



RECEIVED BY CLERK  
SUPREME COURT MAY 12 2006

WILLIAM P. PEARCE  
PATRICK W. DURICK  
B. TIMOTHY DURICK  
GARY R. THUENE  
DAVID E. REICH  
JEROME C. KETTLESON  
LARRY L. BOSCHEE ♦♦  
LAWRENCE BENDER, P.C. ♦  
JONATHAN P. SANSTEAD  
TIFFANY L. JOHNSON

ATTORNEYS AT LAW  
314 EAST THAYER AVENUE  
P.O. BOX 400  
BISMARCK, NORTH DAKOTA 58502

TELEPHONE (701) 223-2890  
FAX (701) 223-7865  
E-MAIL law.office@pearce-durick.com

May 10, 2006

Ms. Penny L. Miller  
Clerk, ND Supreme Court  
Judicial Wing, First Floor, Dept. 180  
600 East Boulevard Avenue  
Bismarck, ND 58505

20060110  
FILED  
IN THE OFFICE OF THE  
CLERK OF SUPREME COURT

MAY 12 2006

STATE OF NORTH DAKOTA

RE: Proposed Amendment to N.D.R.Ct. 8.8

Dear Ms. Miller:

Please accept this letter in response to the April 12, 2006, notice of comment, concerning the proposed amendments to rule 8.8 of the North Dakota Rules of Court. I strongly oppose the amendments, and concur in the position paper submitted by the North Dakota Defense Lawyers Association. The amendments are unnecessary, and will unnecessarily increase litigation costs. Forced ADR participation increases the costs of litigation to all parties, with little chance of benefit. Commercial parties are well aware of the various ADR options and can determine, with the assistance of its attorney, whether ADR would be suitable in a particular dispute. To require such parties to participate in ADR is not only unnecessary but could be counter productive.

Also, I believe that the requirement that a party certify that it has taken an ADR educational session before being able to state that it does not wish to participate, does not give enough credit to North Dakota lawyers. North Dakota lawyers are competent to explain ADR and its advantages and disadvantages to their clients.

Thank you for your consideration.

Sincerely,

PEARCE & DURICK

JONATHAN P. SANSTEAD

JPS/jf