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## Proceedings of the One Hundred Fifteenth Annual Meeting of the North Dakota State Bar Association

North Dakota State Bar Association

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PROCEEDINGS OF THE ONE HUNDRED  
FIFTEENTH ANNUAL MEETING OF THE NORTH  
DAKOTA STATE BAR ASSOCIATION

OFFICERS

NANCY J. MORRIS..... PRESIDENT  
JACK MCDONALD ..... PRESIDENT-ELECT  
AUBREY J. ZUGER ..... SECRETARY TREASURER  
HON. GAIL H. HAGERTY ..... IMMEDIATE PAST PRESIDENT  
TONY J. WEILER..... EXECUTIVE DIRECTOR

PROCEEDINGS

JUNE 13, 2014

PRESIDENT MORRIS: Thank you very much. It is now my pleasure to call the 115th annual meeting of the membership—oh, I’m sorry. I have one more. I’m sorry. Jack is going to present you another award. Thank you.

(Whereupon an award session commenced.)

PRESIDENT MORRIS: Okay. Now, it is my pleasure to call to order the 115th annual meeting of the membership for the State Bar Association of North Dakota. I would like to ask Justice Crothers to serve as parliamentarian, if he is willing.

JUSTICE CROTHERS: I am.

PRESIDENT MORRIS: Thank you.

The first order of agenda is the president’s message. All I can say is thank you. Thank you for the opportunity to serve as the president of your bar association this year.

It has truly been a privilege and an honor. This has been a year of change, and I have learned to embrace change, no easy feat, I assure you. I started my presidency with a big change in the front office, with Executive Tony Weiler taking the helm. We have been learning the ropes together. Change has been good. We were going to move the SBAND office. An

ideal location has been secured, and the move will take place in October. Once again, change has been good.

We eliminated a few committees and combined others in an attempt to make volunteer time worthwhile—change is good—and, finally, we spent a tremendous amount of time planning and organizing this annual meeting with the goal of reenergizing our legal community, connecting our members, and providing great CLE. Again, we hope we accomplished that goal, and change is good.

With the help and support of an absolutely incredible board of governors, who gave me advice and guidance throughout the year, an exceptional staff, I believe we have made significant progress toward our goals, and my goals, that I indicated at the outset of my presidency, was to make your volunteer time worthwhile and make your association more inclusive.

We have so much work yet to do, and I intend to continue on those goals as past president and continue as being active in the State Bar Association of North Dakota. Again, it has been a pleasure to serve as your president. I leave you in very good hands with President Jack McDonald and the SBAND staff and look forward to seeing you all in Bismarck in 2015. Thank you.

It is now my pleasure—it is now my pleasure to call on Chief Justice VandeWalle for an update from the chief.

CHIEF JUSTICE GERALD W. VANDEWALLE: Thank you, Nancy.

Good morning. Those lights are bright. This is not going to be a standard judiciary speech. I think that the state of judiciary, as well, is laid out by Justice Sandstrom and his staff on our Web site, so I'm not going to take a lot of time. I know you have a busy schedule.

I do want to take this opportunity to thank you for service on the courts' committees and the committees that we share together. I cherish the relationship of the bar and the court in North Dakota, the judicial system, and I think it's something that we should keep going, and I ask you for your continued support.

I do want to point out one thing. This is just plain business. The court—what day is today? Friday—Wednesday, approved the final draft of some appellate rule changes, and the main ones are that you will now be filing your notice of appeal with the Supreme Court rather than trial court, and your notice of appeal will contain a brief statement of preliminary issues that you continue to raise on appeal.

We hope that the rules will be out within the next couple of weeks and will be effective, excuse me, October 1, so you'll have some time to digest it, but I just wanted to point that out to you.

Fin—well, before I do that, I should—Bill left—I should tell you that when Bill graduated in 1958—that's the year I graduated from law school, so Bill is a younger fraternity brother of mine, and that was the relationship.

I also want—before I leave—want to welcome Larry Fox. Larry will be speaking to us later on, and I'm looking forward to his remarks, and I will tell you, you will be well entertained and well informed by Larry.

Finally, I do want to say that we have a legislative session coming up. The bar has been a tremendous support for the judicial system over the years, and I ask that continued support. I don't think there's any doubt that—I hope Jack will confirm this with me—that lawyers talking to their individual legislators are so significant, they're so impressive, probably more so than Jack speaking for the entire bar.

