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DOUGLAS E. CHRISTENSEN

OFFICE MANAGER

May 8, 1991

*ALSO LICENSED IN MINNESOTA

[REDACTED]

Dear [REDACTED]

RE: SBAND Ethics Committee Request

The Ethics Committee of the State Bar Association of North Dakota has addressed and discussed the questions raised in your letter of April 22, 1991.

It was the opinion of the Committee that there is no prohibition contained in the North Dakota Rules of Professional Conduct which would prohibit a part-time State's Attorney in one County from acting as a municipal judge in another County. We would point out the requirements of Rule 1.8(j), North Dakota Rules of Professional Conduct and also the section of the Rules of Judicial Conduct concerning compliance with the Rules of Judicial Conduct set out on page 977 of the Michie Court Rules volume. That is, attorneys serving dual capacities must assure that they comply with the requirements of the Rules of Professional Conduct and/or Rules of Judicial Conduct when engaging in private practice.

This letter opinion is issued to you for advisory purposes only and is not binding on you, the Courts of North Dakota, disciplinary board, grievance committees, or any other member of the Bar of the State of North Dakota.

Very truly yours,

Paul F. Richard

Paul F. Richard
Chairman

Ethics Committee State Bar Association
of North Dakota

91-05

April 22, 1991

Paul F. Richard
Attorney at Law
P. O. Box 6017
Fargo, ND 58108-6017

Dear Mr. Richard:

Vivian Berg referred me to you with regard to a question which I called her about. She thought that your committee might already have issued an opinion on the matter or might be willing to issue an opinion.

The Legislature, in its wisdom, or lack thereof, has enacted legislature prohibiting lay judges from hearing cases of driving while under the influence of alcohol.

The City of Kenmare has a lay judge and is located 60 miles from the county seat at Minot.

We have considered asking a lawyer in a neighboring town to serve as assistant city judge to hear those cases involving driving while under the influence of alcohol.

Those neighboring lawyers are part time states attorneys.

Is there any prohibition on a part time states attorney in one county acting as a municipal judge in another county?

Thank you much.

Your sincere,

[Redacted signature block]

RECEIVED
APR 25 1991

Saddled, Lundberg, Erickson
Maroll & Mutsaers, Ltd.