



# State Bar Association of North Dakota

**handbook**  
for new members

# Greetings New Members of the State Bar Association of North Dakota

Congratulations on passing the bar exam and on your admission to practice law in the state of North Dakota. You are also now a member of the State Bar Association of North Dakota, and are about to embark upon a career that is both challenging and rewarding. The Bar Association is here to help.

The Association is governed by a 15-member board of governors, with representation from each of the 8 judicial districts in the state, one representative from the Young Lawyers Section, a representative from the ABA, the Dean of the Law School, the president-elect and past president, and a secretary/treasurer. We also use the expertise and talents of the many members who are willing to volunteer their time and energy on various committees and sections.

The Association sponsors many activities and provides services and benefits to our members. While the attached material does not discuss every facet of what we do, it does provide you a glimpse of some of the important aspects. More information regarding each area is included behind the specific tab following this letter.

- 1) **Young Lawyers Section.** Membership in the Young Lawyer Section is limited to attorneys who are 35 years of age or younger or who have practiced for 5 years or less, whichever occurs last. The Association is very interested in encouraging young lawyers to participate in Association activities and in supporting section projects.
- 2) **CLE Seminars.** The Association sponsors continuing legal education (CLE) seminars each year. As a member you will receive notices and registration forms regarding future seminars. A schedule of upcoming seminars is located at [www.sband.org](http://www.sband.org), CLE, 2019 SBAND CLE. If you are interested in a particular topic, you may access our self-study materials online at [www.sband.org](http://www.sband.org) under the Continuing Legal Education tab, where you can purchase self-study.
- 3) **Lawyer Referral & Information Service.** This service matches attorneys with clients seeking legal representation in a particular substantive area of law, and from the same general geographical area. As part of the service, attorneys agree to provide a free 30-minute consultation.
- 4) **Volunteer Lawyer Program.** The VLP program includes Pro Bono work as well as our Reduced Fee Program. As part of the legal profession's continuing obligation to provide civil legal services to the poor, the Association administers the program called and looks for ways to involve all members in providing these services. We recognize "Justice for All" lawyers who provide 50 or more hours of service under the program, and encourage you to do your part. Attorneys are encouraged to complete a profile providing information concerning their areas of expertise and the types of cases they will accept.

The Reduced Fee Program serves clients who earn less than 200% of the federal poverty level. The program provides assistance to lower and middle income families who otherwise would not be able to retain an attorney.

- 5) **CLE Commission.** The Commission is responsible for ensuring compliance with the Supreme Court's continuing education rules. Every licensed attorney in North Dakota must report 45 hours of CLE, including 3 hours in the area of professional responsibility, every 3 years. You will be responsible for maintaining a record of the seminars you attend and the number of CLE hours approved for those seminars.

Under the CLE rules, your first reporting period will end June 30, 2023. In May 2023, you will receive a notice by email to submit a listing of the seminars you have attended during the reporting period. A designated filing fee must be filed with the Commission prior to July 31, 2023. If you have questions about whether a seminar will or may be approved for CLE credit, please contact the Association office.

- 6) **North Dakota Bar Foundation.** The philanthropic arm of the Association is the North Dakota Bar Foundation. Through the Foundation several projects dealing with the administration of justice or public education about the justice system have been sponsored. Recently, all the Foundation's funds have gone to Legal Services of North Dakota to provide legal services to those who cannot afford it. Your involvement with the Foundation can begin with as little as a \$25.00 contribution to become a sustaining member.

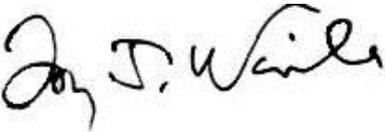
Attorneys routinely receive funds to be placed in trust for future use, and place these into an interest on lawyer trust account (IOLTA). The IOLTA program allows attorneys to pool these small amounts together to generate interest which is paid to the North Dakota Bar Foundation. In turn, the Foundation's IOLTA Committee uses the IOLTA money to issue grants to support civil legal services, public education programs relating to the courts and legal matters, and projects involving the administration of justice.

SBAND maintains a website at [www.sband.org](http://www.sband.org) that provides a wealth of information about the Association and its programs and services at your fingertips. The website is designed as a portal to the Internet. This means it is designed to be your home page when you turn on your computer in the morning and to be your access to all you might need from the Internet during the course of a day's work. One of the newest features to the site is the ability to create a user and login to maintain your membership information with SBAND. Once a user has been created you will be able to view your CLE credit hours that you have attained by going to SBAND events or if you have filed for Individual Attorney CLE hours from a sponsored CLE. Another new feature is the ability to view your Reporting Group to which you have been assigned.

Our "For Lawyers" section gives you direct access to ethics opinions, administrative rule changes, legislative status reports and other legal publications. Another on-line feature is our on-line Pattern Jury Instructions. You can now find, as a free benefit of your membership in SBAND, all the information contained in the massive civil and criminal volumes of North Dakota jury instructions. Finally, another member benefit is Casemaker, an online legal research service that you can use free of charge.

This was just a brief summary of the Association's many activities and benefits. I look forward to meeting you personally. Feel free to contact me to discuss your role as a new member. Again, welcome!

Sincerely,

A handwritten signature in black ink that reads "Tony J. Weiler". The signature is written in a cursive, flowing style.

Tony J. Weiler  
Executive Director

## Section 1: North Dakota Commission for Continuing Legal Education

*New Members (admitted between July 1, 2019 and June 30, 2020) of the State Bar Association of North Dakota*

Greetings:

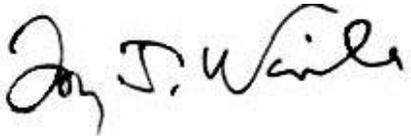
Congratulations on becoming a member of the State Bar Association of North Dakota. Based upon the date of your licensure in North Dakota, you have been placed in CLE Reporting Group 3. Your first reporting period ends June 30, 2023, with your first Report of Compliance due no later than July 31, 2023.

You will receive notification of your Report of Compliance due date in May, 2023. Please keep us informed of any address changes you may have so that you will receive the notification in a timely manner.

Attorneys licensed in North Dakota are required to report 45 hours of approved Continuing Legal Education course work every three years. The CLE Rules require that 3 of the 45 hours must be in the area of professional responsibility or ethics. While the CLE Commission electronically mails a notice of compliance due date to attorneys for completion, you are ultimately responsible for compliance. Consequently if you do not receive notification by June 1, 2023, you should contact the SBAND office. Forms are available on the SBAND website: [www.sband.org](http://www.sband.org).

Enclosed is a copy of the North Dakota Rules for Continuing Legal Education for your reference. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Tony J. Weiler". The signature is written in a cursive, flowing style.

Tony J. Weiler  
Secretary-Treasurer

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## Section 2: CLE Compliance

### **RULE 1. PURPOSE**

It is important to the Bar and to the public that attorneys continue their legal education throughout their active practice of law, and that attorneys who fail to do so should be prohibited from practicing law in the State of North Dakota.

### **RULE 2. STATE COMMISSION FOR CONTINUING LEGAL EDUCATION**

- (a) The Commission for Continuing Legal Education consists of seven members, one of whom shall be chair. Each member must be licensed to practice law in the State of North Dakota. The members of the Commission are appointed by the Board of Governors of the State Bar Association of North Dakota.
- (b) Members are appointed for three-year terms.
- (c) A member may not serve more than two successive three-year terms. Each member serves until a successor is appointed and qualified. The chair of the Commission is appointed annually by the Board of Governors of the State Bar Association of North Dakota. The Board of Governors designates the Secretary-Treasurer of the Commission who has no vote. The chair and other members of the Commission shall serve without compensation, but shall be paid their reasonable and necessary expenses incurred in the performance of their duties. The Secretary-Treasurer is allowed compensation for services, staff, and expenses as the Commission determines.
- (d) The Commission has general supervisory authority over the administration of these rules.