Those of you that know your local legislators and speak with them on a one-to-one basis carry a tremendous amount of weight. I don't know if you realize that or not. I do, because I've heard it from the legislators over the years, that they've talked to certain lawyers, and it can be positive and it can be negative, I understand that, but I do ask for your continued support.

We will be asking for new FTEs, full-time equivalents, and that's a bad word. In the legislature they don't like that, but we're going to need some new judges and certainly some new staff people.

So I ask for your continued support, and I compliment you on the annual bar meeting, your work, and I look forward to working with Jack in two capacities, as a representative of the bar, at the legislature, and certainly as the president of the bar association, so, again, thank you for your time.

**PRESIDENT MORRIS:** Next we will hear from Tony Weiler, as our executive director. He's got one year under his belt.

**EXECUTIVE DIRECTOR TONY J. WEILER:** Good morning. I'll try and be brief. I always fear, when lawyers say that, they don't really mean it.

I do have one year. I survived seven board meetings, and when you're an executive director you're just as good as your last board meeting, so things are going well at the bar association.

It's been a great year. I have a great staff—they're all back there—Jeanie, Carrie, Debbie, Amy, and we've hired another person (inaudible). She's not here. They really do the work and make me look better than I probably deserve, some days, so thank you, ladies, very much.

Financially we're in great shape. You'll hear that from the secretary of treasurer coming up soon. One of our big—big thing we have coming up this year is our new office space.

We hope, by October 1st, right, Dave Maring, that we'll be moving into some new space, and we're going to be in what's called the Association of Counties Building in Bismarck. It's on Capitol Avenue. If you're familiar with Bismarck, it's east of Spa D'Athena, hoping that our proximity will allow Dave and I to get pedicures and manicures or something.

But what's nice about the space is we had rented our own suite, and Maring Williams has rented a suite, and we will be sharing conference space with them, as well as a kitchen, so that's a real good fit for the association, and I hope Dave and his staff—it's a good fit for—for Maring Williams as well.

We've been extremely busy this year with judicial nominating and judicial selection, and the judicial nominating committee, I—I serve as the secretary of that committee, and so we're extremely busy with that, eight judges in a year.

And when I first took the job, Bill Newman—Bill is back there—he said, "You're the secretary of that committee," and I said, "I don't even know what it is," and he said, "Oh, it's great. They meet a couple times a year, at most, and you get to go around and meet judges and lawyers," and so Bill sold me the bill of goods there.

MR. BILL NEWMAN: You wanted it.

EXECUTIVE DIRECTOR TONY J. WEILER: Yeah, I did, hook, line, and sinker.

So it's been—it really is—it really is important. It is rewarding. I get to meet a lot of lawyers. I think that committee has put forward some extremely fine judges. One is here today, Judge Olson.

And I think what it has done in the last year, it has given the governor a real true appreciation for the quality of lawyers that we have in North Dakota, the quality of people that want to be judges, and I think that, if anything—it's been a lot of work for us and the poor volunteers on that committee—that I'll take that job extremely seriously, but it's given—it really has given the governor a great insight into what we do, and that's—I think that's extremely important.

I want to thank the board of governors that I—that I work for—work with. They're very dedicated. They're great individuals. There are quite a few of them in the room this morning. Thank you. I look forward to continuing to work with you.

I do want to tell you we'll probably start working on the 2015 annual meeting, and, because of Nancy's great leadership and all the—the great work that has been done here in Fargo, we have a lot to live up to next year in Bismarck, but I promise you it will be great.

And, Nancy, I do want to thank you for your vision. Change is difficult for lawyers, and for any of us, but I think it's been a great success (inaudible) complete dedication you've had to it.

I can't imagine the hours you put in—we probably won't tell your partners how many—and, Joe, you get your wife back now, so I hope—I hope he wants you back, but—ah, he does. He gave the thumbs-up.

I've had a great year with you. Thank you. I look forward to working with Jack. You know, one of the first people I ever worked for was Jack, so we've come full circle there, and so it's—things are great at the bar association.

Please know that we want to be a resource for you. Reach out to us when you need something. We continue to find ways to improve the association and provide value to you.

We know you have to be a member, but we don't want you to feel that way. We want you to feel that you get value from your membership, and so please rely on us, as a resource, and we'll continue to work hard for you, so thank you.

PRESIDENT MORRIS: Our next report is from our treasurer, Aubrey Zuger.

