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January 21, 1987

[REDACTED]

Re: Ethics Committee Opinion

Dear [REDACTED]

The Ethics Committee of the State Bar Association of North Dakota met on January 20, 1987, and discussed the matters presented by your letter of November 10, 1986.

The question you presented, in essence, is whether you were prohibited from representing one or both of two of your clients involved on opposite sides of a civil matter. You advised the Committee that your client, [REDACTED] was struck by a truck in the city of [REDACTED] and later died as a result of those injuries. You further advised that you are the City Attorney for the [REDACTED] and that it was likely that the [REDACTED] would sue the independent contractor who was performing the paving work for the city. You indicated that it was very likely that the city would be brought in as a defendant.

It is the opinion of this Committee that because of your existing and past relationships with both clients, there would clearly be a conflict of interest in representing either of them and that you should immediately withdraw from representing either of those clients in any litigation which would involve the two of them. This is not to say that you would be prohibited from representing either client in other unrelated matters where their interests do not conflict with one another.


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The above letter opinion is issued for advisory purposes only and is not binding on you, the courts of North Dakota, the Disciplinary Board, Grievance Committees, or any other member of the bar of the State of North Dakota.

Sincerely,

Patrick J. Ward, Chairman
Ethics Committee

PJW:gb

[REDACTED]
[REDACTED]
[REDACTED]
November 10, 1986

Mr. Patrick J. Ward
Attorney at Law
P.O. Box 1695
Bismarck, ND 58502

RE: Conflict of Interest

Dear Mr. Ward:

Recently there was an accident in the [REDACTED] whereby my client, [REDACTED], was struck by a truck driver while they were laying pavement on the Main Street of [REDACTED]. As a direct consequence, my client, [REDACTED] was seriously injured and died one month later.

I am the City Attorney for the [REDACTED], but no criminal or civil action has been filed at this time. It is my position that the independant contractor is liable for this accident, but nevertheless, I could not prevent them from bringing an action against the City of Linton.

I would like to have your opinion as to whether or not there would be a conflict of interest in this case if 1) I should initiate a lawsuit on behalf of the heirs of my client, [REDACTED] 2) Also, if I would resign as City Attorney, would that remove any improprieties, as shown by a copy of my letter I submitted to the Mayor. It should be noted that should the [REDACTED] be sued, I would not represent them in any event, due to the fact, that the insurance company for the [REDACTED] would have their own attorney, which I am sure would be some lawfirm out of Bismarck.

I would therefore appreciate it if you or your committee could give me an informal opinion as to what conflict of interest I would have, if any. Should there be any conflicts, I would withdraw as attorney for all parties, including the [REDACTED]

Very truly yours,
[REDACTED]
[REDACTED]
[REDACTED]

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October 14, 1986

RE:

As you may recall at the last city council meeting, the board was informed that I am representing ██████████ when he was seriously injured by an employee of ██████████

I am in the process of settling this case. I hope we can do so without a lawsuit. Should the [REDACTED] be involved, of course your insurance carrier would protect you and they would hire their own lawyer, which would be a law firm out of Bismarck, N.D.

In the event that the [REDACTED] should get involved in this lawsuit, I would immediately resign as the City Attorney, even though I would not be directly involved with the defense for the city. I do not want any appearance of improprieties whatsoever as far as the public is concerned.

I also want to state for the record that since I have represented the [REDACTED] family, I could not represent the [REDACTED]. Should any conflict arise involving this lawsuit, I would have to withdraw as City Attorney and as the attorney for the [REDACTED] family.

Very truly yours,