

Supreme Court Clerk's Office - Dever, Sonya

From: Miller, Penny
Sent: Friday, April 12, 2013 10:49 AM
To: Hulm, Petra
Subject: FW: NDRct. Rule 3.5

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From: Sean Kasson [mailto:Sean.Kasson@co.ward.nd.us]
Sent: Friday, April 12, 2013 10:37 AM
To: Miller, Penny
Cc: Roza Larson
Subject: NDRct. Rule 3.5

Dear Ms. Miller:

I support the concerns raised by my colleagues. I believe if our concerns are not resolved, it is probable that it will have a spillover effect on docket currency as much time will be consumed by attorneys performing administrative tasks, rather than focusing on proper case management. Thank you.

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Ms. Miller,

This is to request that the Supreme Court reconsider the specific wording of NDRct. Rule 3.5 as it pertains to State's Attorney's Offices. The rule as now adopted requires EACH attorney to designate AN ADDRESS for electronic service. That means service upon state's attorneys after a complaint has been filed or any action where the state's attorney is counsel of record for a case (all criminal cases, mental health cases, civil cases involving the county or any county department) can be made upon any attorney for the party - the "State" (County) who is an attorney in that office. The rule as adopted also ignores and to an extent can undermine the statutory mandate that all states attorneys whether part or full time have a responsibility to oversee their appointed assistants and I think this rule as adopted encourages a circumvention of the state's attorney's oversight. The rule as stated now is:

~~(3) After April 1, 2013, any party not exempt from electronic filing must designate~~ All attorneys must provide an e-mail address to the State Board of Law Examiners for accepting electronic service. This email address will be posted on the North Dakota Supreme Court website.

I know that my office, and several other State's Attorney's Offices have had contact with you and the State Court administration in an attempt to correct this situation prior to April 1, 2013 when e-filing became mandatory. The problem is that service of documents to the "State" (local State's Attorney's Office) is properly served upon the State's Attorney. When e-filing/serving began my individual email box became inundated with service. There are seven attorneys in this office, I have staff that handles the mail, I found myself becoming a "postal worker". When I attempted to remedy this situation through our local Court Administration, I was treated very condescendingly and told service on me (personally) was proper as I am the State's Attorney. I then went to our IT department, who attempted to work with the State Court Administration Office to find a solution. A solution was not found through those channels at the time. Meanwhile our IT department did set up an office email, which our local Clerks of Court began using to serve Court Orders, low and behold that works as it should. However the problem still remains with e-service by attorneys to this office. I have had my staff working on addressing this issue for the past several months. At one point we were advised the common office email could be added to a "master list" with Odyssey, but there was no guarantee that email address would be used. The staff working on this situation was told that it would be on us to get the "word" out which address was to be used for eservice, and that if attorneys used the email address listed for the individual attorney on the Supreme Court website, (ie: our "direct email) there would be nothing that could be done about that. Placing this requisite back upon local State's Attorney's and staff, for a mandate that has been placed upon us to accept (e-filing/serving), is overly burdensome and assumes that we know every attorney that will be retained in the future by future defendants, an impossibility.

It is my understanding that inquiry has also been made to simply have the common email address added to our information/contact in the directory on the Supreme Court site, along with our direct email. It is further my understanding that this request could not be accomplished. I'm perplexed as to why this seemingly simple addition cannot be made to our contact in the directory on the Supreme Court site. It seems quite simple (although admittedly I am not a computer/webpage expert), to be able to add the line E-SERVE ADDRESS : jane.doe@this.address. I do not see why State's Attorney's Offices should be treated any differently then say Clerks of Court Offices. All documents are filed with the appropriate local Clerks of Court. All local Clerks of Court have a designated address for filing, yet all Clerks of Court (and their deputies) have individual email addresses as well. Here in Minot Ms. Hoffer does not get her direct email box inundated with filings, rather it is all directed to the designated address by the OFFICE. However her direct email is also available for direct questions and communication when needed. Why is it so hard to have the same type of professional consideration for State's Attorney's offices? Since many State's Attorneys and Assistant State's Attorney's prefer to also have their direct email listed in the Attorney Directory for direct communication as needed. I concur with Ari Johnson's proposal as a solution to amend NDRc Rule 3.5 as follows:

(3) Each attorney must provide an e-mail address to the State Board of Law Examiners for accepting electronic service. This e-mail address will be posted on the attorney's entry in the Lawyers Directory of the North Dakota Supreme Court website. Each state's attorney must provide an e-mail address to the North Dakota Supreme Court for accepting electronic service upon the state's attorney. This e-mail address will be posted on the state's attorney's entry in the list of State's Attorneys on the North Dakota Supreme Court website. Service on a state's attorney or assistant state's attorney acting in that capacity must be made on the address designated by the state's attorney. Service on an attorney not acting in the capacity of a state's attorney or assistant state's attorney must be served on the address designated by the individual attorney.

Thank you for your assistance.

Rozanna C. Larson

Ward County State' Attorney