SECRETARY-TREASURER AUBREY ZUGER: As Tony indicated, we are in excellent financial shape. The board of governors recently received the audit report from auditors, again receiving an unqualified opinion. That's the highest rate received.

The 2013 audit indicated that we had year-end assets about \$200,000 more than last year's, so, again, our revenue has been up over the last several years, and that's due, in large part, to increased license fees. We expect that that will remain the same, that our revenue will be strong.

In terms of assets, about 93 percent of our assets are from cash and equivalent investments. The auditors indicate that puts us in a very strong financial position.

Our expenditures have a slight increase over last year, but our net assets, again, are up about \$200,000. We will see some additional expenditures next year with our move, as Tony indicated, but we are planning for that, and that was budgeted again this year.

You did receive a copy of the audited financial statements. If you have any questions, please contact Tony or myself.

PRESIDENT MORRIS: Thank you, Aubrey.

We will next hear from Jack McDonald, again, as the president of the North Dakota Bar Foundation.

MR. JACK McDONALD: Thank you very much, Nancy.

The—the—I am—also served as president of the North Dakota Bar Foundation, and the foundation is a nonprofit organization of the bar that fulfills two roles all the time.

One is to administer the IOLTA program, which is actually coming back a little bit now after going into the depths of nothing, practically. That's the fund that collects the—that's the organization that collects the funds from the lawyers' trust accounts and the interest from those and uses those for our charitable purposes, and then we also provide some bar—general public service functions for the bar association.

The IOLTA accounts, as you all know, the interest strength, practically nothing. As of December, the end of December of 2013, the program generated \$45,579 in net IOLTA revenue.

That's an increase of the \$37,000 we had in 2012, so I said it's kind of slowly coming back. It really went downhill very rapidly with the lack of—lack of interest on the—on the accounts.

In 2013 the IOLTA funds were used. We gave \$60,000 to Legal Services of North Dakota, we gave \$3,500 to the Southern Minnesota Regional Legal Services for a—that was a total of \$63,000. We did a little bit of deficit spending there again, as we have done for the last several years.

We thank the members of the committee that worked on the IOLTA, and the IOLTA committee for 19—for 2013, I'm sorry, was Dave Peterson, Krista Andrews, Timothy Priebe, Bethany Andrews, and Mary Van Sickle, Bismarck.

We also have the bar foundation of public service commission, to serve public service functions, and we distribute most of the money to improve the level of lawyer education and public education about the law in North Dakota and to preserve North Dakota's legal history.

The bar foundation board of directors approved continued funding for the law school in honor of Professor Randy Lee. In addition, scholarships were approved for the law review case note comment award, homecoming scholarships for the top first-year law students, top three, and a grant to UND School of Law for its public interest law—for the public interest summer internship program, and we're continuing to do that this year.

As a result, our membership and fund-raising efforts last year, our total foundation revenue for 2013 was \$90,428, and this includes 27,000 in

unrealized gain on securities, compared to 85,000 in '12 and 70,000 in 2011, so, again, our foundation assets have been going down a little bit, mostly because of IOLTA, but we're coming back up.

We appreciate the contributions you made last night at the silent auction, including the raffle and buying the raffle tickets, and we hope that you'll continue to support the foundation in the future.

The membership approved a resolution in 2'10, 2010, to recommend the bar foundation board of directors administer the pro bono fund. That's the—it's a fund that we help pro bono lawyers.

And the first quarter of this year, 2014, we had \$10,950 in that fund, and since we started that fund, in 2010, we've given out 86—\$86,000, and that's—we continue to distribute that money for the pro bono efforts.

I'd like to just congratulate and help—and recognize the members of the bar foundation board of directors. In addition to myself, there's Jack Marcil, Wally Goulet, Gail Hagerty, Jim Hill, Sherry Mills Moore, Nancy Morris, Timothy Priebe, Dean Rand, from the law school, Paul Richard, Lolita Romanick, and the Thomas duo, Ben Thomas and Robert Thomas. We appreciate it very much.

Thank you again for your support. I hope that you'll continue to support the bar foundation.

PRESIDENT MORRIS: Thank you, Jack.

It is my pleasure to announce, at this time, the outstanding chair award, and I'm pleased to give that award to Levi Andrist, of the Vogel Law Firm.

Levi is a young lawyer with a passion. He is being recognized today for his work and dedication to the pro bono working group. He's also the young lawyer representative to the board of governors.

