

Miller, Penny

FILED
 IN THE OFFICE OF THE
 CLERK OF SUPREME COURT
 DECEMBER 16, 2016
 STATE OF NORTH DAKOTA

From: Roger Minch <rminch@serklandlaw.com>
Sent: Friday, December 16, 2016 10:18 AM
To: Miller, Penny
Subject: RE: Petition to Permit Temporary Provision of Legal Services by Qualified Attorneys from Outside ND - Supreme Court No. 20160436

Thank you. This will be my last comment. Everyone has a constitutional right to file a bankruptcy case. But the Bankruptcy Code has painstakingly detailed provisions requiring full disclosure of any and all fees to be paid debtor's counsel, the source of the fees, and detailed information to assure no conflicts of interest. 11 USC Sections 327 through 330. Any missteps and the fees are not allowed and any paid might be disgorged. Very talented attorneys had spent a lot of time on the petition and most ND attorneys are already busy enough to not have a lot of volunteer time. It would not be too much for the Court to ask for a detailed accounting and disclosure of exactly who or what is paying for the petition, if any, as well as full disclosure of the terms.

From: Miller, Penny [mailto:PMiller@ndcourts.gov]
Sent: Friday, December 16, 2016 9:15 AM
To: Roger Minch
Subject: RE: Petition to Permit Temporary Provision of Legal Services by Qualified Attorneys from Outside ND - Supreme Court No. 20160436

Thank you.

From: Roger Minch [mailto:rminch@serklandlaw.com]
Sent: Friday, December 16, 2016 8:55 AM
To: Miller, Penny
Subject: Re: Petition to Permit Temporary Provision of Legal Services by Qualified Attorneys from Outside ND - Supreme Court No. 20160436

Thank you. I would like to clarify the below in one respect only. The requirement of a bond to be posted by DAPL criminal defense attorneys operating under the Temporary Provision should be used to cover ONLY monetary contempt sanctions assessed by any Court against any such DAPL criminal defense attorney or his or her DAPL defendant. This would serve to protect the power of the Courts and defense counsel themselves. Without this or some other protection, we can all expect courts to have to resort not to monetary contempt sanctions but jail, something to be welcomed by some, making the volunteer (I assume) work of DAPL defense counsel that much more difficult.

Sent from my iPad

On Dec 16, 2016, at 8:23 AM, Miller, Penny <PMiller@ndcourts.gov> wrote:

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December 16, 2016

Your comments in this matter are being filed and distributed to the Court.

Sincerely yours,

Penny Miller

Clerk

North Dakota Supreme Court

From: Roger Minch [<mailto:rminch@serklandlaw.com>]

Sent: Thursday, December 15, 2016 5:19 PM

To: (SUP) Clerk of Court Office

Subject: comments on proposed Petition to Permit Temporary Provision of Legal Services by Qualified Attorneys from Outside ND

The so-called crisis facing those charged for their conduct at the DAPL protest site is completely of their own making. This was never about water or "sacred sites". I was in Los Angeles from 11/29 through 12/4 and saw the local news coverage of protests at the LA headquarters of the Corps of Engineers and saw almost front page news coverage of veterans' groups from LA loading busses in shirtsleeves to come to ND to be a human shield. They were giddy. They looked as if they were headed to a tail gating party and had had nothing to do for a very long time. I hope they stopped at several second hand stores on the way to buy winter clothing.

As tax payers we just spent \$30,000,000 for a new water treatment plant at Mobridge to supply water for Standing Rock and other tribes. There is a rail road bridge just 1 ½ miles upstream from the new intake. As for "sacred sites" the DAPL easement follows another long- existing pipeline. The outside defendants took advantage of local tribal members for THEIR own green and leave it in the ground agenda. Three Affiliated Tribes has had no problem with the 4,000 miles of oil pipelines it has ON ITS OWN RESERVATION according to its "chief environmental officer". And who pays the state of ND for the \$17,000,000 in law enforcement costs to date?

Well, yes, everyone deserves an attorney and a fair trial, no matter the reason. At the same time, everyone has the right to do good AT THEIR OWN EXPENSE. We have no reason to believe that any DAPL defendant will be able to or would pay any sanctions, fines or criminal penalties assessed against them. So in addition to the proposed order, I would recommend the following: Any out of state attorney representing a DAPL related criminal defendant under this Order shall post a bond in the amount of \$_____ to be available to pay in full any and all monetary sanctions assessed in any court proceeding against any such criminal defendant or out of state attorney representing any such criminal defendant, and any sanction imposed on any such criminal defendant shall be deemed to be the monetary obligation of any such criminal defendant's attorney to be paid from the bond.

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