### **RULE 3. MANDATORY CONTINUING LEGAL EDUCATION, REPORT OF COMPLIANCE**

- (a) Except as qualified in section (b), each attorney duly admitted and licensed to practice in this State shall complete not less than 45 hours of approved coursework in Continuing Legal Education during each three-year period the attorney is licensed in this State. Beginning in the 1993 reporting year, three hours of this forty-five hour triennial requirement shall be in the area of ethics or coursework commonly considered professional responsibility, including coursework related to racial and ethnic diversity, gender equity, disability access, and the elimination of bias in the profession.
- (b) A Report of Compliance, in the form set by the Commission, must be filed by each attorney with the Commission by July 30 after the close of each three-year reporting period for the attorney under the following schedule:
  - (1) The reporting periods for attorneys who were licensed to practice in this State prior to 1978 and who have secured an annual license to practice in this State every year since then are:
    - (i) from July 1, 1985, to June 30, 1988, for those whose last name in 1977 began with the letter A through G;
    - (ii) from July 1, 1986, to June 30, 1989, for those whose last name in 1977 began with the letter H through N;
    - and
    - (iii) from July 1, 1984, to June 30, 1987, for those whose last name in 1977 began with the letter O through Z.Subsequent reporting periods conclude on June 30 every three years thereafter.
  - (2) The reporting periods for all other attorneys begin on July 1 succeeding the date the attorney initially secures a license to practice in this State, or succeeding the date the attorney secures relicensure after a period of nonlicensure in this State of one or more years, and concludes on June 30 three years later. Subsequent reporting periods will conclude on June 30 every three years thereafter.
- (c) Each attorney shall pay a fee not to exceed \$25.00 as set by the Commission for expenses for operation of the Commission, to the State Bar Association of North Dakota -- Commission for Continuing Legal Education, at the time of filing the Report of Compliance.

EXPLANATORY NOTE: The North Dakota Rules for Continuing Legal Education were adopted July 27, 1977.

Rules 1, 3 and 4 were subsequently amended as emergency rules December 1, 1986, and adopted as permanent rules March 24, 1987. Rule 7 was amended March 24, 1987. The above Rule incorporates the previous amendments adopted March 24, 1987, and those approved November 22, 1988, which were effective December 31, 1988. Rule 3 was further amended June 24, 1992. Emergency amendments to Rule 4 were adopted August 17, 1993, and subsequently amended and readopted February 2, 1994. Nonsubstantive amendments to the permanent rules were adopted February 2, 1994. Rule 3(a) was amended effective October 1, 2004.

#### **RULE 4. PROCEDURES AND PENALTY FOR FAILURE TO SATISFY EDUCATIONAL REQUIREMENTS**

- (a) If an attorney fails to file a report, or the proof accompanying the report fails to establish to the satisfaction of the Commission that the attorney has complied with the minimum requirements for Continuing Legal Education, the Commission shall serve upon the attorney notice that the attorney has 60 days within which to comply with these rules or the requirements of the Commission and that failure to do so may result in a suspension of the attorney's right to practice law in this State. The attorney may request, within 20 days after issuance of the 60-day notice, the Commission to schedule a hearing at which the attorney may appear in person to discuss the Commission's determination of non-compliance.
- (i) If a hearing is not timely requested and no proof of compliance is filed within 60 days of the date of the 60-day notice, it shall be deemed acquiescence by the attorney of the Commission's finding of non-compliance.
- (ii) Upon the timely receipt of a request for hearing, the Commission shall set a date, time and place for hearing and notify the attorney of the hearing by first-class mail at least 10 days in advance of the hearing. Unless compliance or good cause constituting extreme hardship is shown by the attorney within the 60 days set in the notice or, if requested, at the hearing, the Commission shall issue and file with the secretary-treasurer of the State Board of Law Examiners its findings of non-compliance and an order of suspension.
- (b) An attorney not desiring licensure in North Dakota may request to be placed on inactive status. An attorney must make such a request in writing in the format in Appendix A no later than June 30 of the year in which the attorney's Report of Compliance is due. The request shall include a certification that the attorney is not subject to any pending discipline proceedings or investigations in any jurisdiction. Attorneys electing inactive status are not required to comply with continuing legal education reporting requirements.

A lawyer not complying with the continuing legal education requirements and electing voluntary inactive status has special ethical concerns. An inactive lawyer may not represent any other person or business in legal matters or proceedings. The name of an inactive lawyer may not appear on a law firm letterhead without a qualification that the North Dakota license is inactive. A law firm name may continue to include the lawyer's name if the name was included prior to the lawyer's placement on inactive status. An inactive lawyer may not be listed as "of counsel" or otherwise be represented to clients or others as being able to undertake legal business.

Law partners or associates knowingly allowing an inactive lawyer to continue practice violate the Rules of Professional Conduct. An inactive lawyer may not have a financial interest in a law firm that is a professional corporation except under a separation agreement allowing for payments to former partners or associates of a law firm. An inactive lawyer should promptly advise clients that the lawyer is unable to represent them and that they should retain other counsel.

Reinstatement to active status from inactive status is governed by Rule 7 of the Admission to Practice Rules which allows the State Board of Law Examiners to examine the attorney's continuing legal education course work during the three-year period preceding the period of nonlicensure and the number of approved or approvable coursework hours received during the period of nonlicensure.

- (c) Upon the filing of the Commission's findings of non-compliance and order of suspension with the secretary-treasurer of the State Board of Law Examiners, the attorney's license to practice law is suspended effective the 31st day of December after the order of suspension is filed with the secretary-treasurer of the State Board of Law Examiners. From that date forward the attorney is prohibited from engaging in the practice of law and is prohibited from securing a license to practice law in the State of North Dakota until the Commission issues and files with the secretary-treasurer of the State Board of Law Examiners findings of compliance and an order of reinstatement, or unless the attorney is relicensed under Rule 7 of the North Dakota Admission to Practice Rules. The order of suspension shall require the attorney to comply with Rule 6.3 of the North Dakota Rules for Lawyer Discipline pertaining to notification of clients regarding the suspension by December 31st unless an order of reinstatement has been entered. At the time the order of suspension and findings of non-compliance are filed with the secretary-treasurer of the State

Board of Law Examiners, the Commission shall serve, by certified mail -- return receipt requested, the findings of non-compliance and the order of suspension upon the attorney involved. At the same time the order of suspension and findings of non-compliance are filed with the secretary-treasurer of the State Board of Law Examiners a certified copy of the findings of non-compliance and the order of suspension shall be filed with the Clerk of the Supreme Court of the State of North Dakota.

