

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

BRANDON ZITTERKOPF,)	
individually and on behalf of)	
his minor son, IZIAH)	
ZITTERKOPF, HENRY ZITTERKOPF,)	
individually and as Personal)	
Representative of the Estate)	
of LISA ZITTERKOPF,)	
)	
Plaintiff,)	7:08CV3190
)	
v.)	
)	
LANNY HANKS, in his official)	ORDER
and individual capacities,)	
BRYAN MOREHOUSE, in his)	
official and individual)	
capacities, and MARK BLISS in)	
his official and individual)	
capacities,)	
)	
Defendants.)	
)	

This matter is before the Court on defendants Mark Bliss and Lanny Hanks' (collectively, "Nebraska Defendants") motion for summary judgment on Henry Zitterkopf's state law claim for malicious prosecution and IZIAH Zitterkopf's state law claims for assault and battery (Filing No. 92). The Nebraska Defendants claim, in part, that they are entitled to summary judgment on the stated claims based on sovereign immunity. The sovereign immunity argument was raised for the first time in the Nebraska Defendants' reply brief. Because plaintiffs did not have the opportunity to address the sovereign immunity argument, the Court

will give plaintiffs the opportunity to respond to the argument before ruling on the summary judgment motion. Accordingly,

IT IS ORDERED that plaintiffs are granted leave to file a sur-reply brief that addresses the merits of the Nebraska Defendants' sovereign immunity argument. The sur-reply brief shall be filed on or before June 7, 2010.

DATED this 21st day of May, 2010.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court