

STATE OF SOUTH DAKOTA
:SS
COUNTY OF HANSON

IN CIRCUIT COURT
FIRST JUDICIAL CIRCUIT

JOHN & DEBORAH E. HORNIDGE,

Plaintiffs,
vs. Case No. 30CIV25-000032
BRENT & MELISSA MENTELE, et al.,

Defendants/Counterclaim Plaintiffs.

FILED

JUL 06 2026

Pam Koupal
Hanson County Clerk of Courts
First Judicial Circuit Court of SD

**DEFENDANTS' SUPPLEMENTAL NOTICE OF ADDITIONAL DEFECTS
IN PLAINTIFFS' REPLY TO COUNTERCLAIM**

Defendants and Counterclaim Plaintiffs Brent Mentele and Melissa Mentele (collectively "Mentele") respectfully submit this Supplemental Notice in further support of their Opposition to Plaintiffs' Motion to Extend Time to Reply to Counterclaim, and in advance of the hearing scheduled for July 6, 2026. The following two matters appear on the face of Plaintiffs' own filings and are submitted for the Court's consideration together with the arguments already set forth in Defendants' Opposition.

I. THE REPLY'S FRAUD DEFENSE WAS FILED UNFINISHED

1. The heading introducing the Third Affirmative Defense in Plaintiffs' Reply to Counterclaim reads in full: *"FOR A THIRD A (AFFIRMATIVE) DEFENSE (FRAUD) (further research on this):"*
2. The parenthetical "(further research on this)" is an internal drafting note. It was not removed before the pleading was signed, verified, and served on Defendants. Its presence in the filed document establishes that the fraud theory asserted in the Third Affirmative Defense had not been completed, researched, or confirmed by the drafter at the time the Reply was filed.
3. A party seeking relief from default under SDCL 15-6-55(c) must show a meritorious defense. A defense that its own drafter flagged internally as requiring further research — and then filed

anyway without completing that research — cannot satisfy this burden. This defect independently supports denial of Plaintiffs' Motion to Extend Time on the meritorious defense element, in addition to the grounds already briefed in Defendants' Opposition.

II. THE REPLY WAS BACKDATED TO CREATE A FALSE APPEARANCE OF TIMELINESS

4. The signature block on the final page of Plaintiffs' Reply to Counterclaim, immediately below the Demand for Jury Trial, is dated June 25, 2026.

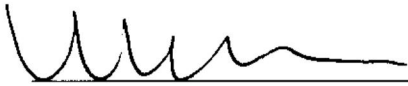
5. The Certificate of Service filed with the Reply — covering the Motion to Extend Time, the Affidavit of J.R. Davies, the Reply to Counterclaim, and the Certificate of Service itself — states that all four documents were mailed to Defendants on June 30, 2026, five days after the date appearing on the Reply's own signature block.

6. This is not a matter of Plaintiffs' counsel losing track of the date. By his own affidavit, counsel calculated a thirty-day deadline running from service of the Counterclaim on May 27, 2026 — a calculation that was itself incorrect, as the correct deadline under SDCL 15-6-12(a) was twenty days. Even accepting counsel's own erroneous thirty-day calculation, that self-imposed deadline expired on June 26, 2026. The Reply is dated June 25, 2026 — one day before counsel's own incorrect deadline — yet was not finalized, signed, or served for another five days.

7. The June 25 date on the Reply does not reflect when the document was actually completed or served; every other filing by Plaintiffs' counsel in this matter was served the same day it was dated or signed. The only reasonable explanation for a five-day gap between the date on the document and the date it was actually served is that the Reply was backdated to create the appearance that it had been completed within counsel's own self-calculated deadline, when in fact it had not been. This is a materially different and more serious defect than mere delay: it reflects an attempt to manufacture a paper record of timeliness that did not exist in fact, and it bears directly on the credibility of the representations made in counsel's Affidavit in support of the Motion to Extend Time.

For the foregoing reasons, together with the reasons set forth in Defendants' previously filed Opposition, Defendants respectfully request that the Court deny Plaintiffs' Motion to Extend Time to Reply to Counterclaim.

Respectfully submitted this 6th day of July, 2026.



Melissa Mentele
Defendant and Counterclaim Plaintiff

[REDACTED] Emery, SD [REDACTED]

[REDACTED]
[REDACTED]

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing Supplemental Notice of Additional Defects in Plaintiffs' Reply to Counterclaim was served upon James Davies, Attorney at Law, 409 Main Ave, Alexandria, SD 57311, by the method indicated:

☒ Hand Delivered *Michael Dwyer*
☐ United States Mail, First Class, Postage Prepaid
☐ Email: daviesj@triotel.net

Dated this 6th day of July, 2026.


Melissa Mentele

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