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FILED  
 IN THE OFFICE OF THE  
 CLERK OF THE SUPREME COURT  
 OCTOBER 2, 2017  
 STATE OF NORTH DAKOTA  
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APRIL E. OLSON

October 2, 2017

Penny Miller, Clerk of Supreme Court  
 Supreme Court of North Dakota  
 600 E. Boulevard Ave.  
 Bismarck, ND 58505-0530  
 VIA EMAIL: [supclerkofcourt@ndcourts.gov](mailto:supclerkofcourt@ndcourts.gov)

RE: In the Matter of a Petition to Terminate the Special Provision of Legal Services by  
 Qualified Attorneys from Outside North Dakota, Supreme Court No. 20160436

Dear Clerk of Supreme Court:

This letter is provided in response to the Petition to Terminate the Special Provision of Legal Services by Qualified Attorneys from Outside North Dakota, filed by the Judges of the South Central Judicial District on or about September 11, 2017 (hereinafter the "Petition"). I write to oppose this Petition for the reasons set forth below.

First, as an initial matter, the Petition and accompanying document contain inaccuracies. Attached to the Petition is a list of attorneys who have been admitted to practice under the special provisions. The Petition alleges that at least 11 of those attorneys have never been an attorney of record in any case. That statement is not accurate. I am listed as one of the attorneys who has never been attorney of record, yet I entered an appearance on behalf of a client on February 10, 2017 and I have filed legal pleadings on his behalf (State v. M.H., Case No. 30-16-CR-1797). This case is currently set for trial on January 18, 2018. I continue to remain actively involved and granting the Petition would prejudice my client, because the Petition, as it currently stands, specifically seeks to prevent me from practicing. It is my understanding that there may be other such errors contained in the Petition and accompanying document. This Court should not act upon a Petition based on inaccurate information.

Second, less than a year has passed since this Court recognized the "potential for delay or inconvenience for litigants due to the relatively large number of arrests and finite resources to handle the judicial proceedings related to those arrests." The circumstances that created the need for the special provisions still exist. There were over 800 arrests in North Dakota in connection with the protests of the Dakota Access Pipeline ("DAPL"). As of the filing of the Petition, September 11, 2017, over 150 defendants remain unrepresented and the number of criminal defense attorneys licensed in North Dakota and available to represent these individuals is insufficient. Granting the Petition could prevent these defendants from being represented by competent counsel. A criminal defendant has the right to be represented by competent counsel under the Sixth Amendment of the United States Constitution and Article I, §12 of the North

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Dakota Constitution. Further, even if North Dakota counsel could be located for all such defendants, the delay in getting these defendants to trial could surely affect other constitutionally afforded rights such as speedy trial, due process and equal protection. This Court should not grant the Petition when such rights are at stake and it would be prudent to exercise caution until additional cases are resolved.

Finally, the continued utilization of pro hac attorneys for the DAPL cases will ensure fundamental fairness and due process for all DAPL defendants and will likely come at a cost savings to North Dakota. Further, there is no harm in continuing the special provisions at this time. As of September 11, 2017, pro hac attorneys have or are currently representing clients in 127 separate matters. As noted above, over 150 defendants still need counsel. Experienced pro hac attorneys practicing with local associate attorneys have provided superior client representation and have become informed of the unique issues surrounding these cases, which involve non-typical charges (i.e. engaging in a riot). Pro hac attorneys will continue to provide these services, which will reduce the need for continuances and delay in the DAPL cases.

For all these reasons, I respectfully request the Supreme Court deny the Petition and allow pro hac attorneys to continue to practice under the special conditions of the January 18, 2017 Order of the North Dakota Supreme Court.

Respectfully Submitted,



April E. Olson (#P01805)  
Attorney at Law