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TO: Penny Miller, Clerk of the Supreme Court  
FROM: Sally Holewa, State Court Administrator *CH*  
DATE: February 6, 2006  
SUBJECT: Comments on Proposed Rule N.D.R.Ct. 10.2

In response to the request for comments on proposed rule N.D.R.Ct. 10.2, I would note that currently the majority of small claims cases are handled as default matters pursuant to N.D.C.C. 27-08.1.02.

I would recommend that language be added to proposed rule N.D.R.Ct. 10.2 to clarify that the intent of the rule is not to set aside or modify the current default practices, which allow a judge or referee to issue a default judgment without a hearing if no request for hearing or request to move to District Court have been filed within 20 days of the filing of the Claim.

I have attached suggested language changes to subsection 1(a) and to the Explanatory Note.

RULE 10.2 SMALL CLAIMS COURT

1. (a) Appearances. The parties to any action in which a hearing has been requested shall appear in person, unless otherwise authorized by the court, and may be represented by a lawyer admitted to practice law before the courts of this state.

(b) Business Associations or Political Subdivisions. A corporation, partnership, limited liability company, sole proprietorship, association or political subdivision may be represented in a small claims court action by an officer, manager, partner, or authorized employee or agent. An owner or employee of a collection agency may not act as an agent under Rule 10.2(b).

EXPLANATORY NOTE

Rule 10.2 was adopted, effective \_\_\_\_\_.

Under N.D.C.C. § 27-08.1-01 (3), a claim may not be filed in small claims court by an assignee of

the claim.

Under N.D.C.C. § 27-08.1-02 if the court has not received a request for hearing within 20 days of filing of the claim, the matter proceeds by default. The provisions of subsection 1 (a) of this rule do not apply to cases that proceed by default.

SOURCES: Joint Procedure Committee Minutes of January 26, 2006, pages \_\_\_\_\_.