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

North Dakota State Bar Association

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PROCEEDINGS OF THE ONE HUNDRED  
FOURTEENTH 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 HAGERTY: Welcome back. I would like to call the 114th Annual Meeting of the State Bar Association of North Dakota to order. Come to order. We're going to begin our meeting with the presentation of the colors by Boy Scout Troop 2, Dave Sagsveen, Scoutmaster, assisted by Dick Espeland. The Scouts who are here today are Aaron Sagsveen, Drew Sagsveen, Justin Anderson and Carter Boyd. We'll have the National Anthem and then the Pledge led by Scouts Grayson and Gabriel Lawyer. So go ahead with the flag presentation, please. Will you please stand.

(Whereupon, the Pledge of Allegiance was recited.)

(Whereupon, the national anthem was played.)

PRESIDENT HAGERTY: The scouts leading the Pledge are the sons of Julie and Roger Lawyer. And Catherine Tyler who performed the National Anthem is the granddaughter of retired Grand Forks attorney Pat Fisher.

PRESIDENT HAGERTY: I am appointing Justice Dale Sandstrom to serve as parliamentarian. He assures me he will help me to keep the meeting on track. I want to start out by extending my appreciation to the local committee which made arrangements for this meeting. You can't imagine what a hard-working group it was. Brenda Blazer's organization made it seem like it was much easier than it really was. Brenda chaired the committee. Other members of the committee included Sophie Young Morgan, Thomas Jackson, Zachary Pelham, Rebecca Binstock, Amy Oster, James Cailao and Judge Cynthia Feland. Please join me in showing appreciation for all of their efforts.

In addition, preparations are being made right now for the silent auction. I want to acknowledge all the work that Marge Lee has done in assisting with that. And also Holly Crothers has been instrumental in making it all work out. I know they have other people helping them, and we really appreciate their willingness to help. This is an opportunity for me to make some brief remarks. I will be brief.

You know, some people think they know what the longest day of the year is. Does anyone here know? The longest day of the year? It is the Thursday of the State Bar Convention. It is not June 21st. Every year it is the longest day of the year, and I'm sure that's true for Jeanne Schlittenhard and for all of the hard-working people on the SBAND staff who are here today.

I want to thank you for the opportunity to serve as President of the State Bar Association. It's really a very unique opportunity for a judge. I was doing a little research, and several judges have served as President before they assumed a judicial role. Judge Eugene Burdick, Judge Jon Kerian, Judge Gary Lee, and Justice Crothers come to mind. And I think it's only fair that a sitting judge should have an opportunity to serve as President of the organization at least every 114 years or so.

I hope that my presidency will serve as evidence that judges are full members of this association, there aren't two separate organizations, one for judges and one for attorneys, and it's not us against them.

I haven't really considered this to be my year with the State Bar Association—anything but. It's been a good year because of the contributions of many members of the association. We started off the year last year with the work on the Justice System Energy Impact Task Force. The task force was ably chaired by Jack McDonald. We had hearings in four cities, Bismarck, Mandan, Dickinson, Williston. Jack chaired each of those sessions and we gathered information.

Other members of the association who served on the task force included Aaron Birst, Charles DeMakis, Jim Fitzsimmons, Judge Bill Herauf, Robin Huseby, Dennis Johnson, Nathan Madden, Judge Bill McLees, Judge David Nelson, Attorney General Wayne Stenehjem, Judge Patrick Weir and Marlyce Wilder.

The task force collected a lot of information. One thing we were struck by is how little actual data was available just because of what was happening so quickly. But we did prepare a report, we presented it to the Governor, and that report was the basis for a really very ambitious legislative agenda for the State Bar Association, and an agenda with which we proved to be very successful.

One of the great successes of the legislative session was the appropriation of funds for renovation of an addition to the law school. Our members who are lobbyists stepped up and provided great support for Dean Rand in seeking this much-needed improvement.

Another thing we've accomplished this year is that we have the beginning of a rural justice project. The legislature provided some minimal funding which will allow law students to serve as summer law clerks for judges who are chambered in rural counties.

The plan then is that those law clerks would continue to have a relationship with the judge and with the community as they continue their schooling during the next school year, and that's certainly possible with the technology available now.

My hope is that this project will be successful and that state's attorneys and private practitioners will also join in this model. The goal is to get young lawyers to take a look at the advantages of rural practice.

I was struck today, as we were hearing about the good work done by attorneys in their communities, just how much many of the rural communities need the assistance, the availability and the contributions that are made by members of our profession.

We need to continue to work on retooling our efforts in the area of pro bono and reduced legal services. I'm really pleased that Nancy Morris has worked with the group to begin that process, and that will be carried on during the next years. It is going to have to be an ongoing effort and focus of the association.

The bad news this year: We are bidding a fond farewell to our Executive Director, Just Plain Bill Newman. I could not begin to recount all of his contributions to the association during the time allotted to me here today, so all I'm going to say is Bill will be missed.

