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From: Evan Heustis [eheustis@ramseybank.com]
Sent: Tuesday, February 21, 2006 4:15 PM
To: supclerkofcourt@ndcourts.com
Subject: Proposed Amendment - NDRCr (Rule 10.2)

STATE OF NORTH DAKOTA

Please consider this my formal comment on the Joint Procedure Committee's proposed Rule 10.2 of the NDRCr and its immediate adoption.

I write in favor of the proposition and the immediate action requested relative to its adoption. As General Counsel for The Ramsey National Bank and Trust Co. I am sometimes engaged in assisting various departments of this bank in the preparation of, the filing and execution of Small Claims Court actions. These are most often simple, rudimentary claims that could be handled by anyone with a grasp of the facts to be presented.

It does not appear logical that an individual with no background in law or business is allowed to prosecute and defend an action in Small Claims Court against a financial institution, but the representative of a financial institution may not do so on his employer's behalf.

Acting in a representative capacity for an employer, in many instances not associated with the law, is nothing unusual for a financial institution's employees. It is suggested this kind of representation would bring to the Small Claims Court a certain amount of sophistication, education and experience that should be welcome in Small Claims Court.

I am well aware of the argument that financial institutions should not be permitted to practice law and that to allow a financial institution's employees to represent the institution in **ANY COURT** is to condone that which is not permitted. However, the manner in which the Small Claims Court operates militates against a finding that to participate is the practice of law. It is, at best, an exercise in dispute resolution.

It is this dispute resolution approach which is one of the best arguments for permitting an financial institution's employees to represent their employer in Small Claims Court.

Another consideration in favor of permitting a financial institution's employees to represent the institution in Small Claims Court although there is a prohibition against the institution from practicing law; is the fact that no separate fee is being paid for this representation. The employee is engaging in conduct solely for

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the salary paid for all of the employee's other efforts on behalf of the financial institution.

Also, the State of Wisconsin permits what Rule 10.2 would accomplish and it seems to have worked well in that state.

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