

ORIGINAL

State of North Dakota

JOINT PROCEDURE COMMITTEE

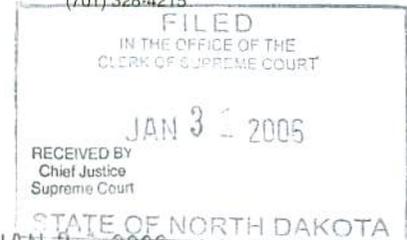
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SUPREME COURT JAN 31 2006

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CHAIR
JUSTICE DALE V. SANDSTROM
STAFF ATTORNEY
MICHAEL J. HAGBURG

January 30, 2006

SUPREME COURT
STATE CAPITOL
BISMARCK, NORTH DAKOTA 58505
(701) 328-4215



Honorable Gerald W. VandeWalle, Chief Justice
North Dakota Supreme Court
600 East Boulevard Avenue
Bismarck, ND 58505-0530

JAN 31 2006

STATE OF
NORTH DAKOTA

Re: Proposed New North Dakota Rule of Court 10.2

Dear Chief Justice VandeWalle:

The North Dakota Supreme Court recently issued an opinion in the case of Wetzel v. Schlenyogt, 2005 ND 190, 705 N.W.2d 836. In the wake of this decision, questions have been raised about whether business associations represented by non-attorneys are barred from commencing and participating in actions under the Small Claims Court Act, N.D.C.C. ch. 27-08.

The Joint Procedure Committee discussed this issue at a meeting on January 26. The committee decided that it would be desirable to have the rules clearly allow employees to represent businesses and political subdivisions in small claims court. The committee then worked to develop a proposed new court rule designed to make it clear that employees may represent businesses and political subdivisions in small claims court.

A copy of the proposed new rule, which would be designated as N.D.R.Ct. 10.2, is attached for the Court's consideration. The committee requests that the rule proposal be considered for immediate adoption under N.D.R.Proc.R. § 6.

Thank you for your attention to this matter.

Sincerely yours,

Dale V. Sandstrom
Chair, Joint Procedure Committee

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RULE 10.2 SMALL CLAIMS COURT

(a) Appearances. The parties shall appear in person, unless otherwise authorized by the court, and may be represented by a lawyer admitted to practice law before the courts of this state.

(b) Business Associations or Political Subdivisions. A corporation, partnership, limited liability company, sole proprietorship, association or political subdivision may be represented in a small claims court action by an officer, manager, partner, or authorized employee or agent. An owner or employee of a collection agency may not act as an agent under Rule 10.2(b).

EXPLANATORY NOTE

Rule 10.2 was adopted, effective _____.

Under N.D.C.C. § 27-08.1-01 (3), a claim may not be filed in small claims court by an assignee of the claim.

SOURCES: Joint Procedure Committee Minutes of January 26, 2006, pages _____.

STATUTES AFFECTED:

CONSIDERED: N.D.C.C. ch. 27-08.1.