

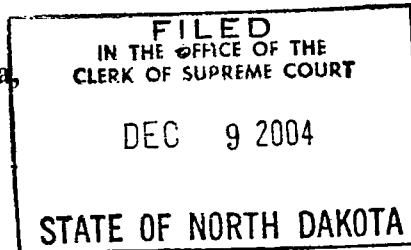
ORIGINAL

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

20040358

In the Matter of Complaints filed with the Secretary of the Disciplinary Board by
Robert Becker Against Members of the Bar of the State of North Dakota

Disciplinary Board of the
Supreme Court of North Dakota,



Petitioner

v.

Robert Becker,

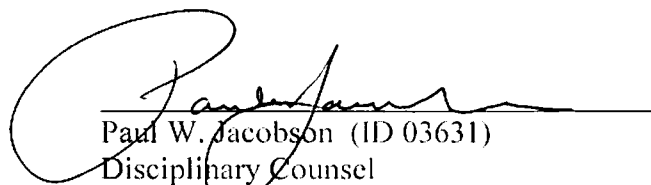
Respondent

PETITION FOR LIMITATION ON FILING COMPLAINTS UNDER RULE 3.1A,
NORTH DAKOTA RULES FOR LAWYER DISCIPLINE

Disciplinary Counsel applies to the Court, pursuant to the Court's inherent authority to protect the orderly administration of the lawyer discipline system under Rule 1.1 of the North Dakota Rules for Lawyer Discipline, for an order enjoining Complainant Robert L. Becker (Becker) from filing any new complaints or taking any steps to assert, prosecute, re-litigate, or seek a ruling regarding matters that were previously dismissed by any Inquiry Committee, without first seeking leave of the Chair of the Disciplinary Board, Disciplinary Counsel, or such other person or persons as the Court may designate.

As more fully shown in the accompanying affidavit and brief, this motion is made on the grounds Becker has filed more than 27 meritless complaints relating to the same subject matter and has threatened to continue to file complaints.

Dated this 8th day of December, 2004.

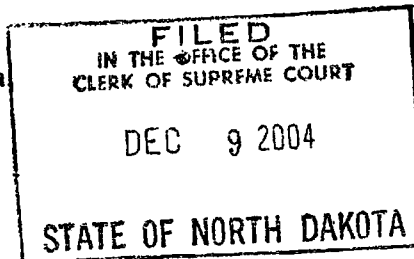

Paul W. Jacobson (ID 03631)
Disciplinary Counsel
Disciplinary Board of the Supreme Court
P. O. Box 2297
Bismarck, ND 58502
(701) 328-3925

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AFFIDAVIT OF DISCIPLINARY COUNSEL

State of North Dakota)

)

County of Burleigh)

Paul W. Jacobson, being first duly sworn, deposes and states:

1. I am the Disciplinary Counsel of the Disciplinary Board of the Supreme Court of North Dakota and make this affidavit in support of the petition to limit disciplinary complaints by Robert Becker (Becker).

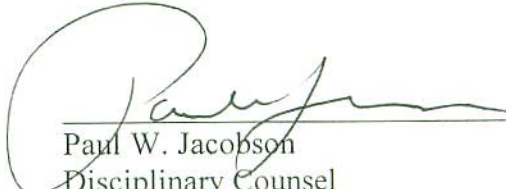
2. Over the past three years, Becker has filed numerous disciplinary complaints against North Dakota lawyers. The complaints all arose from Becker's original complaint against a particular attorney. That complaint was dismissed by the Inquiry Committee West, appealed by Becker, and the dismissal affirmed by the Disciplinary Board.

3. Available for review by the Court is a summary of Becker's complaints. The vast majority of which relate to how the disciplinary system handled his original and subsequent complaints. The bulk of the complaints are against individuals who are entitled to immunity for all actions taken in connection with Becker's complaints under Rule 6.5, North Dakota Rules for Lawyer Discipline. The pattern is that Becker files a


1 new complaint against each person whose name appears in connection with his prior
2 complaints.

3 4. Becker's multiple, meritless complaints are taxing the resources of the
4 Inquiry Committees, Disciplinary Board and staff. In order to protect the disciplinary
5 system from further abuse by Becker, I respectfully request that the Court grant the
6 petition for sanctions and enjoin Becker from filing additional complaints without first
7 seeking leave from the Chair of the Disciplinary Board, myself, or such other person or
8 persons as the court may designate.
9

10 Dated this 8th day of December, 2004.

11 
12 Paul W. Jacobson
Disciplinary Counsel

13 Subscribed and sworn to before me this 8th day of December, 2004.

14 
15 Notary Public
16 Burleigh County, North Dakota
17 My commission expires 9-9-08
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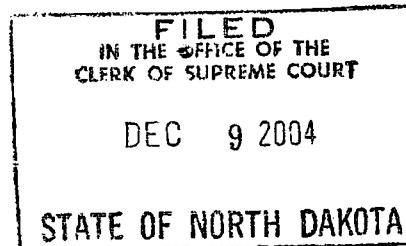
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BRIEF IN SUPPORT OF PETITION FOR LIMITATION ON FILING
COMPLAINTS UNDER RULE 3.1A, NORTH DAKOTA RULES FOR LAWYER
DISCIPLINE

Introduction

"Under Article VI. Section 3 of the North Dakota Constitution, the [C]ourt has authority within this state for the development and administration of a system for lawyer disability and discipline" Rule 1.1, North Dakota Rules for Lawyer Discipline. The motion before the Court seeks the exercise of such authority to enjoin Robert Becker (Becker) from continuing a pattern of endless and meritless disciplinary complaints – over 27 at last count – against North Dakota lawyers over matters that were previously dismissed at the Inquiry Committee Level. (See Affidavit of Disciplinary Counsel).

