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STATE OF NORTH DAKOTA

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CHAMBERS OF
Mary Muehlen Maring
JUSTICE

State of North Dakota
SUPREME COURT

August 8, 2011

The Honorable Chief Justice Gerald W. Vandewalle
North Dakota Supreme Court
600 E. Boulevard Avenue
Bismarck, ND 58505-0530

Re: Proposed Amendments to AR 17

Dear Chief Justice Vandewalle:

Attached is a letter I received from Judge Frank Racek. I am of the opinion that it is a matter that should be brought to the attention of the Administrative Council for consideration. If you are of a different opinion and think that it should be placed on the Joint Procedure Committee's agenda, please let me know.

Sincerely,

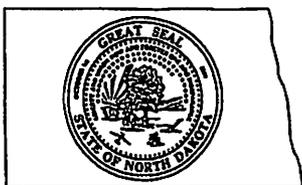
A handwritten signature in cursive script that reads "Mary".

Mary Muehlen Maring

MMM/jlw

cc: The Honorable Frank L. Racek
Mike Hagburg

Copy to Mike. 7/28/11



State of North Dakota
DISTRICT COURT
EAST CENTRAL JUDICIAL DISTRICT
CASS COUNTY COURTHOUSE
BOX 2806
FARGO, NORTH DAKOTA 58108
(701) 451-6940

Honorable Frank L. Racek
Presiding District Judge

Honorable Wickham Corwin
District Judge

Honorable Douglas R. Herman
District Judge

Honorable John C. Irby
District Judge

Honorable Steven L. Marquart
District Judge

July 21, 2011

Hon. Mary Muehlen Maring
Chair, Joint Procedures Committee
North Dakota Supreme Court
600 E. Boulevard Avenue, Dept. 180
Bismarck, ND 58505-0530

Honorable Steven E. McCullough
District Judge

Honorable Lisa K. Fair McEvers
District Judge

Honorable Steven L. Webb
District Judge

Re: Proposed Amendments to AR 17

JUL 28 2011

Dear Justice Maring:

Enclosed are proposed amendments to Administrative Rule 17 for consideration by the Joint Procedures Committee. AR 17 deals with the appointment of judges to cases out their district by the Chief Justice. The rule was promulgated pursuant to Section 3 of Article VI of the North Dakota Constitution, which provides, in pertinent part: "The chief justice shall be the administrative head of the unified judicial system. He may assign judges, including retired judges, for temporary duty in any court or district under such rules and regulations as may be promulgated by the supreme court."

The most recent weighted caseload study (2009) reveals an overall shortage of 9 judicial officers in North Dakota. Since that time, 2 additional district judgeships have been created. However, even if the caseload did not increase in the last two years, our state is still over 7 judges short of what is needed for the adequate and efficient administration of justice. The proposed changes to AR 17 create a priority for appointment on out of district cases (and are indicated by the underlined material in the attachment). The amendments will help maximize the already strained judicial resources of our state by prioritizing appointment based upon geographical contiguity. This will minimize travel time in out of district appointments. If contiguity is not possible, the amendments then utilize the most recent weighted caseload study to more evenly spread the judicial resources of the state.

The judges of the East Central Judicial District unanimously requested I forward this proposal to your committee for consideration. We urge it to recommend adoption of the amendments to the Supreme Court.

Thank you.

Sincerely yours,

Hon. Frank L. Racek
Presiding Judge
East Central Judicial District Court

STATE OF
NORTH DAKOTA

Administrative Rule 17 - RULE RELATING TO DISTRICT JUDGE AND MUNICIPAL JUDGE SELF-DISQUALIFICATION PROCEDURE

1. Whenever a district judge or municipal judge for whom an alternate judge has not been appointed pursuant to statute determines, for any reason, that it is inappropriate to preside in an assigned case, the judge shall refer the case to the presiding judge of the judicial district for reassignment.
2. If a presiding judge determines, for any reason, that it is inappropriate for the presiding judge to preside in an assigned case, the presiding judge shall refer the case to the Clerk of the Supreme Court for reassignment by the Chief Justice.
3. If the presiding judge is unable to make an appropriate assignment from among the judges within the judicial district, the presiding judge shall refer the case to the Clerk of the Supreme Court for reassignment by the Chief Justice.
4. Priority for reassignment of a judge from out of the district shall be as follows:
 - a. From the same administrative unit;
 - b. From a geographically contiguous district not within the same administrative unit;
 - c. From the district with the greatest judgeship surplus as determined by the most recent weighted caseload study;
 - d. From the district with least judgeship shortage as determined by the most recent weighted caseload study;
 - e. Any available district judge; and
 - f. Any available surrogate judge.