



Practice in all North Dakota and Minnesota courts

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SUPREME COURT

January 13, 1999

JAN 14 '99

Ms. Penny Miller
 Clerk of the Supreme Court
 600 East Boulevard Avenue, Dept. 180
 Bismarck, ND 58505-0530

JAN 14 1999
 STATE OF NORTH DAKOTA

Re: Comment on Proposed Amendments to the North Dakota Rules of Lawyer Discipline

Dear Ms. Miller:

Thank you for forwarding the Notice of Hearing and accompanying copies of the proposed amendments to the North Dakota Rules of Lawyer Discipline, Rules of Professional Conduct, and Admission to Practice Rules. I take this opportunity to offer comment upon the proposed changes to Rule 4.5(F) governing reinstatement. I would appreciate your bringing this comment to the attention of the Court at a convenient time.

Rule 4.5(F), as proposed, provides, in relevant part, as follows:

- F. **Hearing on Application.** Petitions for reinstatement of a disbarred or suspended lawyer under this rule must be filed with the board and served upon counsel. Upon receiving the petition, the board shall promptly refer the petition to a hearing ~~body~~ panel. Notice that a petition for reinstatement is pending must be mailed to the last known address of the complainant in the proceeding leading to the lawyer's disbarment or suspension. . . .

In essence, my concern is that the notification provision sought to be added does not go far enough in allowing comment upon a petition for reinstatement. I recognize that in most cases the "complainant in the proceeding leading to the lawyer's disbarment or suspension" would be the most directly interested party and would often be sufficient. In other circumstances, however, the former complainant may be disabled, deceased, or otherwise unavailable or disinterested. I am also aware of instances where multiple instances of questionable conduct may have occurred, both before and after disbarment or suspension, and some of those instances are never brought to the attention of the disciplinary board because disbarment or suspension had already occurred. I would suspect such undisciplined conduct would be relevant to the petitioner's fitness and competence to practice law.

REPLY TO:

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Consequently, I would encourage the Court to consider amending proposed Rule 4.5(F) to also require notification of the news media, in the same manner as the original disbarment or suspension was made known, so other members of the public with an interest may provide input on the reinstatement issue. Notice to the media should also provide both an efficient and effective means of notification without additional cost or inconvenience. Rule 6.1 does not seem to address, specifically, the petition for reinstatement.

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

Very truly yours,

OHNSTAD TWICHELL, P.C.


Robert G. Hoy

RGH:dms