- (d) If strict compliance by the attorney with the requirements of this rule is excused by the Commission because of a showing of extreme hardship, the Commission may extend the reporting period for the attorney or make other reasonable accommodations consistent with the spirit of these rules, subject to reasonable limitations and conditions as the Commission imposes.
- (e) An attorney subject to an order of suspension issued by the Commission may have his or her license to practice law reinstated by 1) completing the number of hours of approved coursework in Continuing Legal Education which the Commission has determined the attorney to be delinquent, 2) filing proof of such compliance with the Commission within one year from the date of issuance of the order of suspension, and 3) filing the proof of compliance with Rule 6.3 of the North Dakota Rules for Lawyer Discipline within the time period specified in Rule 6.3(f). If an attorney timely files proof of such compliance, the Commission shall issue and file with the secretary-treasurer of the State Board of Law Examiners and the Clerk of the Supreme Court of the State of North Dakota its findings of compliance and an order of reinstatement. Upon such filing with the secretary-treasurer of the State Board of Law Examiners, the attorney's license to practice and right to practice law in this State shall be reinstated, provided the attorney's certificate of admission to the bar has not otherwise been revoked or suspended by the Supreme Court.
- (f) Reports of compliance received after the issuance of a 60-day notice as described in subpart (a) and the reports of compliance of lawyers who have been granted extensions by the Commission, and which are in turn received by the Commission within the granted period of extension, shall be accompanied by a late filing fee of \$25.00 made out to the North Dakota Commission for Continuing Legal Education in addition to the fee required by Rule 3(c). Reports received after the expiration of the 60-day notice period or after the expiration of an extension period shall be accompanied by a late filing fee of \$75.00 made out to the North Dakota Commission for Continuing Legal Education in addition to the fee required by Rule 3(c).
- (g) The number of hours of approved coursework in Continuing Legal Education completed by an attorney in bringing the attorney into compliance with an order of suspension issued by the Commission, in the year succeeding the order, may not be applied to the number of hours reportable to the Commission by the attorney in the subsequent three-year reporting period applicable to the attorney.
- (h) An attorney whose license has been suspended, who does not qualify for a license under section (d), and who seeks licensure must file an application for a license with the State Board of Law Examiners in the manner prescribed in Rule 7 of the North Dakota Admission to Practice Rules.
- (i) Within 20 days of receipt of the Commission's order of suspension, any attorney aggrieved by a decision of the Commission may petition the North Dakota Supreme Court for review of the decision. Any petition filed with the Court must be accompanied by a signed affidavit stating that a copy of the petition had been sent by first-class mail to the Commission on or before the date of filing the petition. The filing of the petition and affidavit vacates the decision of the Commission. No transcript of the Commission's proceedings is required. The record on review consists of all relevant documents maintained by the Commission, the written decision of the Commission, and any other documents submitted by the attorney to the Commission. The attorney and Commission may submit briefs to the Court within 20 days after the filing of the petition. If requested by either the attorney or Commission within 10 days after the filing of the petition, the Court may set a hearing for oral arguments on the petition. The attorney has the burden of showing proof of compliance with these rules by a preponderance of the evidence. (Adopted on an emergency basis August 17, 1993; amended and re-approved February 2, 1994; amended effective November 1, 2000; August 1, 2001.)

#### **RULE 5. PAYMENT OF EXPENSES**

The employees and members of the Commission are entitled to reimbursement for all necessary expenses incurred in the performance of their official duties. Each claim must be certified by the individual seeking payment.

#### **RULE 6. APPROVED COURSE WORK**

- (a) The Commission determines what constitutes "approved coursework." It may issue and publish advance guidelines

or evaluate courses and supporting information as submitted for approval. It may also approve courses after they have been presented. Courses sponsored by the following organizations, and their associated entities, are presumptively approved:

1. State bar associations;
2. Accredited law schools;
3. American Bar Association;
4. American Law Institute;
5. Practicing Law Institute.

- (b) The Commission shall cooperate with the Continuing Legal Education Committee of the State Bar Association of North Dakota, the University of North Dakota School of Law, and other educational institutions within the State to promote Continuing Legal Education within the State.
- (c) The Commission shall publish quarterly, in the newsletter of the State Bar Association of North Dakota, a list of Continuing Legal Education courses and activities that are available to attorneys within the State of North Dakota, and may include courses available elsewhere.

#### **RULE 7. JUDGES EXEMPT**

These rules do not apply to Judges who are prohibited by the Code of Judicial Conduct from engaging in the private practice of law.

## Section 3: Lawyer Referral & Information Service

The State Bar Association of North Dakota's Lawyer Referral & Information Service (LRIS) is over ten years old. Over the course of its history, hundreds of attorneys have participated in providing legal representation and information about the law. The following series of questions and answers are offered to explain the value of this important public and member service.

### **What is the Lawyer Referral & Information Service?**

The LRIS is a public service program providing potential clients to attorneys in their geographic area, who have an interest in their type of case. The Civil Legal Assistance Committee of the State Bar Association of North Dakota, reporting to the Board of Governors, is responsible for the ongoing operation and policies of the LRIS.

### **What does it mean to be a member of the LRIS panel?**

By participating in the LRIS, you will benefit from a new source of clients. In addition, participation on the panel helps the public recognize the necessity for using an attorney to help solve legal problems, and improves the public's understanding of the law.

### **How does the LRIS program work?**

When a client calls the LRIS, the client speaks to an LRIS staff person who will briefly discuss the client's legal problem to assist the client in selecting an attorney familiar with that type of case. Staff may make referrals to other agencies or programs. The client's initial 30 minutes consultation with the attorney is free. The client does, however, agree to pay a referral fee of \$30.00 to SBAND before the referral is given. Any time spent with the client beyond the initial half-hour consultation is charged at your regular rates.

### **What type of cases are handled through the LRIS?**

LRIS is not limited in the types of cases that are referred. The application form for membership lists many categories of law. Once you complete this form indicating the cases you prefer to handle, clients are referred accordingly.

### **Am I obligated to handle every case that is referred to me?**

No. Callers are told that the referral fee merely entitles them to up to one half-hour with an attorney who has an interest in their type of case. If, for any reason, the attorney does not wish to accept the case, send the client back to our office for a second referral.

### **Is the LRIS just another method of providing pro bono services?**

No. The purpose of the LRIS is to match paying clients to lawyers. After receiving referrals, the attorney may set fees in agreement with the client for any representation provided beyond the free initial consultation. No legal services are provided for free, although the attorney encouraged to provide free information about the law and legal systems.

### **If lawyers get paid for their work, what is the public service?**

The main service provided by the LRIS is taking calls, offering information, and where necessary, helping find lawyers or for more detailed information in the appropriate legal and geographic areas. Lawyers perform a public service by providing up to a half-hour consultation for a fee that is then remitted to LRIS; basically a free half-hour of time. Some call that public service; others call it marketing because whiter legal work comes out of that referral is paid legal work.

### **What are the requirements of the LRIS panel membership?**

The attorney must be a member in good standing of the SBAND, complete the application form, agree to follow the rules of the program and have minimum Professional Liability coverage of \$100,000. The Board of Governors will determine the registration fee for each program year.

### **Who benefits from the Lawyer Referral & Information Service?**

Three distinct groups benefit: lawyers, the legal profession, and the public. Lawyers benefit by having clients referred to them, the profession benefits from a public relations standpoint and the public benefits by having access to highly qualified lawyers willing to provide legal information and representation based on the client's legal needs, a lawyer's particular expertise and geographic location.

### **What are the specific benefits for the lawyer?**

Participation in the LRIS is one way to get more clients and to broaden a client base. It is also a way to focus on certain areas of law of particular interest to the attorney. In addition, since the basic role of the referral service - to provide information about the law and to make referrals to lawyers - is a public service, LRIS participation affords an opportunity to fulfill an important service to the public.

**How are referrals made to panel members?**

Panel members are organized by the city in which they maintain their main office. An LRIS staff person screens the potential client to identify the legal problem. If a referral is appropriate, the staff person refers the caller to the first attorney in the caller's geographic area who has indicated an interest in the caller's type of case. After a referral is made, the lawyer's name is moved to the end of the rotation system which affords every panel member the opportunity to benefit from a client who eventually retains them.

**What happens if the client does not follow through on the referral?**

Unfortunately, no lawyer referral program has the ability to control whether a client will actually follow through on the referral they receive. Our statistics show that a majority of the clients do call the LRIS attorneys. Every effort is made to ensure that clients understand how the program works.

**What does someone call the LRIS?**

The reasons vary. The caller may be new to the area or may not want to ale up the matter with his or her regular attorney for some reason. Alternatively, the caller may want to find a lawyer with expertise in a particular area of the law.

**How many referrals are made to each lawyer?**

The number of referrals that an attorney receive each year depends on many different factors including geographic location, designated case types and the number of other panel members in the area who have indicated the same case types. A personal injury lawyer, for example, may not get frequent referrals from the service if the demand is low and the number of personal injury lawyers on the panel in that city is high.

**Have any really big cases ever been referred by the LRIS?**

There is no doubt that, over the years, many cases have been referred through the LRIS which have generated significant fees for the panel member handling the case. The reality is that, although there is a very real possibility that a major case could be referred to a particular lawyer, no lawyer should join the LRIS panel if their only motivation is money.

