

IN THE IOWA DISTRICT COURT FOR HARDIN COUNTY

CHAD T. ZOSKE,

PLAINTIFF,

v.

**DEREK N. WULF, INDIVIDUALLY,
DRESDEN WULF, INDIVIDUALLY, AND
SHALLOW CREEK LAND & LIVESTOCK,
LLC**

Defendants.

CASE NO.: LACV102444

MOTION TO DISMISS

COMES NOW, Defendants, together, by and through their attorney undersigned counsel, and hereby files a Motion to Dismiss Plaintiff Chad T. Zoske’s (“Zoske”) claims. In support of said Motion, Defendants state as follows:

BACKGROUND

1. On February 19, 2026, Zoske filed a Petition at Law in Hardin County District Court alleging Defendant’s breach of contract with Zoske.
2. Zoske Petition at paragraph 10 alleges that the contract was “for purposes of housing swine and for services of Plaintiff caring for the swine.”
3. Zoske’s claims therefore fall under Iowa Code § 654B, governing Farm Mediation for Care and Feeding Contracts, and Iowa Code § 654B.3, which commands mandatory mediation proceedings prior to initiation of an action for such disputes.

ARGUMENT

I. STANDARD FOR MOTION TO DISMISS

“A motion to dismiss tests the legal sufficiency of Plaintiff’s petition.” *Schaffer v. Frank Moyer Constr., Inc.*, 563 N.W.2d 605, 607 (Iowa 1997); Iowa R. Civ. P. 88(a), (f). When ruling on a motion to dismiss, courts “accept as true the petition’s well-pleaded factual allegations, but not it’s legal conclusions.” *Shumate v. Drake Univ.*, 846 N.W.2d 503, 507 (Iowa 2014). A motion to dismiss for “‘want of jurisdiction of the subject matter may be taken advantage of at any stage of the processing’ and ‘need not be pled.’” *Valles v. Mueting*, 956 N.W.2d 479, 483 (Iowa 2021) (quoting *Lloyd v. State*, 251 N.W.2d 551, 556 (Iowa 1977)).

II. IOWA LAW REQUIRES PARTIES IN CARE AND FEEDING CONTRACTS (IOWA CODE § 654B) TO ENGAGE IN MANDATORY MEDIATION PROCEEDINGS BEFORE FILING SUIT IN DISTRICT COURT; FAILURE TO DO SO DEPRIVES THE COURT OF SUBJECT MATTER JURISDICTION

Zoske alleges Defendants’ breach of a contract to rent space from Zoske to house Defendants’ swine, and to have Zoske care for said swine. Zoske’s allegations are, on the face of the Petition, for breach of a care and feeding contract under Iowa Code § 654B. Under Iowa law, parties to a care and feeding contract must first engage in mandatory mediation proceedings before filing suit in district court. Iowa Code § 654B.3. The code specifies that mandatory mediation proceedings are “jurisdictional prerequisites” to bringing their claims in district court. Iowa Code § 654.3(1)(b). The Iowa Supreme Court has held that failure to engage in mandatory mediation proceedings with the farm mediation service will deprive a court of subject matter jurisdiction, thereby requiring dismissal. *Klinge v. Bentien*, 725 N.W.2d 13, 18 (Iowa 2006).

In the present case, Zoske has not engaged in, or even initiated, mediation proceedings with the farm mediation service. Zoske has therefore filed suit prematurely

in this Court and in direct contravention of the jurisdictional requirements established by the legislature and the Iowa Supreme Court. *See id*; Iowa Code § 654B.3(1)(b). Until Zoske satisfies the requirements of Iowa Code § 654B.3, this Court lacks subject matter jurisdiction over the petition as filed.

In this case, Zoske alleges Defendants' breach of a care and feeding contract which is governed by Iowa Code § 654B. Zoske has not initiated or otherwise engaged in mandatory mediation proceedings required by the statute. Until such a time, this Court lacks subject matter jurisdiction over Zoske's claim, thereby making dismissal mandatory.

WHEREFORE, for all the reasons stated herein, Defendants request that this Court grant Defendants Motion to Dismiss Plaintiff Zoske's claims and grant any other relief as the Court deems proper and just.

Respectfully submitted,

/s/ Brian J. Lalor

Brian J. Lalor AT0010564
WANDRO, KANNE, & LALOR, PC
2015 Grand Avenue, Suite 102
Des Moines, Iowa 50312
Telephone: (515) 717-7455
Email: Blalor@wandrolaw.com
ATTORNEY FOR DEFENDANTS