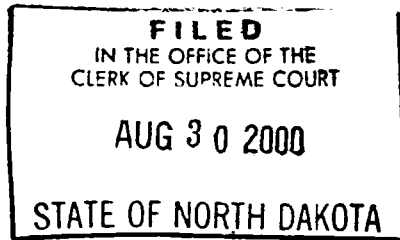


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AUG 30 '00

August 29, 2000

Ms. Penny Miller, Clerk  
North Dakota Supreme Court  
Judicial Wing, First Floor  
600 East Boulevard Avenue  
Bismarck, ND 58505-0530

RE: Proposed Rule 8.8 dealing with Alternative Dispute Resolution

Dear Ms. Miller:

Please accept these written comments with regard to the above-referenced rule change. The Court's Notice of Hearing dated July 14, 2000 states that comments should be addressed to you.

In addition to reviewing the Rule, I also have had the opportunity to review Attorney Jack Marcil's Memorandum in Opposition to the proposed Rule. I join with Mr. Marcil in his opposition to this Rule.

From time to time, judges become active participants in settlement negotiations and that participation usually is quite helpful. Judges have a way of explaining issues to parties and their attorneys which has a greater impact than one side arguing to the other. Judges can point out weaknesses and strengths in respective positions and can also offer insight into past jury verdicts. I do not oppose judges participating in this fashion.

My opposition goes to the mandating of judicial participation in ADR. As Mr. Marcil notes, with respect to the state courts of North Dakota, this is better left to qualified neutral mediators. The judiciary is overburdened as it is. Why add these additional duties? It is true that federal courts have magistrate judges who act as qualified mediators and that program is quite successful. This letter should not be construed as a criticism of the federal system. However, I think that the state system will work best if ADR is left to qualified and trained mediators rather than requiring the courts to engage in the practice.

Ms. Penny Miller, Cler.  
August 29, 2000  
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Thank you for allowing these comments to be submitted for consideration.

Very truly yours,



Thomas R. Olson  
Civil Trial Specialist  
Certified by the MSBA

TRO/pjs

pc: Mr. Jack Marcil