**How do I join the LRIS?**

Call the LRIS of the State Bar Association of North Dakota at 1-866-450-9579 or 1-866-450-8586 or 255-1404 and request an application.

## Section 4: Volunteer Lawyer Program

The SBAND Volunteer Lawyer Program consists of two separate entities: the Reduced Fee Program and Pro Bono Program (both of these determine eligibility for services based on income level and other various criteria). If the public qualify under the Volunteer Lawyer Program their application will be sent to SBAND; they will also receive a letter in the mail that informs them that they are qualified and that it is entirely their responsibility to contact SBAND. If they do not contact SBAND within ten (10) days, their application will be closed.

### **“Justice for All” Lawyer Program**

The State Bar Association of North Dakota is proud to recognize members who provide 50 hours or more of pro bono legal services per year.

Lawyers who serve the poor without charge should be celebrated and recognized. By generously donating their time and talent, they change lives by helping people who otherwise could not afford counsel. SBAND is tremendously proud of our members who render free legal services to low-income individuals and non-profits, and want them to be recognized.

SBAND will give special recognition to members who provide 50 hours or more of legal services in a calendar year to low-income individuals at no fee, and without expectation of a fee. These lawyers will be known as “Justice for All” lawyers!

Members who report their voluntary service will be recognized and included on an annual roster published in *The Gavel*. They will also receive a certificate suitable for framing and will be invited to a gala event honoring all the award recipients.

### **Limited Scope Representation**

Please consider taking a case based on Limited Scope Representation under Rule 1.2 of the North Dakota Rules of Professional Conduct. This is also known as “Unbundling” and allows you to take a case for a singular, limited purpose. Under subsection (c) of the Rule, you may limit your representation if the client consents following consultation. For example, you may be interested in reviewing pleadings in a domestic relations case, but not handling the entire case. You can do that under the rule. Also remember, SBAND will reimburse reasonable expenses in handling pro bono cases. Please contact SBAND for more information.

# Volunteer Lawyer Program Enrollment Form

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Email: \_\_\_\_\_ Telephone: \_\_\_\_\_

Counties of Preference: \_\_\_\_\_

Languages: \_\_\_\_\_

## PRO BONO Cases: I will accept case referrals in the following area(s):

### I. Family Support

- Uncontested Divorce
- Divorce without Children
- Divorce with Children
- Child Support Modifications
- Uncontested Custody Changes
- Contested Custody Changes
- Orders for Protection
- Guardianships

### II. Housing Law/Landlord Tenant

### III. Debt Collection/Consumer Letters to Creditors

### IV. Legal Services for Military & Veterans

### V. Transactional Pro Bono

- Contracts
- Entity Formations
- Employment advice
- Nonprofit formation and governance

### VI. Wills

Please list other areas of law in which you would like to take Pro Bono cases:

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## REDUCED FEE Cases: I will accept case referrals in the following area(s):

### I. Family Law

- Uncontested Divorce - \$300 flat fee
- Contested Divorce - \$300 retainer billed at \$40/hour for out-of-court costs and \$70/hour for in-court costs
- Post-Divorce Motions - \$300 retainer billed at \$40/hour for out-of-court costs and \$70/hour for in-court costs
- Uncontested Adoptions - \$175
- Name Changes - \$75

### II. Estate Planning Documents

- Simple Wills without Trusts - \$30
- Husband and wife Wills - \$50
- Power of Attorney - \$25

### III. Mediation - \$125

Please list other areas of law in which you would like to take Reduced Fee cases:

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*The client is responsible for the specific fee shown above plus applicable costs, which may include but are not limited to, filing fees, postage, mileage and photocopying.*

**Please Return Completed Form to:**  
State Bar Association of North Dakota  
PO Box 2136, Bismarck, ND 58502  
Fax: 701-244-1621  
email: [info@sband.org](mailto:info@sband.org)

## Section 5: North Dakota Guidelines for Lawyer Trust Accounts

### Introduction

The proper management of client funds and other property is required by the Rules of Professional Conduct and Administrative Rule 24. Lawyers must be aware of the rules regulating lawyer trust accounts and take the proper precautions to avoid any disciplinary action. The guidelines were developed to facilitate the efforts of attorneys establishing trust accounts or revising their present trust accounting system. These guidelines summarize the requirements of the Rule 1.15 of the Rules of Professional Conduct and provide some helpful tips on lawyer trust accounts and the handling of the client property.

### Acknowledgments

We acknowledge Justice J. Philip Johnson, member of the State Bar Association of North Dakota Attorney Standards Committee and the chair of the Lawyer Trust Account Committee, for his fine work in writing the initial Guideline draft; the SBAND Attorney Standards Committee and Board of Governors for their review and ultimate approval of the Guidelines; and the North Dakota Bar Foundation for providing the funds for printing and distribution.

### What is IOLTA?

IOLTA is an acronym for Interest on Lawyer Trust Accounts. Attorneys routinely receive funds to be placed in trust for future use. If these funds are large in amount or to be held for a long period of time, the attorney customarily deposits these monies in an interest-bearing account for the benefit of the client. However, those deposits in attorneys' trust accounts, which are nominal or short-term, often make it impractical for the attorney or financial institution to establish a separate interest-bearing account that would result in any interest accruing to individual clients. In the past, North Dakota attorneys merely placed these nominal or short-term deposits in unsegregated noninterest-bearing accounts.

The concept of an IOLTA program is quite simple. The plan allows attorneys to invest small or short-term deposits so that these otherwise idle funds may be pooled to generate interest paid to the North Dakota Bar Foundation, Inc., for use in law related-public interest programs. The interest earned from this program is used to support civil legal services, public education relating to the courts and legal matters, and improvement of the administration of justice. If the interest in any single client's deposit can be made available for the benefit of the client, the attorney may still do so.

### Who Must Maintain a Trust Account?

All licensed North Dakota attorneys who are engaged in private practice, full or part-time, and who holds funds of a client or third party must maintain a trust account for the deposit of such funds.

### What Fund are Trust Funds?

Property or funds which a lawyer holds for a client or third person in connection with representation. These funds must be held separate from the lawyer's own funds. Examples of such funds include:

1. Advances for fees received from clients, until they are actually earned;
2. Funds of others that are being held for disbursement at a later time;
3. Personal injury awards, support payments, real estate conveyancing funds, and litigation settlements.

### Where Do I Deposit Trust Funds?

A lawyer must hold client or third party funds separate and apart from the lawyer's own property. All client or third party funds should be deposited in an interest-bearing trust account in a bank, savings bank, trust company, saving and loan association, credit union, or federally regulated investment company selected by a lawyer in the exercise of ordinary prudence authorized by federal or state law to do business in North Dakota and insured by Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or the Federal Savings and Loan Insurance Corporation.

Funds of a client or third party must be deposited in:

1. A separate interest-bearing trust account for the particular client or third person on which the interest, net of any transaction costs, will be paid to the client or third person;
2. A pooled interest-bearing trust account with subaccounting which will provide for computation of interest earned

by each client's or third person's funds and the payment thereof, net of any transaction costs, to the client or third person; or

3. A pooled interest-bearing trust account for the deposit of all funds which are nominal in amount or expected to be held for a short period of time, with the interest earned to be paid to the North Dakota Bar Foundation, Inc.

It is the responsibility of each lawyer to determine how trust funds are to be deposited. Clearly, when a large sum attributable to one client is received, it should have a separate trust account. When determining which type of account to use, lawyers should consider:

1. The amount of interest which the funds would earn during the period they are expected to be deposited;
2. The cost of establishing and administering the account, including the lawyer's services and any tax reports which may be required; and
3. The capability of the financial institution to calculate and pay the interest on an individual account or subaccounts.

