamation case brought by a Colorado citizen against two Minnesota citizens. Colorado law provides Defendants substantive immunity to suit. Colo. Rev. Stat. § 13-20-1101.

4: Description of issues raised below

Plaintiff brought a claim against Defendants for defamation, intentional infliction of emotional distress, and negligent infliction of emotional distress on account of statements attributed to Defendants. Defendants filed the statutorily prescribed special motion to dismiss, as a motion for summary judgment per Minn. R. Civ. P. 56, asserting that Colorado law, including its substantive immunity from suit under Colo. Rev. Stat. § 13-20-1101 applies to the action under the *Restatement (Second) Conflict of Laws* test, which has been adopted by Minnesota. *See State v. Castillo-Alvarez*, 836 N.W.2d 527, 538 n.6 (Minn. 2013) (collecting cases). The trial court determined that Colorado law did not apply and denied the motion.

5: Statement of issues

Whether the District Court erred as a matter of law by failing to find that Colorado law applies and by failing to dismiss the case therefor on account of the immunity from suit thereunder.

6: Related appeals

None.

7: Contents of record

The Court should review the transcript of the hearing on motion to dismiss. The same has already been ordered and paid for by Appellants.

8: Oral argument

The Court should entertain oral argument at the Minnesota Judicial Center in St. Paul.

9: Type of brief

A formal brief will be filed.

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10: Counsel identification**Counsel for Respondent:**

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Respectfully submitted,
By: s/ Matt Kezhaya



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