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February 22, 2006

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Penny L. Miller  
Clerk of the Supreme Court  
State Capitol  
600 E. Boulevard Ave., Dept. 180  
Bismarck, ND 58505-0530

FILED  
IN THE OFFICE OF THE  
CLERK OF SUPREME COURT

FEB 27 2006

**Re: Proposed Rule 10.2**

STATE OF NORTH DAKOTA

Dear Ms. Miller:

I write in opposition to proposed Rule 10.2 of the North Dakota Rules of Court. It is obvious, of course, that this Rule is designed to overcome concerns created by Wetzel v. Schlenvogt, 2005 ND 190, 705 N.W.2d 836. It appears to me that this Rule, if adopted, would encroach upon the legislative power. Since the legislature has determined what the practice of law is, and the Wetzel case interpreted and explained why a corporation may not be represented by a non lawyer, it is clear that the standards in this matter are all legislatively drafted. To permit enactment of this Rule would mean that the Court has engaged in a legislative enactment which exceeds, I think, the court's power.

Section 27-08.1-04 of the North Dakota Century Code, a recent enactment of the legislature states, "If the defendant elects to remove the action from small claims court to district court, the district court shall award attorney's fees to a prevailing plaintiff." Presumably this now means that with the adoption of this Rule, a non attorney could be awarded attorney's fees.

Secondarily, it seems that the legislature has demonstrated a desire to prevent removal of small claim's actions. On the other hand, the recent enactment of the amendment to Section 27-08.1-04 does not award attorney's fees to a prevailing party, it merely awards attorney's fees to a prevailing plaintiff. The thought process presumably being designed to maintain an action in small claim's court and to prevent removals.

What is most frustrating to me is the continued belief that the practice of law does not require any type of specialized knowledge. After seven years of training, plus passages of the bar together with repeated continuing education programs, an attorney is allowed to practice law and represent clients. An attorney is subject to continuing disciplinary scrutiny. An attorney cannot, however, go plumb his neighbor's house and have it pass inspection, an attorney can't wire the house and have it pass

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inspection. nor can he cut someone's hair for a fee. As a result, the expansion of the encroachment on the practice of law denigrates the professional.

I hope the Court will consider these comments and refuse passage of proposed Rule 10.2

Thank you.

Sincerely,

LARSON LAW FIRM, P.C.

A handwritten signature in black ink that reads "Mark". The letters are cursive and slightly slanted to the right.

Mark V. Larson

MVL:dam:miller01