Generally, funds which are not invested for the benefit of a client or third party must be deposited in interest bearing account, with the interest going to the North Dakota Bar Foundation, Inc. The lawyer must direct the financial institution to:

1. Remit interest or dividends, net of any service charges or fees on the average monthly balance in the account, or as otherwise computed in accordance with an institution's standard accounting practice, at least quarterly, to the North Dakota Bar Foundation, Inc. and
2. Transmit with each remittance to the foundation on a statement showing the name of the lawyer or the law firm for whom the remittance is sent, the rate of interest applied, and the amount of service charges deducted, if any, and the account balance(s) of the period in which the report is made, with a copy of such statement to be transmitted to the depositing lawyer or law firm.

See Notice to Financial Institutions, Attachment A.

NOTE – The interest generated from such funds will not be taxable to the attorney, client, or third party. No participating attorney, firm, or association, or their clients will be required to report IOLTA income, only the tax-exempt North Dakota Bar Foundation, Inc., will be required to do so.

Certain lawyers who are admitted to practice in another jurisdiction and those who are associated in a law firm with at least one member who is admitted in another jurisdiction are exempt from Rule 1.15(d) if the lawyer or law firm maintains a pooled interest-bearing trust account for the deposit of funds of clients or third persons in a financial institution located outside North Dakota and the interest, net service of any charges and fees, from the account is being remitted to the client or third person who owns the funds, or to a non-profit organization or government agency pursuant to the laws or rules governing lawyer conduct of the jurisdiction in which the financial institution is located.

### **Tips on Opening a Trust Checking Account**

Some helpful hints on opening a trust checking account include:

1. Establishing the account in an institution different from where the operating account of the lawyer or law firm is located;
2. Titling the account "TRUST ACCOUNT";
3. Printing checks that are a different color than the regular operating account checks; and
4. Depositing a small amount of funds to cover handling charges, services charges, check printing, and other incidental fees.

NOTE – A lawyer may not open an interest-bearing account for the benefit of the lawyer or the law firm with trust funds. This practice is unethical and will subject the lawyer to professional disciplinary proceedings.

### **General Accounting Procedures**

The accounting system that documents the trust funds can be as uncomplicated or as sophisticated as necessary. However, a lawyer need not be an accountant to keep proper trust account records. The lawyer should establish and maintain a system which ensures that the lawyer can document:

1. The amount within the trust account at all times;
2. The amounts within the trust account belonging to each subaccount; and
3. How each transaction is processed.

A system that incorporates internal controls and properly documents the activity occurring in the trust account should be adequate for these recordkeeping requirements.

A sample of a recommended accounting system should be consistent of the preparation and maintenance of a Trust Account Checkbook, Trust Account Receipts Journal, Trust Account Disbursements Journal, and a Trust Ledger. This system may also be incorporated through the use of computer software.

As an example, the following is a description of the significance of each separate component of the system and how each works together.

**Trust Account Checkbook.** Utilizing the checkbook register or stub, a lawyer can easily maintain an accurate record of the running balance within the trust account by maintaining a chronological journal of the receipt and disbursement activity. Each receipt or deposit transaction should show the date, source of funds, name of person with an interest in the account and a brief explanation. Likewise, each disbursement transaction should show the date, check number, payee, and a brief explanation of the purpose or person for whose benefit the money is paid and the amount.

Good internal control dictates that access to the trust account checkbook be limited to only authorized signatories.

**Trust Account Receipts Journal.** This is a chronological listing of all funds received. This journal contains the same information required to be maintained in the checkbook register or stub. This would include the date, source of funds, name of the person with an interest in the account and a brief explanation (See Trust Account Receipts Journal Sheet, Attachment B).

**Trust Account Disbursements Journal.** This is a chronological listing of every disbursement made from the trust account. This journal reflects the date, check number, payee, purpose or person for whose benefit the money is paid and the amount (See Trust Account Disbursement Journal Sheet, Attachment C).

**Trust Ledger.** A separate page or sheet should be prepared for each pending matter. This ledger sheet documents the chronological activity for each matter. Entries on this sheet are posted from the activity originating in the checkbook register whereby funds have been received in trust showing the date received or the amounts of any disbursements, and any unexpended balance, with the balances kept up to date and properly organized so that accurate accounting of all trust funds can be provided immediately on request (See Trust Ledger Sheet, Attachment D). Under no circumstances should the lawyer ever disburse more funds than received in a matter. These separate subsidiary sheets can be organized in two three ring binders. The first binder would be labeled as the "Open Account" ledger. Within this binder all of the separate subsidiary ledger sheets should be filed and maintained. The second binder would be labeled as "Closed Account" ledger. This binder would be for the purpose of keeping all subsidiary ledger sheets on closed matters.

**Monthly Reconciliation.** At the end of each month the trust fund account should be reconciled. A monthly trail balance of the entire subsidiary ledger, also showing the name of each subaccount, should agree with the month-end checkbook register's running balance of the trust account. This figure is computed by taking the beginning balance, adding the total funds received for the month and deducting the total of funds disbursed for the month (See Receipts/Disbursements Control Sheet, Attachment E).

**Bank Reconciliation.** When the month-end bank statements are received, a written reconciliation should be made among the trust account bank balance, the receipts and disbursements journals' totals, the checkbook balance, and the subsidiary ledger trail balance total (See Trust Account Reconciliation Sheet, Attachment F). This reconciliation should also include month-end deposits which do not appear on the bank statements and a listing of all outstanding checks. All reconciliations should be saved with the bank record for future reference. If possible, a person who is not normally involved in the client fund bookkeeping activities should perform the reconciliation.

**Accounting to Clients or Third Parties.** Periodically the lawyer should advise each person of the status of those funds being held for them. Adequate description should be provided indicating what receipts and disbursements have occurred and the current balance. If there is objection to any proposed disbursement, such as for earned fees, those funds must remain in the trust account pending the resolution of the dispute.

## **Deposits to the Trust Account**

All funds that qualify as trust funds must be deposited in a trust fund account. The lawyer or law firm should have a clearly written policy, applicable to all attorneys and staff, specifying what funds are deposited into a trust fund account. Deposits should be made daily.

Sound accounting advice dictates that money only should be transferred pursuant to written communication. A voucher or other documentation for receipt and instruction should be prepared by the attorney instructing the person performing the bookkeeping function to deposit the funds into the trust fund account on behalf of the person or entity named in the voucher or receipt. Written communication avoids later arguments regarding deposit instructions and provides a needed audit trail.

Notification of clients is extremely important and required by Rule 1.15(b). Clients should be notified when a lawyer receives funds or property for them. Compliance avoids misunderstanding, mistakes, and mistrust.

## **Disbursements from the Trust Account**

Availability. A sound business practice dictates that before disbursement of trust funds, the client's or third party's check must clear through the banking process and be available. If this precaution is not taken, and the initially receipted check or draft is returned for insufficient funds or a stop payment order is issued, the trust funds of other clients or third parties will be disbursed wrongfully. Cashier checks and certified checks are occasionally dishonored, therefore, the best policy is to be assured that the initial receipts clear the banking process.

Amounts. Trust fund disbursements from a particular ledger must not exceed the funds from or on behalf of that person. Otherwise, a wrongful taking of other clients' trust funds occurs, resulting in both civil and disciplinary liability. As a precautionary measure, the individual signing the check should have a photocopy of the particular subsidiary ledger sheet before authorizing disbursement of trust funds.

Transaction Authority. Each disbursement transaction should be based upon a written voucher or other documentation, which provides the identity of the file to be charged, the reason for the transaction, authority, and approval for insurance of a trust account check by a lawyer.

Signature. A determination as to proper person(s) to sign trust checks is probably best left for each law firm to decide. Generally, the person who prepares the checks should not have sole signatory authority. Good internal control dictates that access to the trust account checkbook be limited to authorized signatories, and that two signatories be required on all trust account checks. Regardless, no individual should sign a check unless presented with written documentation that the disbursement is proper, along with the notice that the original receipted funds have cleared the banking process and are available for disbursement. The subsidiary ledger account should reflect the availability of the trust funds.

