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November 8, 2004

Chief Justice Gerald W. Vandewalle
C/O Penny Miller
Clerk of the Supreme Court
600 E. Boulevard Ave., 180
Bismarck, ND 58505-0530

By email to: supclerkofcourt@ndcourts.com

Re: Proposed Amendments to North Dakota Rules of Professional Conduct 5.5 and 8.5, and Admission to Practice Rule 3, all relating to Multijurisdictional Practice.

Dear Chief Justice Vandewalle:

Please accept this comment letter on behalf of the Association of Corporate Counsel (or "ACC," formerly known as the American Corporate Counsel Association, or "ACCA"). ACC represents the interests of nearly 17,000 members in the United States and fifty other countries, including members of the in-house community in your state.

ACC is pleased to support the adoption of your state's Joint Committee on Attorney Standards MJP recommendations. We applaud the State's efforts to enact the multijurisdictional practice (MJP) reforms so crucial to every lawyer's ability to properly serve clients working in a cross-border marketplace. The committee has done an excellent job of reviewing the issues and bringing you a balanced, well-reasoned, and timely proposal for your adoption. While we would prefer the adoption of the ABA Model Rules that ACC helped to write and supports, we don't wish to belabor the differences that would make "the perfect the enemy of the good."

Our purpose in writing you today is to offer our support of your proposals and to make one suggestion on an issue that we did not see addressed. We suggest the language for Practice Rule 3 be slightly amended to include an authorization for in-house counsel to perform pro bono legal services.

ACC believes that pro bono legal services are the professional responsibility of every lawyer. Since most pro bono work is essentially local in nature, in-house counsel who are registered under Rule 3 and working in North Dakota will find their only meaningful opportunities for pro bono representation at the local bar. Counsel authorized to practice under this rule should be allowed to provide these important volunteer services: it would be a waste of fine legal talent and a disservice to the public, which needs more—not less—volunteer legal service from lawyers.

We urge you not to strip in-house lawyers of their ability to return services to the public that invests in their practice as professionals, especially when such a decision would be at the expense of the underserved communities in your state. If there is concern that opening this category of services to registered counsel could lead to abuses, then our suggestion is to offer it to registered counsel working under the auspices of state or locally licensed pro bono/legal services providers.

Please feel free to call upon me, at 202.293.4103, ext. 318, (email: hackett@acca.com) if you wish to discuss our suggestions further, or if we can be of assistance. Thank you for the opportunity to submit these comments, and again, our congratulations to you and your committee for your vision in proposing the adoption of crucial MJP reforms.

Sincerely

Susan Hackett
Senior Vice President and General Counsel