He's been a pleasure to work with this past year. Levi and his committee have brought attention to the enormous unmet legal needs in our communities and have been exploring programs to address these needs. Please help me congratulate Levi as the outstanding chair award.

One of the programs recently implemented by the pro bono working group is the justice for all service recognition award. The following lawyers are recognized for their hours of service under the justice for all program: Frannie Nelson, 303 hours; Kent Morrow, 225 hours; Robert Keel, 162 hours.

Do we have any of those recipients present? That's a lot of hours. Thank you all.

Other members with over 50 hours of pro bono service include: Tasha Gahner, 161 hours, Alexander Kelsch, 140 hours, Tracy Lavik (phonetic), 128 hours, Kristin Overboe, 124 hours, Alisha Ankers, 114 hours, and



Kristin Redmond, 53 hours, so please help me show our appreciation for them.

We are very fortunate to have many great volunteers doing amazing work on our SBAND committees. Please take a moment to review the committee section reports, found on the SBAND web site, for a summary of their work throughout the year.

We also have some resolutions before the members this morning. The first resolution is a resolution of encouragement for pro bono, and I would welcome Levi to the stage to present that resolution.

MR. LEVI ANDRIST: Good morning. Whereas access to justice and civil legal services remains an important and unmet need across North Dakota, whereas low interest rates and federal funding for LSND has become an incredible hurdle in funding and supporting access to justice initiative and programs, whereas participation in SBAND programming, like the volunteer lawyer program, has a potential to have a much bigger impact, whereas many lawyers across North Dakota and licensed to practice in North Dakota are committed to increasing access to civil services and justice, and whereas the rules of professional conduct encourage each lawyer licensed in North Dakota to render public interest legal services, now, therefore be it resolved that SBAND thanks all lawyers who engage in pro bono, free and reduced-fee services, increasing access to justice and civil legal services.

Be it further resolved that SBAND encourages all its members, private lawyers, public lawyers, non-practicing lawyers, to engage in pro bono services and public interest legal services.

Be it further resolved that SBAND encourages collaboration with the UND School of Law to consider developing programming encouraging law students to engage in pro bono services.

Be it further resolved that SBAND encourages its members to consider supporting the North Dakota Bar Foundation and Legal Services of North Dakota to further access justice and civil legal services in this state.

Be it further resolved that SBAND encourages private law firms and public entities to create a culture or adopt policies that encourage the provision of pro bono services and public interest legal services.

And, finally, be it resolved that SBAND should continue to assess the need for access to justice and civil legal services and implement programs and efforts to address such needs.

PRESIDENT MORRIS: Thank you, Levi.

Additional resolutions is a resolution of appreciation for the individuals engaged in the planning committee, as resolution No. 2, and I would refer you to the materials.

Resolution No.—I have a—No. 4 is another resolution of appreciation for all of the sponsors of this event. We couldn't do it without our sponsors, and we really do appreciate their participation. I would, again, refer you to the materials for the resolution of appreciation of our sponsors.

FROM THE FLOOR: And there's one additional resolution. This is the missing resolution, three, and it's a very simple resolution, not as long as Levi's. We'll remember that, Levi.

Resolution No. 3 is a resolution of appreciation, whereas President Nancy Morris and her husband, Joe Oz (phonetic), served the State Bar Association of North Dakota, during the past year, at a great personal sacrifice to themselves and their family, whereas the State Bar Association of North Dakota has been greatly improved and enriched through their efforts.

Now, therefore be it resolved, by the State Bar Association of North Dakota, that I commend President Nancy Morris and Joe Oz for their dedicated efforts.

PRESIDENT MORRIS: Thank you very much. Now it's formally announced that—so we are married. I know a lot of people don't—it's funny how they know Joe and they know me, but they don't necessarily know we're married, but we're very active in the community, so thank you.

Do we have a motion to adopt these resolutions?

FROM THE FLOOR: (Inaudible.)

PRESIDENT MORRIS: Okay. And then second?

FROM THE FLOOR: Second.

PRESIDENT MORRIS: Great. Thank you.

All those in favor?

FROM THE FLOOR: Aye.

PRESIDENT MORRIS: Opposed?

