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MAR 06 2009

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March 5, 2009

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

RE: Mediation ethics and enforcement rules

Members of the Court:

The Joint Committee on Alternative Dispute Resolution, created under Administrative Rule 43, was asked by the Supreme Court to prepare proposed rules regarding professional conduct for mediators, as required by Section 3. A. 3. of AR 43. The Committee, after considering rules promulgated in other jurisdictions, has developed the enclosed drafts. They are forwarded to the Court for your consideration. In preparing these documents, the Committee's goals were to address issues of concern for mediators and their clients, and to maintain procedural simplicity in the enforcement process.

These drafts were submitted to the Board of Governors of the State Bar Association for review and comment before submission of final recommendations to the Court. The Board of Governors suggested the addition of a comment to Rule III, reminding lawyer-mediators they are also governed by Rules of Professional Conduct regarding conflicts. The Committee incorporated a comment as suggested. The Board of Governors also questioned the authority of the Court to discipline non-lawyer mediators in the absence of a certification program. The Committee believes this is a matter for the Court's consideration, and not the Committee's.

The Committee thanks you for the opportunity to work on these proposed rules, and stands ready to serve in any other way that may be helpful.

Sincerely,



Joanne H. Ottmar, Chair
Joint Committee on Alternative Resolution