



State Bar Association of North Dakota

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Tony J. Weiler • *Executive Director*

December 22, 2016

Hon. Gerald W. VandeWalle
Chief Justice
Supreme Court
Judicial Wing, First Floor
600 E. Boulevard Ave.
Bismarck, ND 58505-0530

Dear Chief Justice VandeWalle,

On December 15, 2016 the Court provided Notice of Comment “In the Matter of a Petition to Permit Temporary Provision of Legal Services by Qualified Attorneys From Outside North Dakota.”

The Board of Governors of the State Bar Association of North Dakota (SBAND) met and discussed the issue, after having reviewed the brief and the affidavits attached thereto. While SBAND has been involved in discussions regarding the issues in the South Central Judicial District relative to the Dakota Access Pipeline (DAPL) protests, and has taken steps to notify SBAND members about how to assist where possible, the Board of Governors has some concerns with the relief requested in the Petition.

If the Court makes any of the suggested changes to North Dakota’s Admission to Practice Rules, the Board of Governors is primarily concerned with the protection of the public and the unauthorized practice of law. SBAND suggests any changes to the Admission to Practice Rules be limited to the criminal defense of those involved with the DAPL protests, and only those proceedings. Further, those allowed to appear in North Dakota Courts should comply with the state’s *pro hac vice* rules with respect to attesting to their good conduct in their state(s) of licensure and paying licensure fees on at least one occasion. Any changes to the admission rules should require that Counsel still be subject to discipline in North Dakota. If the Court eases any of the requirements on North Dakota counsel that associate with a *pro hac vice* admitted attorney, those changes should be done in light of the interests of the protection of those being represented.

I’d like to point out that while SBAND’s Executive Director has had several conversations with Bismarck attorney Chad Nodland, he in no way indicated that SBAND has the capacity or is a position to administer or set up a system allowed under Rule 3.2, Admission to Practice R. Rule 3.2(B) also indicates that the legal services must be “assigned and supervised through the State Bar Association of North Dakota...” or another organization. SBAND is concerned that it is not the best organization to “assign or supervise” any of the legal services contemplated in the Petition.

Finally, SBAND does not express an opinion as to whether the DAPL protest is a “natural or other major disaster” as contemplated under Rule 3.2, Admission to Practice R.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheli" followed by a stylized monogram or initials, possibly "CD". The signature is written in a cursive, fluid style.

Charles G. DeMakis
President