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Vince H. Ficek
Eugene F. Buresh

October 5, 1999

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

OCT 6 1999

STATE OF NORTH DAKOTA

Clerk of the Supreme Court
Attn: Penny Miller
600 E. Blvd Ave Dept. 180
Bismarck, ND 58505-0530

RE: Proposed amendments to North Dakota Rules of Evidence, Rule 407

Dear Ms. Miller:

In the October 1999 issue of Note Pad there is a reference, "to an amendment to the North Dakota Rules of Evidence, Rule 407 which would prohibit evidence of subsequent remedial measures to prove a defect in the product or its design or that a warning or instruction should have accompanied a product. Another amendment attempts to clarify what the triggering event is for determining whether a remedial measure is a subsequent or prior remedial measure." I oppose such specific types of amendments to a rule of evidence. It appears to be an attempt to prevent evidence in a product's liability case which is more a proposal of an insurance company or the legislature rather than an attorney. Such evidence is relevant in product design or product liability cases and such amendments should not be allowed to our North Dakota Rules of Evidence. I oppose such an amendment on behalf of my law office as well as any North Dakota citizen who might be injured by a defective product.

Please send me a copy of the proposed amendment.

Sincerely,

FICEK & BURESH, P.C.


By: Vince H. Ficek
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