

# Barbara L. Whelan

District Court Judge  
Northeast Judicial District  
State of North Dakota

## CHAMBERS

Walsh County Courthouse  
600 Cooper Avenue – 2<sup>nd</sup> Floor  
Grafton, North Dakota 58237  
Telephone: 352-1311

**Tammy Henriksen**  
Certified Court Recorder

October 28, 2020

Petra H. Mandigo Hulm  
Clerk of the Supreme Court  
Via electronic means to [supclerkofcourt@ndcourts.gov](mailto:supclerkofcourt@ndcourts.gov)

Re: S.C. 20200264, In the Matter of the Vacancy in Judgeship #5, Northeast Judicial District

Dear Ms. Hulm:

Please file this letter with the North Dakota Supreme Court regarding the vacancy created by the resignation of Judge Fontaine, who holds Judgeship #5 in the Northeast Judicial District.

After reviewing letters and documents submitted by other Judges, lawyers, and community members, I join their unanimous support for the retention of Judgeship #5.

Although I am the Judge with the least amount of seniority in our district, I have spent the last 26 years practicing law and serving as a State's Attorney almost exclusively in the Northeast Judicial District. I am the only Judge in the district, and in our unit, that resides on an operating family farm. In fact, land presently farmed by my husband was homesteaded by his ancestors prior to North Dakota even becoming a State. And we are not alone in this proud heritage, as many of our neighbors are active fifth and sixth generation farmers. Such is the rural nature of the vast majority of the Northeast Judicial District.

The citizens of this District choose this lifestyle, accepting they might drive 15 or 20 miles to conduct business at their county seat. They work hard, they pay their taxes, and they have the right to expect access to core governmental services within their locality.

The Governor does not have satellite offices staffed by executive branch employees in every County. The Legislature does not maintain legislative offices staffed by legislative employees in every County of this State. But that is not the case regarding the Judicial branch. The Court system is the only branch of state government that maintains a physical and/or operational presence in every County of this State. I suggest to you that is not by accident. The importance of having a Courthouse, a Courtroom and a sitting District Court Judge assigned to every County is the foundation for rural citizens to have access to their government.

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Having moved from a County Judge model to a District Court model, the citizens of the Northeast Judicial District no longer elect a local County Judge, but now vote for Judges that serve the entire Northeast Judicial District. Truthfully, many of these citizens likely have not had contact with the District Court Judge who is chambered on the other side of the District. But they most certainly know the identity of the District Court Judge who is chambered in their County Courthouse. This knowledge contributes significantly to the peace and stability they have the right to expect in their day-to-day lives. It is the very minimum they are entitled to expect from their State government.

Why do these things matter when considering the retention of Judgeship #5? Because the loss of a District Court Judge in Pembina and Cavalier Counties is a disservice not only to the citizens of those two counties, but to the entire citizenry of the Northeast Judicial District. Leaving only 5 District Judges to serve the entire district would result in a significant shift of workload among the remaining Judges. It would increase travel time for the remaining Judges and their court recorders. It would decrease the amount of time the remaining Judges have to serve the needs of citizens within the counties they are already serving. It would result in less access to the justice system by the citizens.

Of particular significance to me is the disruption of the long-standing practice whereby demands and recusals are efficiently shifted between Judgeship #6 (Grafton) and Judgeship #5. In the vast majority of cases, demands/recusals are exchanged between these two Judgeships. This results in savings of travel time, as Judgeships #5 and #6 are relatively close to each other (35 miles Grafton/Cavalier; 68 miles Grafton/Langdon). If Judgeship #5 is not retained, the nearest Judge for conflict cases is a minimum of 100 miles away in Devils Lake, and next closest is 150 miles away, in Rugby. Clearly, this is not an efficient use of court resources.

Finally, it is important for the Court to maintain the respect of the citizenry. Although we have made significant strides in utilizing technology for court proceedings during the pandemic, hearings over the internet will never replace the quality, tenor and effectiveness of personal appearance of litigants and attorneys before a District Court Judge. Respect for the judiciary is eroded if, repeatedly, litigants and attorneys do not have face-to-face contact with their District Court Judge. The erosion of the court system occurs when a Judge is forced to utilize technology in place of in-person hearings, and/or has limited time to be present within the local Courthouse where he or she is assigned.

I respectfully request that Judgeship #5 be retained in the Northeast Judicial District. The citizens of the entire district deserve to have their Judge living amongst them and providing unfettered access to court services.

Very truly yours,

A handwritten signature in cursive script that reads "Barbara L. Whelan". The signature is written in dark ink and is positioned above the printed name.

Barbara L. Whelan