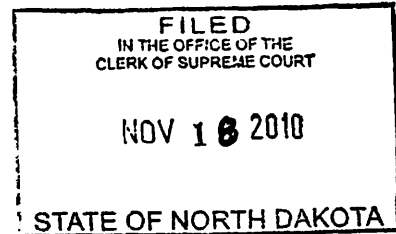


North Dakota Supreme Court
Judiciary Standards Committee
600 E Boulevard Ave
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Honorable Douglas L. Mattson, Chair
District Court Judge
PO Box 5005
Minot, ND 58702-5005
Phone: (701) 857-6635
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November 18 , 2010

Honorable Gerald W. VandeWalle
Chief Justice
North Dakota Supreme Court
600 E. Boulevard, Dept 180
Bismarck, ND 58505-0530

Re: Proposed Code of Judicial Conduct - Review of ABA Model Code of Judicial Conduct

Dear Chief Justice VandeWalle:

The Judiciary Standards Committee recently completed its review of the American Bar Association's revised Model Code of Judicial Conduct, which represented amendments to the 1990 Model Code. The Committee's work entailed a detailed review of the current North Dakota Code of Judicial Conduct and the new ABA Model Code. The results of that review are briefly described below. At the outset, I would like to express my sincere appreciation to all Committee members, past and present, who committed substantial time and effort to this project.

The North Dakota Code of Judicial Conduct was amended in January 1994 following a review of the 1990 ABA Model Code of Judicial Conduct. The import of the 1994 revisions is that the current North Dakota Code is nearly identical to the 1990 Model Code, with the exception of subsequent amendments and those limited areas where the 1994 amendments did not follow the 1990 Model Code. Consequently, the ABA's new Model Code can be considered as representing possible amendments to the current North Dakota Code. In light of this, the Committee decided early in the process to use the new ABA Model Code as the base document for review, with one exception, and consider any appropriate revisions based on elements of the current Code. The Committee also had the benefit of ongoing review efforts in other jurisdictions which provided revisions for possible consideration. The one exception to using the ABA Model Code as the base document for review was the Committee's consideration of current Canon 5, which governs political activity by candidates for judicial office. In light of the substantial amendments made to

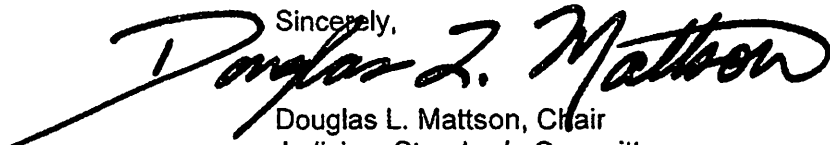
Honorable Gerald W. VandeWalle
November , 2010
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Canon 5 in response to the U.S. Supreme Court's opinion in *Republican Party of Minnesota v. White* and the opinion of the 8th Circuit Court of Appeals on remand from *White*, the Committee concluded that Canon 5 should serve as the base document for considering rule revisions related to ABA Model Canon 4, the counterpart to Canon 5. Consequently, current Canon 5 is renumbered and restructured to adhere to the basic structure of Model Canon 4 and additions to the Canon are made based on model canon provisions. However, substantial parts of current Canon 5, including commentary language concerning the *White*-related amendments, are retained. The Committee also concluded that the current Compliance Section, with essentially technical amendments, should be retained instead of the ABA Model Application Section.

The Preamble, Scope, Terminology, and Canons 1 through 3 of the Committee's proposed Code of Judicial Conduct are essentially from the ABA Model Code, with various revisions. Canon 4 represents current Canon 5 with revisions based on Model Canon 4. The proposed Preamble, Scope, Terminology, and each Canon and each rule within a Canon are preceded by a brief summary. The summary compares the code provision to the current North Dakota Code and to the ABA Model Code. It should be noted that there is considerable similarity between the current North Dakota Code provisions and the proposed Model Code replacements. The Joint Commission to Evaluate the Model Code of Judicial Conduct described much of the work related to the Model Code as reorganizing and restructuring the 1990 Model Code to achieve "a more logical, functional and helpful arrangement of topics". Consequently, much of the new Model Code represents the reorganization and relocation of provisions in the 1990 Model Code without substantial change. Notable changes are reflected where appropriate in the summaries accompanying the proposed Code of Judicial Conduct.

The Judiciary Standards Committee voted unanimously to submit the proposed Code of Judicial Conduct to the Supreme Court for its consideration. I again extend my appreciation to Committee members for their work on this project. If I can be of any assistance in the Supreme Court's review of the proposed Code, please do not hesitate to contact me.

Sincerely,



Douglas L. Mattson, Chair
Judiciary Standards Committee

DLM/
Enclosure
cc: Penny Miller, Clerk of the Supreme Court
Jim Ganje

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DISTRICT COURT
NORTHWEST JUDICIAL DISTRICT