Disbursement procedures should be clearly stated in established rules for the firm.

Internal Audit Controls. The reconciliation process should be performed entirely by personnel who are not involved in the bookkeeping process. The lawyer or firm administrator also should be involved in the reconciliation process.

Internal controls are weakened when the same person who prepares the check also signs the check. Ideally, these functions should be separated, preferably between staff personal and professional or management personnel. Also, bonding of the individuals who are signatories on the trust account is recommended.

Handling Bank Charges. The lawyer or law firm should consider depositing a small amount of funds in the trust account to cover bank charges for printing checks, monthly service charges, a returned deposit item or some other special charge. This practice might appear to be the commingling of the lawyer's personal funds with that of others. Although not specifically authorized, this practice is a recognized exception to the general rule of commingling and will prevent the misappropriation of a client's or third party's funds. The lawyer properly accounts for such personal funds in the trust account, as with any other matter, by preparing a Trust Ledger sheet and calling it "bank charges." Charges are then recorded as incurred. When the balance on the ledger sheet becomes low, a new small deposit of funds should be made to bring the balance up to a comfortable level.

Record Retention. All records of trust account funds and other property shall be kept by the lawyer and preserved for a period of six years after the termination of the representation.

Annual Certification. A lawyer shall certify, as part of the annual license renewal procedure, that the lawyer is complying with the provisions of Administrative Rule 24 and the Rules of Professional Conduct.

## Section 6: Other Services

While not an all encompassing list, this summary describes many of the basic programs and services offered and sponsored by the Association:

### **Membership Services**

Continuing Legal Education – sponsors over 100 hours of CLE programming each year

Professional Responsibility Programs – through its committees, the Association provides ethics opinions, CLE programming and funding for the inquiry committees and disciplinary system

Publications – produces and distributes publications produced by sections and commissions, for example Pattern Jury Instructions, Title Standards, etc.

Quarterly Magazine – The Gavel, publishes information about the profession, ND attorneys and judges, the court system, etc.

Legislative Support – lobbies on behalf of the membership on issues impacting lawyers, the practice of law, the legal system and the administration of justice

Insurance Program – endorses malpractice insurance through ALPS, which provides reduced rates to members

Attorney Standards – through a joint committee, interacts with the Supreme Court to develop the rules and regulations impacting the practice of law

Committees and Sections – Provide a way for attorneys to engage in meaningful dialogue and work with other attorneys.

### **Public Service**

Volunteer Lawyer Program – provides attorneys to those who cannot afford to pay for legal services

Lawyer Referral Program – provides clients with referrals to attorneys

Reduced Fee Program – provides attorneys for low-income clients

### **SBAND Mentorship Program**

The SBAND Mentorship Program should be used to help you structure a thorough educational experience. The SBAND Mentoring Plan consists of core concepts, lawyering skills, activities and experiences designed to educate and provide topics for discussion between the new lawyer and the mentor. The activities and experiences are an introduction to the topics with which lawyers need to be familiar for the successful and professional practice of law.

The first five sections of the Mentoring Plan must be completed by new lawyers interested in the Mentorship Program. The remaining sections of the Plan are optional and are designed to allow a new lawyer and mentor to tailor the mentoring experience to the new lawyer's practice areas, professional interests, or goals. A thorough, well thought-out plan will help make participation in the Mentorship Program meaningful and productive for both the new lawyer and the mentor.

Lawyers who participate in the Mentorship Program are able to earn CLE credit. A lawyer may earn up to a maximum of 15 CLE credits per reporting period. After earning 6 CLE credits through the Mentorship Program in a given year, it is recommended that lawyers seek other CLE opportunities. For additional information on earning CLE credit through the Mentorship Program, please see Policy 1.21 of the North Dakota Commission for Continuing Legal Education.

Mentorship Program Handbook  
Mentee Application  
Mentor Application

## Section 7: North Dakota Bar Foundation

### What We Do

#### **Legal Services for Low-Income North Dakotans**

The North Dakota Bar Foundation (NDBF) helps hundreds of low-income people gain access to justice. These people represent the diversity of North Dakota and encompass all races, ethnicities and ages. They range from family farmers to the elderly, domestic abuse victims to victims of natural disasters. The NDBF has helped open the doors of justice to North Dakotans through its support of organizations such as Legal Services of North Dakota (LSND), Southern Minnesota Regional Legal Services for the Red River Valley, SBAND Volunteer Lawyer Program, and North Dakota Council on Abused Women's Services. As lawyers, we have a professional responsibility to ensure that civil legal aid organizations are adequately funded. Support of the NDBF fulfills that responsibility.

#### **Law-Related Education**

Law-related education is a vital component of the North Dakota Bar Foundation. Our educational projects teach young people and the public about the legal and political systems and how they fit in; how law and government affects them; and how the justice system is central to a democratic society. Examples of projects central to our law-related education program include: the People's Law School; publication of the Graduating into an Adult World booklet aimed at high school students; public education about the Constitution and judicial terms of office; and sponsorship of a First Amendment symposium. Through law-related education, we improve the public image of our profession and educate a new generation about the profession's importance in North Dakota.

#### **Educational Assistance**

The North Dakota Bar Foundation supports the reduction of barriers to those interested and eager to enter the legal profession. To that end, the NDBF supports scholarships and a professorship at the University of North Dakota School of Law.

#### **How You Can Help**

The ability of the North Dakota Bar Foundation to adequately fund legal services to the poor, law-related education projects, and other access to justice programs is directly attributable to your involvement. NDBF, the charitable arm of the State Bar Association, is a qualified 501(c)(3) charitable organization. All donations are tax deductible to the extent permitted by law.

The first way you can help is to become a member of the North Dakota Bar Foundation. Your involvement is directly linked to the ability of the North Dakota Bar Foundation to provide legal services to low-income people and adequately fund law-related education projects.

The second way you can help is to donate to the Pro Bono Fund. We are appealing to attorneys to consider contributing \$85/month or \$850/year to help provide legal services to the needy. The dollars contributed to the Pro Bono Fund are awarded to Legal Services of North Dakota and other programs providing legal services.

Because of your generosity, we are able to continue making justice accessible to low-income North Dakotans.

**Yes!** I support the foundation of our profession, the North Dakota Bar Foundation!

\_\_\_\_\_  
Name

\_\_\_\_\_  
Firm

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Email

**I wish to become a member of the Bar Foundation as a:**

Sustaining Member (\$25/yr)  Donor (\$50/yr)  Patron (\$100/yr)  Silver Patron (\$250/yr)  Gold Patron (\$500/yr)

**I am a member of the Bar Foundation. Enclosed is my annual membership fee for:**

Sustaining Member (\$25/yr)  Donor (\$50/yr)  Patron (\$100/yr)  Silver Patron (\$250/yr)  Gold Patron (\$500/yr)

**Please return this card with your tax-deductible donation to the NDBF, PO BOX 2136, Bismarck, ND 58502.**

FOR NDBF USE ONLY:  Contribution Records Method of Payment:  Cash  Check # \_\_\_\_\_ ( Personal  Firm)

Received by: \_\_\_\_\_ Date: \_\_\_\_\_

## Section 8: Notary Info

### Notary Responsibilities

A notary's primary responsibility is to take necessary steps to verify a signer's identity before notarizing a signature. A notary public may not notarize a signature unless the notary personally knows, or has satisfactory evidence, that the person whose signature is to be notarized is the individual who is described in and who is executing the instrument. There are three ways to verify a signer's identity:

**Personal Knowledge** is the safest and best verification of a person's identity. It requires no witnesses or identification cards. It means having an acquaintance, derived from association with the individual, which establishes the individual's identity with at least a reasonable certainty.

