

State of North Dakota

JOINT PROCEDURE COMMITTEE

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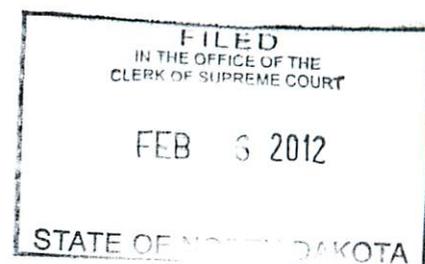
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FIRST FLOOR JUDICIAL WING  
600 E BOULEVARD AVE DEPT 180  
BISMARCK, ND 58505-0530

CHAIR  
JUSTICE MARY MUEHLEN MARING  
STAFF ATTORNEY  
MICHAEL J. HAGBURG

February 3, 2012

Honorable Gerald W. VandeWalle, Chief Justice  
North Dakota Supreme Court  
600 East Boulevard Avenue  
Bismarck, ND 58505-0530



Re: Rule 3.1, N.D.R.Ct., Pleadings

Dear Chief Justice:

The Joint Procedure Committee took up proposed amendments to Rule 3.1 at its January 2012 meeting after receiving suggestions from the Court, the State Court Administrator, and the Committee's SBAND representative Brad Beehler.

After discussing the suggestions, the Committee decided to recommend that the following changes to Rule 3.1 be approved by the Court:

1. Eliminate the rule's requirement to "attach" proof of service to a filed document with a requirement that proof of service must "accompany" any documents submitted for filing.
2. Supersede, through the addition of language to Rule 3.1, the N.D.C.C. § 29-15-21 requirement that demands for change of judge be submitted in triplicate.
3. Reorganize the rule to clarify that documents not in compliance with Rule 3.1's requirements may not be filed.

The Committee's proposed amendments to N.D.R.Ct. 3.1 are attached. Because the Committee decided it was important to supersede the triplicate filing requirement as soon as possible, it requested that the amendments be forwarded to the Court immediately as an emergency measure.

Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in blue ink that reads "Mary Muehlen Maring". The signature is written in a cursive style with a large, looping 'M' at the beginning.

Mary Muehlen Maring  
Chair, Joint Procedure Committee

MH:kh

## RULE 3.1. PLEADINGS

(a) Legibility and Numbering. All pleadings and other documents must be typewritten, printed, or reproduced and easily readable. Each sheet must be separately numbered. Pleadings and other documents filed with the court, except as otherwise permitted by the court, must be prepared on 8 1/2 x 11 inch white paper.

(b) Signature. All pleadings and other documents of a party represented by an attorney must be signed by at least one attorney of record in the attorney's individual name and contain the attorney's address, telephone number, and State Board of Law Examiners identification number. All pleadings and other documents of a party who is not represented by an attorney must be signed by the party and contain the party's address and telephone number.

(c) Spacing and Names. Writing must appear on one side of the sheet only and must be double-spaced, except for quoted material. Names must be typed or printed beneath all signatures.

(d) Binding. All pleadings or other documents in an action or proceeding must be filed by the clerk flat and unfolded and each set of papers firmly fastened together.

(e) Filing of Documents. A party seeking to file a pleading or other document must submit it to the clerk. The first submitted version of a pleading or document will be treated as the original unless otherwise ordered by the court. A party need only file the original demand for change of judge.

22 ~~(f) Non-conforming Documents -- Sanctions. If a party fails to comply with this rule,~~  
23 ~~the court on motion of a party or its own motion, may order the pleading or other document~~  
24 ~~to be reformed. If the order is not obeyed, the court may order the document stricken and its~~  
25 ~~service to be of no effect.~~

26 ~~(g) (f) Copy of Lost Papers. If any original document is lost or withheld by any person,~~  
27 ~~the court may authorize a copy to be filed.~~

