

AUG 5 2009



State of North Dakota Unified Judicial System



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FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

August 5, 2009

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STATE OF NORTH DAKOTA

Penny Miller
Clerk, North Dakota Supreme Court
600 E Boulevard Ave. Dept. 180
Bismarck, ND 58505-0530

Dear Penny,

We'd like to offer a few comments for consideration with the proposed changes for N.D. R.Ct. 3.4 and N.D. Sup.Ct.Admin.R. 41. Inconsistencies between the rules create problems and confusion. We agree that the addresses in criminal files should not be protected since they are needed for Orders to Show Cause, enforcement, and on documents to be mailed out. We also agree that names of individuals who are minors should not be protected in cases under which there is no statute, regulation, or rule mandating such nondisclosure.

Rule 3.4 creates the potential that every criminal file will contain at least one document which will contain confidential identifying information. While it may be inconvenient for prosecutors, the filing of a reference sheet under Rule 3.4 does provide a way to solve that problem. Further, we have received positive feedback from Sheriff's office staff who indicated that the reference sheet is helpful when trying to locate parties for service of documents. We urge you to continue to require that prosecutors file a reference sheet. Clerks should not be redacting (altering) a legal document sent to them for filing.

The current version of Administrative Rule 41 is extremely burdensome to clerks. The interpretation that clerks must guard the information regardless of how or when it was filed creates unmanageable problems when dealing with older files or even preparing files for change of venue, appeal, or transfer to State Archives.

We are concerned that giving separate docket numbers to items in the Register of Actions will create additional work and give the impression that the items contain different or additional

information instead of being redacted and complete versions of the same document. Perhaps the documents could be numbered '1' and '1R'.

Our concerns also include the confusion in the wording of the section relating to reformed documents. The wording provides that documents be returned prior to filing and allow for an extension of time but does not specify any parameters for the extension, while at the same time making reference to the applicable deadline. Clerks don't have time to check for the deadlines on each document they receive and determine whether an extension should be allowed and/or follow through to ensure compliance.

Thank you for the opportunity to comment on these proposed changes.

Sincerely,

A handwritten signature in cursive script that reads "Donna Wunderlich".

Donna Wunderlich

A handwritten signature in cursive script that reads "Ross Munns".

Ross Munns