Thank you very much. It is important for us now to take a moment to remember our colleagues who have passed away this past year. I will read those names and the—who have gone before us. This is from June to June:

Bruce Aarestad,  
Wayne T. Anderson,  
Marshall T. Bergerud,  
Donald J. Cooke,  
John P. Dosland,  
Alan Keith Duppler,

Charles A. Feste,  
Thomas J. Gaughan,  
Michael S. Gerlach,  
Michael J. Hinman,  
Dwight F. Kalash,  
Tilford Owen Kroshus,  
Leonard E. Lundberg,  
Lowell W. Lundberg,  
Robert E. Manly,  
Margaret P. Muus,  
Brian D. Neugebauer,  
Max D. Rosenberg,  
Frederick Edward Saefke, Jr.,  
Nicholas J. Spaeth,  
Daniel “Dick” R. Twichell,  
Michael Anthony Vellon, and  
Leonard Bucklin.

Thank you. We will now call the election for president-elect. We are operating under an absentee ballot procedure. Accordingly, we will not have open nominations from the floor but would rather, now, have a short nominating speech for the candidate who has filed his nominating petition.

Joe, do you have a—thank you. Ron McLean will be doing that nomination. Thank you.

MR. RON McLEAN: It had been represented to me that I could do it from the floor and I had to say little, but I could say a couple of minutes, easily, about Joe.

Joe is a great trial lawyer. He is dedicated to making the bar and doing the right thing in law practice and growing this bar association. I know that he will be a great president, as he is a great law partner and a great man. I nominate Joe Wetch.

PRESIDENT MORRIS: Okay. If we could get a second to that wonderful nomination.

MR. DAVE MARING: Second.

PRESIDENT MORRIS: We received a second, Dave Maring.

All those in favor of Joseph Wetch as president-elect of the State Bar Association, please say aye.

FROM THE FLOOR: Aye.

PRESIDENT MORRIS: Opposed?

Motion carries. Congratulations, Joe.

It is now my pleasure to recognize our board of governors. There are a couple board of governors who are leaving, have finished their term, and have reappointments.

We have board of governor Matt Coling (phonetic), has completed his term, and also board of governors' member Jason Vuts (phonetic). We have plaques to recognize their service as well.

And, finally, it is my distinct pleasure, and I relish this opportunity, to show my appreciation for Judge Gail Hagerty, for the leadership that she has provided to this organization for many years.

And I know she continues to remain involved and has so many other interests. I always—I was kidding her the other day. She is now president of LifeSource, which is a wonderful organization, and I know that her husband, at one time, asked her, “Do you have to be president of every organization that you’re involved in?”

And she just has such a passion, and she is a wonderful leader and a woman of action, and we really—we’ll miss her at our board of governors’ meeting and keeping us in mind sometimes and making sure we know how not—well, she saved me from several missteps, let’s just say that.

So thank you, Gail. I would like to—we have a plaque for you as well, so . . . .

Okay. It is now my pleasure to welcome to the podium your next—well, your president—yeah, I’m done—your president of the State Bar Association of North Dakota, Jack Marcil—Jack McDonald.

PRESIDENT McDONALD: Thank you very much. I’d like to thank Nancy Pelosi for my—oh, not Nancy Pelosi. No, I want to thank you very much.

Judge Hagerty said that if you want to donate any organs that she’ll be out the back door, so if you’ve got any spare organs this morning, that she’ll be glad to take them.

I want to thank you very much for the honor to serve as your president, and I look forward to this next year as a year of action. The bar association has decided to energize itself and bring in a little bit of young blood, and so I’m going to try to do my very best to bring new vigor to the organization.

I’ve had—you’ve had excellent leadership the past several years, and I just hope to carry that on. Thank you very much for your support, and I look forward to working with you all in this next year.

I’ve got several gavels that I can gavel to adjourn the meeting, but, first of all, I want to remind you all that we have two more excellent CLE programs starting upstairs at 9 o’clock, and so I hope that you all adjourn and go upstairs and get CLE.

Thank you very much. We're adjourned.  
(Whereupon the meeting concluded at 8:44 a.m.)

NOTARY REPORTER'S CERTIFICATE

I, Kerstin I. Haukebo, a notary public within and from the County of Cass and State of North Dakota, do Hereby certify:

That the foregoing twenty-three (23) pages contain an accurate transcription of my shorthand notes then and there taken.

I further certify that I am neither related to any of the parties or counsel nor interested in this matter directly or indirectly.

WITNESS my hand and seal this twenty-third day of June 2014

Kerstin I. Haukebo, Notary Public, Fargo, North Dakota