**Credible Witness** is a third person that personally knows the document signer, and verifies the signer's identity. (Credible witness is for the purpose of identifying people who do not have identification. This does not replace the "presence" requirement. The person whose signature is being notarized must be present at the time of notarization.)

**Identification card or papers** are necessary in verifying the signer's identity. The notary should examine the photograph, accurate physical description, and signature of the bearer. Asking for two forms of ID can further assure the signer's identity.

If a notary is uncomfortable or suspicious of any identification, the notary should not notarize for that person.

### Signing By Mark

On rare occasions, a notary public may have to notarize the signature of a person who signs by way of mark. The person may be illiterate or may have a physical disability which prohibits the person from signing in the customary manner. The notary laws do not require any additional procedures for notarizing in these situations. However, some notaries prefer to take extra precautions by using the guidelines below:

- Question the signer to make sure that they understand the nature and effect of the document to be signed. If the person is illiterate, read the document to him/her. If the person does not understand, do not notarize.
- Ask for proper identification.
- Perform the appropriate notarial act.

Before the person signs the document, print their name at the beginning of the signature line and the last name at the end of the line. Just below the line, print the words "His Mark" or "Her Mark."

- John X Doe  
"His Mark"

Then, ask the person to make his/her mark on the designated line.

Complete the notarial certificate. When filling in the person's name whose signature is being notarized, the notary may want to indicate the person signed by way of mark.

It is also recommended that an uninterested person(s) witness the signing of the document and the notarization and that their names and addresses be clearly printed under their signatures.

Signing By Mark - Example of Acknowledgement and Jurat (74kb pdf)

### Signing On Another's Behalf

A notary public may also be asked to notarize the signature of an individual with a disability who may direct another person to sign on their behalf. In a sense, one person substitutes their hands for the hands of the person with a disability. A notary public may notarize this signature, but should indicate the unusual circumstances in the notarial certificate. Although notary laws do not provide specific guidelines for this situation, the notary may want to take precautions to prevent any problems. The following guidelines may be helpful:

1. Question the person to make sure that they understand the nature and effect of the document to be signed. If the person is blind, read the entire document to them. If the person does not understand, do not notarize.
2. Ask for proper identification from the person with the disability. It is not necessary to require identification from the designated signer. Think of that person only as the “hands” of the person with the disability.
3. The designated person may then sign the signature of the person with the disability at the direction of and in the presence of that person.
4. Perform the appropriate notarial act. Your notarial act should be directed to the person with a disability, rather than the designated signer.
5. Complete the notarial certificate with the required information. When stating whose signature is being notarized, it would be best to indicate the special circumstances.
6. It is also recommended that a person(s), with no interest in the transaction, witness the signing of the document and the notarization and that the name and address be clearly printed below their signatures.

Signing On Another's Behalf - Example of Acknowledgement and Jurat (74kb pdf)

## Section 9: North Dakota Aspirations of Professionalism and Civility

### PREAMBLE

To enhance the daily experience of lawyers and the reputation of the Bar as a whole, the State Bar Association of North Dakota has determined to establish certain Aspirations of Professionalism and Civility. The conduct of lawyers should be characterized, at all times, by personal courtesy and professional integrity in the fullest sense of those terms. Lawyers have the duty to act in a manner consistent with their clients' legal interests, but lawyers can protect their clients' interests while still applying the highest Aspirations of Professionalism and Civility.

These Aspirations are not to be used as the basis for litigation, court sanctions, lawyer discipline or as a factor in imposing sanctions, and are not intended to create standards of care for attorneys. Nothing in these Aspirations alters or detracts from existing disciplinary codes or alters the existing standards of conduct against which lawyer negligence may be determined.

### I. Lawyer to Client

1. We will represent our clients vigorously as lawyers, but will not permit that loyalty to undermine our obligations to the administration of justice which is a truth-seeking process designed to resolve human and societal problems in a rational, peaceful and efficient manner.
2. We will not permit our loyalty to our clients' objectives to interfere with our duty to provide independent advice.
3. We will advise our clients, if necessary, that they do not have a right to demand that we engage in abusive or offensive conduct and we will not engage in such conduct. Rather, we will endeavor to achieve our clients' legitimate objectives in transaction work and in litigation as expeditiously and economically as possible.
4. We will communicate regularly with our clients. We will respond promptly and courteously to their communications.

### II. Lawyer to Lawyer

#### A. Courtesy and Punctuality.

1. We will exhibit courtesy and cooperation to all participating in the legal system. We will never intentionally mislead another attorney, party, witness, or judge.
2. We will treat other counsel, parties and witnesses in a civil and courteous manner not only in court but in all other communications. We will be punctual and honor scheduled appearances, meetings, depositions, appointments, and dealings with opposing counsel.

#### B. Personal Attacks.

1. We will not attribute to other counsel improper motives, purpose or conduct without factual basis. We will avoid hostile, demeaning or humiliating words in communications with other parties, their lawyers or the court.
2. We will not unfairly attribute, argue, or infer that other counsel has taken a position or made a claim which is not true.

#### C. Drafting.

1. We will not quarrel over matters of form or style, but concentrate on matters of substance. We shall adhere to our express promises and agreements whether oral or written and to all commitments reasonably implied by the circumstances.

2. When committing an oral understanding to writing we will do so accurately and completely. We will provide other counsel a copy for review. We will not include substantive matters upon which there has been no agreement, without explicitly advising other counsel. As drafts are exchanged, we will bring to the attention of other counsel substantive changes from prior drafts.

#### D. Scheduling, Extensions, Cancellations.

1. We will endeavor to consult with other counsel so that depositions, hearings and conferences are scheduled at mutually convenient times. We will not request a schedule change for unfair purposes. If a scheduling change becomes necessary, we will notify other counsel and the court immediately. If the other counsel requires a scheduling change, we will cooperate in making any reasonable adjustments.
2. We will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided the legitimate objectives of our clients will not be adversely affected. We will not request an extension of time solely for the purpose of unjustified delay.

#### E. Discovery.

1. We will make reasonable efforts to conduct discovery by agreement. We will comply with all reasonable discovery requests and will not resist discovery requests that are not objectionable.
2. In responding to document requests and interrogatories we will not interpret them in an artificially restrictive manner so as to avoid disclosure of relevant and non-protected documents or information. We will not produce documents in a manner designed to obscure their source, create confusion or hide the existence of particular documents. Nor will we object to discovery by inappropriately asserting a privilege for the purpose of withholding or delaying the disclosure of relevant and non-privileged information.
3. During depositions, we will not attempt to obstruct the interrogator or object to questions unless reasonably intended to preserve an objection or protect a privilege for resolution by the court.
4. We will make a good faith effort to resolve our disagreements regarding discovery requests and objections.

#### F. Sanctions.

1. We will not lightly seek sanctions. We will not seek or threaten sanctions or disqualification without first conducting a reasonable investigation and unless it is necessary for protection of a client's lawful objectives or fully justified by the circumstances.

#### G. Opportunity to Respond.

1. We will not serve motions, pleadings or briefs in any manner that unfairly limits another party's opportunity to respond. We will not cause a default or dismissal to be entered, when we know the identity of an opposing counsel without first making a good faith attempt to inquire about counsel's intention to proceed.
2. Unless applicable procedural rules require otherwise, we will deliver papers to opposing counsel at or about the same time we file them in court. For example, if papers are hand-delivered, faxed or electronically transferred to the court, then they should be hand-delivered, faxed, or electronically transferred to opposing counsel on the same day and at about the same time.

#### H. Request During Trial or Hearing.

1. During trial or hearing, we will honor reasonable requests of opposing counsel that do not prejudice the rights of our clients or sacrifice tactical advantage.

### III. Lawyer to Court

1. We will speak and write civilly and respectfully in all communications with the court or court staff. We will be considerate of the time constraints and pressures of the court and court staff.
2. We will be punctual and prepared for all appearances.

