

Cain v. Nebraska Tax Equalization Commission

Case Number

S-19-0807

Case Audio

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Call Date

March 5, 2020

Case Time

9:30 AM

Court Number

Custer

Case Location

Creighton

Court Type

District Court

Case Summary

S-19-0807 Donald V. Cain, Jr. (Appellant) v. Lana Lymber, Custer County Assessor (Appellee)

Custer County District Court, Judge Karin L. Noakes

Attorneys: David A. Domina (Domina Law Group, PC LLO, for Appellant) --- Steven R. Bowers & Kayla C. Clark (Custer County Attorney's Office, for Appellee)

Civil: Declaratory judgment; Property tax valuation

Proceedings Below: Following this court's decision in *Cain v. Custer Cty. Bd. of Equalization (Cain II)*, 298 Neb. 834, 906 N.W.2d 285 (2018), the Nebraska Tax Equalization and Review Commission spread the mandate and directed the county assessor to establish the assessed value of Cain's real estate as set forth in this court's opinion. Cain filed a complaint for declaratory judgment in district court, arguing that the judgment and mandate in *Cain II* pertained to the real estate's actual value, not its assessed value. The court dismissed the complaint finding that Cain's exclusive remedy was to protest to the county board of equalization, and that Cain's complaint was an impermissible collateral attack on the TERC's order.

Issues: 1) Whether declaratory judgment is an appropriate remedy; and 2) whether the district court properly dismissed the TERC as a defendant.

Schedule Code

SC