Argument

This Court addressed a court's authority to impose a sanction enjoining a party from further litigating an issue in Federal Land Bank of St. Paul v. Ziebarth, 520 N.W.2d 51 (N.D. 1994). The Court noted that "[s]anctions for continued vexatious litigation of stale or frivolous claims have been consistently upheld in a variety of factual contexts by federal appellate courts, based upon F.R.Civ.P. 11 or the inherent authority of the court."

1 Id. at 57. After reviewing federal and North Dakota cases addressing injunctive relief
2 restricting future actions of particularly litigious parties, the Court stated:

3 We agree with those federal appellate courts that have, under similar
4 factual circumstances, upheld injunctions limiting litigants' access to the
5 courts. As noted in In re Hartford Textile Corp., 659 F.2d 299, 305 (2d
6 Cir. 1981), courts "are not powerless to protect the public, including
7 litigants who appear before the Courts, from the depredations of those who
8 abuse the process of the Courts to harass and annoy others with meritless,
9 frivolous, vexatious, or repetitive appeals and other proceedings." A
10 court's authority to stem abuses of the judicial process arises not only from
11 the applicable rules and statutes, like F.R.Civ.P. 11 and N.D.R.Civ.P. 11,
12 but also from the court's inherent power to control its docket and to protect
13 its jurisdiction and judgments, the integrity of the court, and the orderly
14 and expeditious administration of justice. The court has the "responsibility
15 to prevent single litigants from unnecessarily encroaching on the judicial
16 machinery needed by others." As explained in Ferguson v. M. Bank
17 Houston, N.A., 808 F.2d at 359, the rule applies with equal force to pro se
18 litigants, "'for one acting pro se has no license to harass others, clog the
19 judicial machinery with meritless litigation, and abuse already overloaded
20 court dockets.'"

21 Id. at 58 (citations omitted).

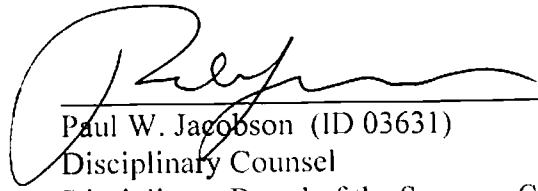
22 As in Ziebarth, this case presents a lengthy pattern of abuse of the legal process.
23 Neither disciplinary system personnel nor attorneys should be required to respond to
24 Becker's endless, meritless, and vexatious complaints. The proposed narrowly-tailored
25 injunction will prevent future abuses. It also does not violate the "open courts" provision
26 of Article I, Section 9 of the North Dakota Constitution. See Ziebarth, 520 N.W.2d at 56-
27 58. The proposed injunction is narrowly tailored, only relating to matters originally
considered within the context of previously considered complaints. Furthermore, the
proposed injunction has an escape clause in case Becker learns of a basis to bring a non-
frivolous complaint – Becker can bring a complaint if he obtains permission from the

1 Chair of the Disciplinary Board, the Disciplinary Counsel or such other person or persons
2 as the court may designate.

3 **Conclusion**

4 Disciplinary Counsel respectfully requests that the Court enter an order enjoining
5 Becker from filing any new complaints or taking any steps to assert, prosecute, re-litigate,
6 or seek a ruling regarding matters that were previously dismissed, without first seeking
7 leave of the Chair of the Disciplinary Board, the Secretary of the Disciplinary Board, or
8 such other person or persons as the Court may designate.
9

10 Dated this 8th day of December, 2004.

11
12 
13 Paul W. Jacobson (ID 03631)
14 Disciplinary Counsel
15 Disciplinary Board of the Supreme Court
16 P. O. Box 2297
17 Bismarck, ND 58502
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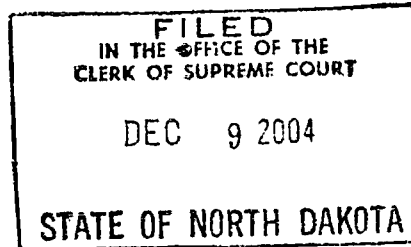
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CERTIFICATE OF SERVICE

I hereby certify, pursuant to Rule 5(f), NDRCivP, that the following:

PETITION FOR LIMITATION ON FILING COMPLAINTS UNDER RULE
3.1A, NORTH DAKOTA RULES FOR LAWYER DISCIPLINE

AFFIDAVIT OF DISCIPLINARY COUNSEL

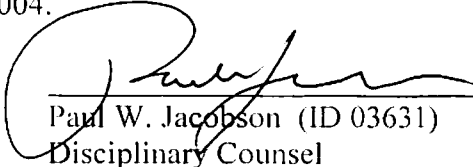
BRIEF IN SUPPORT OF PETITION FOR LIMITATION ON FILING
COMPLAINTS UNDER RULE 3.1A, NORTH DAKOTA RULES FOR
LAWYER DISCIPLINE

were served upon:

Robert Becker
P. O. Box 1812
Fargo, ND 58107-1812

by mailing on the 8th day of December, 2004.

Dated this 8th day of December, 2004.


Paul W. Jacobson (ID 03631)

Disciplinary Counsel

Disciplinary Board of the Supreme Court

P. O. Box 2297

Bismarck, ND 58502

(701) 328-3925