3. We will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities in any communication to the court.
4. We will avoid argument or posturing through sending or attaching copies of correspondence between counsel to the court, unless specifically permitted or invited by the court to do so.
5. We will draft orders that accurately and completely reflect the court's ruling. We will promptly prepare and submit proposed orders to other counsel in an attempt to reconcile any differences between the proposed order and any objections presented to the court.
6. We will avoid impermissible ex parte communications.

#### **IV. Lawyer to Community**

1. We will perform faithfully our responsibilities as officers of the court and protectors of individual rights.
2. We will support legal services for indigent persons, public service and public education about the law.
3. We will work to make the legal system more accessible, responsive and just.
4. We will never reject the cause of the defenseless or oppressed, or delay anyone's cause for profit or malice.

## Section 10: Bylaws of the Young Lawyers Section

### ARTICLE I

#### Membership

Section 1.1. Name. The name of this organization shall be The Young Lawyers Section (hereinafter “Section”), a section of the State Bar Association of North Dakota (hereinafter “Association”).

Section 1.2. Young Lawyer Defined. A “young lawyer” means a lawyer in good standing of the Association who is not older than thirty-five (35) years of age or has not been admitted to practice in North Dakota for more than five (5) years, whichever allows for longer membership in the Section.

Section 1.3. Membership. The Section consists of those young lawyers who are members in good standing of the Association, except those who decline their membership in the Section by written notice to the Association or the Section (hereinafter “members”).

Membership shall continue throughout any fiscal year provided a member meets the definition of “young lawyer” for part of that year. Membership shall expire immediately once a member declines his or her membership.

### ARTICLE II

#### Purpose and Objective

Section 2.01. The purposes and objectives of the organization are summarized as follows:

- I. To assist the Association in its objectives
- II. To stimulate the interest of the law students of North Dakota and young members of the Bar of North Dakota (hereinafter “Bar”) in the objects of the Association and of the American Bar Association;
- III. To provide a program of activity designed to be of interest and helpful to such law students and young member of the Bar and, in addition thereto, to engage in such activities as shall tend to further the best interests of the legal profession;
- IV. To provide a means for cooperation between the younger members of the Bar and the Association as a whole, and to coordinate the activities of the younger members of the Bar;
- V. To serve as a medium for the free interchange of ideas between younger members of the Bar;
- VI. To serve the public interest by cultivating the science of jurisprudence;
- VII. To promote reform in the law;
- VIII. To aid in the facilitation of justice;
- IX. To foster respect of the law among the citizenry of the State of North Dakota; and
- X. To function as a unit of the Young Lawyers Section of the American Bar Association.

## **ARTICLE III**

### **Officers and Election of Officers**

Section 3.01. Officers. The Executive Officers of the Section are the President, President-Elect, Secretary-Treasurer, and Association Board of Governors Representative. The terms of the officers President, President-Elect, and Secretary-Treasurer are one year, commencing at the close of the annual meeting and ending at the close of the next succeeding meeting. The term of the Association Board of Governors Representative is two years, commencing at the close of the annual meeting and ending at the close of the next succeeding meeting.

Section 3.02. Succession. The President-Elect shall succeed to the office of the President upon the expiration of the term of the prior President or if the President is unable or unwilling to act.

Section 3.03. Notice of Elections and Invitation to Stand for Election. The membership of this Section shall receive notice of the annual elections not less than forty five (45) days prior to the annual meeting of the Section. The notice shall invite candidates to file notice of intention to stand for election, contain the requirements for filing, and designate the person with whom a notice of intention to stand for election may be filed. The deadline for filing notice of intent to stand for election shall be thirty (30) days prior to the annual meeting of the Section.

Section 3.04. Notice of Candidates. The membership of this Section shall receive notice of candidates who intend to stand for election for President-Elect, Secretary-Treasurer, and Board of Governors Representative not less than twenty (20) days prior the annual meeting of the Section. Notice will not be given if only one member has filed a notice of intention to stand for election.

Section 3.05. Elections. The Section membership shall elect the President-Elect , Secretary-Treasurer, and Board of Governors Representative at the Section annual meeting. Election occurs by simple majority of votes cast by members in secret ballot at the annual meeting and in absentee ballot, the latter subject to such verification and deadlines set forth in notice by executive officers. Ballots will be tabulated by two members, neither of whom may be a candidate for officer, appointed by the President.

The membership of this Section shall receive notice on the procedure for voting by absentee ballot not less than twenty (20) days prior to the annual meeting of the Section.

If a candidate for an officer position is unopposed after the deadline for filing a notice of intention to stand for election, the candidate shall be deemed elected.

If no member files a notice of intention to stand for election, members present at the annual meeting may elect officers. If a candidate for an officer position is unopposed, the candidate shall be deemed elected. If an election is necessary, election occurs by simple majority of members present voting by secret ballot. Ballots will be tabulated by two members, neither of whom may be a candidate for officer, appointed by the President.

Section 3.06. Vacancies. The remaining officers shall determine when an office is vacant or when its incumbent temporarily cannot serve and shall determine whether it is necessary to fill the vacancy before the next annual meeting. If an interim election is necessary, the remaining officers will notify all Section members of an interim election. Election of the vacant office will occur by simple majority of voting members.

## **ARTICLE IV**

### **Duties of Officers**

Section 4.01. Duties of the President. The President is the chief executive, operating, and administrative officer of the Section. The President shall: chair the Section annual meeting; subject to review by the other officers, enforce and interpret these bylaws and implement action taken under their authority; manage each officer, representative, board, committee, and other agent whose management is not otherwise assigned; and be the general representative and official spokesperson, except that the Board of Governors Representative shall be the Section representative at the Association Board of Governors meetings.

Section 4.02. Duties of the President-Elect. The President-Elect shall advise and assist the President however possible and act as the President whenever the incumbent is unable or unwilling to do so.

Section 4.03. Duties of the Secretary-Treasurer. The Secretary-Treasurer is the chief clerical, recording, and financial

officer of the Section. The Secretary-Treasurer shall: serve as the Secretary and carefully and faithfully record meetings; implement any policies and procedures relating to financial management; report to the President on the state of the treasury; and maintain roster of members.

Section 4.04. Duties of Association Board of Governors Representative. The Association Board of Governors Representative shall be the Section representative at the Association Board of Governors meetings.

## **A R T I C L E   V**

### **Honorary Members**

Section 5.01. Honorary Members. Anyone who has performed a service for this Section, regardless of whether learned in the law or not and regardless of residence, may be elected to honorary membership in this Section at any annual meeting upon a resolution proposing such honorary membership. Honorary members shall not serve on committee, vote or hold office in this Section.

## **A R T I C L E   V I**

### **Committees**

Section 6.01. President to Make Appointments. The President shall appoint standing committees and ad hoc committees of the Section as provided for by the Bylaws of this Section.

Section 6.02. Standing Committees. The Executive Officers at their discretion, may constitute standing committees, to assist in the supervision, management, and control of the affairs of the Section. Each committee so constituted shall serve at the pleasure of the Executive Officers.

Section 6.03. Ad Hoc Committees. The Executive Officers, at their discretion, may constitute ad hoc committees, in addition to the standing committees, to assist in the supervision, management and control of the affairs of the Section with responsibilities and powers appropriate to the nature of the several committees. Said ad hoc committees may be constituted to perform any investigation or duties that the Executive Officers Council deem appropriate.

## **A R T I C L E   V I I**

### **Amendment**

Section 7.01. These bylaws may be amended by a majority vote of the members of this Section present and voting at any annual meeting, or by a majority vote of the members of this Section voting in response to any proposed amendment submitted to the membership by written ballot.

## **A R T I C L E   V I I I**

### **Rules of Order**

Section 8.01. "Robert's Rules of Order" shall be the guide and authority in all parliamentary matters arising in the meetings of this Section and not provided for by these Bylaws.

Amended:

6.17.10, Section 3.01