



## State Bar Association of North Dakota

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September 12, 2000

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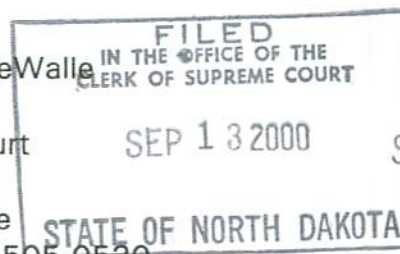
Chief Justice

North Dakota Supreme Court

Judicial Wing, First Floor

600 East Boulevard Avenue

Bismarck, North Dakota 58505-0530



RECEIVED BY  
Chief Justice  
Supreme Court

SEP 13 2000

STATE OF  
NORTH DAKOTA

Dear Justice Vandewalle:

Pursuant to the Court's request, I have attached a copy of the amendments to proposed rules 8.8 and 8.9 as presented by Rebecca Thiem on behalf of the Association at last week's hearing. Also attached is a petition calling for the establishment of a joint standing committee on ADR. The Board of Governors looks forward to continuing to work with the Court on this important topic, and hopes the Court will favorably consider the petition.

In response to your discussion with Sandi Tabor, I would like to report that the Association currently includes family law mediation on both the Volunteer Lawyer and Reduced Fee panels. To date, 39 attorneys are listed on the panel. As with every new program, contacts for referrals have been low. We anticipate, however, as the two pilot projects continue, and our own advertising of the program continues, more contacts for family law mediation will occur. As demand for mediators in other areas grows, both panels will be expanded to address demand.

If you have any questions, please contact myself or Sandi.

Sincerely,

Lester H. Loble, II  
President

c: Rebecca Thiem

IN THE SUPREME COURT  
STATE OF NORTH DAKOTA

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North Dakota Supreme Court  
Administrative Rules

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PETITION TO CREATE  
NEW ADMINISTRATIVE RULE

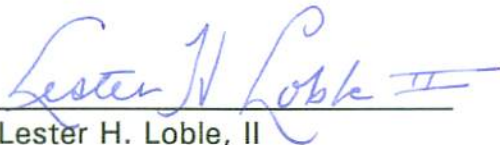
A) The State Bar Association of North Dakota (Association) respectfully submits this Petition to create an administrative rule establishing a new joint standing committee on alternative dispute resolution (ADR). The purpose of the committee is to develop a cohesive and comprehensive strategy regarding the implementation of ADR in the North Dakota court system. The Board believes a cooperative effort between the bench and the bar will lead to the creation of a system best-suited to serve the citizens of North Dakota.

Membership in the joint committee would consist of judges, attorneys and members of the general public familiar with ADR. The committee will report directly to the Supreme Court and Board of Governors in a manner similar to that followed by the Joint Attorney Standards Committee.

B) The undersigned, pursuant to action taken by the Board of Governors, hereby petitions the Supreme Court to adopt the attached administrative rule.

C) The Board of Governors requests the establishment of the joint committee as soon as possible in order to ensure continuation of the work started by the Supreme Court through proposed rules 8.8 and 8.9. If the Court determines that a hearing is necessary on this proposal, the Association will be in attendance to provide additional background.

Dated this 12<sup>th</sup> day of September, 2000.



Lester H. Loble, II

President

State Bar Association of North Dakota

**SECTION 1. PURPOSE.**

The North Dakota Supreme Court and the State Bar Association of North Dakota (Association) recognize the importance of alternative dispute resolution (ADR) as a tool to assist the citizens of North Dakota in resolving disputes. It is the purpose of the Committee to develop a system of ADR procedures in North Dakota that will encourage parties to resolve disputes in a timely and cost-effective manner. The Committee will be responsible for developing rules regarding ADR procedures, education and ethical standards for neutrals, and for making recommendations concerning the establishment of a court-annexed ADR system in North Dakota. The Joint Committee will serve as the entity responsible for continuing study and review of the wide-range of issues concerning ADR in the justice system.

**SECTION 2. MEMBERSHIP.**

A. The membership of the Committee is composed of eight members, including two lay members, appointed by the Chief Justice after consultation with the Supreme Court and eight members, including two lay members, appointed by the Board of Governors of the Association. Of the members initially appointed and as determined by lot at the first meeting, five members will be appointed for one year, five members will be appointed for two years, and six members will be appointed for three years. Thereafter, each appointment is for a three-year period. Each member is eligible for reappointment but may not serve more than two consecutive terms. Each member serves until the member's successor is appointed. The ending date of any term will be June 30th.

B. Each member is entitled to reimbursement by the member's appointing authority for actual expenses incurred in the performance of committee duties.

C. The President of the Association shall appoint the committee chair, whose term as chair may not exceed two years.

**SECTION 3. DUTIES OF THE COMMITTEE.**

A. The Committee shall:

1. Study and review trends in ADR in order to establish a comprehensive ADR program for the State of North Dakota;
2. Develop administrative rules regarding ADR procedures for final consideration by the Supreme Court;
3. Develop education standards and ethical rules for neutrals, mediators and arbitrators;
4. Study and make recommendations concerning the need to implement a discipline program or some other safeguard to ensure the protection of the public; and

5. Deal with other matters involving ADR referred to it by the Supreme Court or the Board of Governors of the Association.

B. The Committee shall make any reports as requested by the Supreme Court or the Board of Governors of the Association, and shall submit any recommendations to the Board of Governors for review and comment before submission of final recommendations to the Supreme Court.

#### **SECTION 4. STAFFING AND EXPENSE REIMBURSEMENT.**

Staff services for the Committee will be provided by the Association. Administrative costs will be shared by the Supreme Court and the Association as mutually agreed to during the course of the study.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

**ATTEST:**

Penny Miller, Clerk  
North Dakota Supreme Court

Renny

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**Amendments to Proposed Rule 8.8 and Rule 8.9 N.D.R.Ct.**

Proposed by the Board of Governors  
of the  
State Bar Association of North Dakota

The following changes to proposed Rule 8.8 and Rule 8.9 of the North Dakota Rules of Court were approved by the Board of Governors of the State Bar Association of North Dakota at a special meeting held on August 31, 2000.

- 1) Rule 8.8, paragraph (a), line 10 - Delete the following sentence:  
  
"The statement must also set forth whether ADR will be court-sponsored under this rule or performed by a private neutral under N.D.R. Ct. 8.9."
- 2) Rule 8.8 - Delete paragraphs (b), (c), (d) and (e).
- 3) Rule 8.9, paragraph (b), subparagraphs (1) and (2) should be modified to provide a grandfather provision similar to that used by Minnesota (the criteria for placement on neutrals roster is attached).
- 4) Rule 8.9, paragraph (b), subparagraph (3) - Delete lines 50 - 55 requiring a professional background for domestic relations mediators.