28 ~~(h) (g) File Numbers. The clerk, at the time of the filing of a case and at the time of~~  
29 ~~the filing of any responsive pleading, shall must assign a file number to the case and~~  
30 ~~immediately notify the attorney of record of the assigned file number ~~assigned to the~~~~  
31 ~~proceedings. Thereafter, all documents and pleadings to be filed must bear the assigned file~~  
32 ~~number on the front or title page in the upper righthand portion of the instrument document~~  
33 ~~to be filed. Documents and pleadings that do not conform to this rule will not be filed by the~~  
34 ~~clerk until they are in compliance with this rule.~~

35 ~~(i) (h) Proof of Service Attached Required. Proof of service must be securely attached~~  
36 ~~to accompany pleadings and documents submitted to the clerk for filing.~~

37 ~~(j) (i) Privacy Protection for Filings Made with Court. Parties must follow privacy~~  
38 ~~protection instructions in N.D.R.Ct. 3.4 when making filings with the court. ~~The~~~~  
39 ~~responsibility for making a redacted and unredacted filing rests solely with counsel and the~~  
40 ~~parties. Court personnel have no duty to review documents for compliance with N.D.R.Ct.~~  
41 ~~3.4.~~

42 (k) Non-Conforming Documents.

43 (1) Documents and pleadings that do not conform to this rule may not be filed.

44 (2) If a non-conforming document is filed by mistake, the court on motion or on its  
45 own may order the pleading or other document reformed. If the order is not obeyed, the court  
46 may order the document stricken and its service to be of no effect.

47 EXPLANATORY NOTE

48 Rule 3.1 was amended, effective January 1, 1988; March 1, 1996; March 1, 1999;  
49 August 1, 2001; March 1, 2005; March 1, 2007; March 1, 2009;\_\_\_\_\_.

50 Rule 3.1 was reorganized, effective \_\_\_\_\_, to make it clear that all  
51 documents presented for filing must conform to all applicable requirements of the rule.

52 A new subdivision (b) was added, effective March 1, 1996, which contains signature  
53 requirements. The letter designation of each existing subdivision was amended accordingly.

54 A new subdivision (e) was added, effective March 1, 2005, to clarify that documents  
55 must be filed with the clerk. Submitting a document to a judge or to court personnel other  
56 than the clerk does not constitute filing. The first version of a given document submitted to  
57 the clerk, regardless of what form it is in, will be filed and treated as the original. A party  
58 seeking to correct the original or have another document treated as the original must obtain  
59 an order from the court.

60 Subdivision (e) was amended, effective \_\_\_\_\_, to specify that a party  
61 making a demand for change of judge may file only one original. This provision supersedes  
62 the requirement in N.D.C.C. § 29-15-21 that a demand for change of judge be filed in  
63 triplicate.

64           Subdivision (h) was amended, effective March 1, 1999, to allow notification by means  
65 other than mail.

66           Subdivision (j) was added, effective March 1, 2005, to protect personal information  
67 submitted with pleadings or other documents filed with the court.

68           Subdivision (j) (i) was amended, effective March 1, 2007, to specify that court  
69 personnel have no duty to review documents for compliance with privacy protection rules.

70           Subdivision (j) (i) was amended, effective March 1, 2009, to reflect the **addition**  
71 transfer of document privacy protection requirements to N.D.R.Ct. 3.4.

72           Sources: Joint Procedure Committee Minutes of January 26-27, ; January 24, 2008,  
73 pages 9-12; October 11-12, 2007, pages 28-30; April 26-27, 2007, page 31; September 22-  
74 23, 2005, pages 16-17; September 23-24, 2004, pages 3-5; April 29-30, 2004, pages 6-13,  
75 17-25; January 29-30, 2004, pages 3-8; September 16-17, 2003, pages 2-11; April 24-25,  
76 2003, pages 6-12; January 29-30, 1998, page 22; September 29-30, 1994, pages 6-7.

77           Statutes Affected:

78           Superseded: N.D.C.C. § 29-15-21 (in part).

79           Cross Reference: N.D.R.Civ.P. 5 (Service and Filing of Pleadings and Other Papers);  
80 N.D.R.Ct. 3.4 (Privacy Protection for Filings Made with the Court); N.D.Sup.Ct.Admin.R.  
81 41 (Access to Judicial Records).