The good news is that we are welcoming Tony Weiler as our new Executive Director. If you haven't met Tony, please take an opportunity to welcome him. He's been an active member of the State Bar Association and has experience both in private practice, as a law clerk at the Supreme Court, and as State Labor Commissioner.

Finally, I will be so very pleased at the conclusion of this meeting to pass the gavel to Nancy Morris. She has been a dedicated member of the Board of Governors and will bring great leadership to the State Bar Association during the next year.

Chief Justice, it's your turn.

CHIEF JUSTICE GERALD W. VANDEWALLE: Good afternoon. You notice I didn't jump up and down those stairs quite as quick as those

Boy Scouts did. And the next time, I hope the arrangement committee has a rail for those of us that aren't quite as adept.

Thank you for the opportunity to again report on the state of the North Dakota Judiciary. Some of my remarks will be repetitious of what Judge Hagerty just said, but I begin by acknowledging the Energy Impact Task Force Judge Hagerty formed early in her tenure as President.

The report from the task force was presented to the Governor and the legislature prior to the legislative assembly. It was widely discussed in the media. It effectively set the table in that the need for additional judges and employees was well known and accepted by the time we made our appearance in support of those requests. I thank Jack McDonald, the chair of the Task Force, and the members for their work.

There are some who might question whether we should encourage people to take up the practice of law. After all, Daniel Webster in an address said that after 25 years of observation, "I can give it as a condensed history of most, if not all, good lawyers, that they lived well and died poor." Given the alternative, I don't think that's such a bad result.

To that end, President Hagerty has been instrumental in designing and championing a new rural law clerk program which was funded by the legislature. At her suggestion we included in our budget request and received some funding for the proposal. Working with the UND School of Law, the court will establish up to three paid district court law clerk internships per year. These interns will be placed with rural judges serving communities of less than 15,000.

Rural communities are losing attorneys. In 2012, there were four counties that had no attorneys at all, six counties with only one attorney and another eight counties with only two attorneys.

The rural internship program is designed to encourage law school students to consider practicing in small communities. By inviting them into the community as young adults, to work in a professional capacity, we hope they will have a perspective on rural life and the many benefits that come with living in a close-knit society and being a valued part of the local community, including the business community.

We have authorized a notice of comment on proposed Appellate Rule 5 that will establish an appellate mediation program. This program will offer litigants anticipating an appeal the opportunity to participate in mediation at no charge to them. It differs from the family law mediation program at the trial court level in three key aspects: First, it includes probate as well as family cases; second, it is available prior to the actual filing of an appeal; and third, parties can opt out of the program if certain conditions are met. The opt-out conditions are purposely narrowly written.

Appellate mediation has a good track record in courts that have been using it. Nationally, the settlement rate for these types of programs is around 50 percent. This saves time and money for all parties in a case. But, as with our district court mediation program, our motivation and our primary goal is to minimize family conflict.

When we close the book on a court case, we leave behind the families involved in those cases. We don't create the conflicts that come to our courts, but the process used to resolve those conflicts should not exacerbate them. No one wins when the price of a decision is a family no longer willing to communicate.

For the past several years we have had a special task force examining the courts for racial and ethnic bias. The task force concluded its work last fall and reported that there is a perception of bias in the courts. A court's stock in trade is credibility. If litigants believe the deck is stacked against them, then even the most lawful and just decisions by the courts are greeted with distrust.

Understanding the importance of this issue, the task force did not stop at gauging perceptions but also presented the court with more than 70 recommendations for ways to improve our performance. We are concerned about bias and the perception of bias, and we adopted Administrative Order 21 which establishes an implementation committee. This committee will develop a strategic plan to implement many of the recommendations of the task force and monitor progress in this area.

Did you notice that we recently mandated electronic filing and electronic service for all documents except initial pleadings in criminal and juvenile cases? No doubt that you did notice – we heard from a number of you. The transition has not been without some hiccups and misunderstandings, but all in all it has gone smoothly. Electronic records benefit both the court and the bar.

We live in an information-driven world and work in a profession that relies on fast, accurate information. Fingertip access to documents and nearly simultaneous notice of filing of documents is something many have grown accustomed to. Indeed, for the younger and newer lawyers that is the norm.

It is unrealistic to expect that the court could hire enough staff to provide this service without requiring electronic filing and service. For two years prior to the adoption of the rule requiring electronic filing we encouraged voluntary participation in the system. I am grateful to the many lawyers who took the initiative to know the system and use it, but that left a large number of lawyers who did not. The result was unprecedented backlogs in all of our clerk's offices, which meant delays in getting vital

information and documents circulated. It takes all of us working together to create a system that benefits everyone. Change is often a painful process, but I'm thankful that in North Dakota we have a history of working together to improve our system.

The issue of access to justice and how to provide adequate services to self-represented litigants is a perennial question. Last year there were more than 1,700 people who represented themselves in civil, family and juvenile cases, and another 6,500 who represented themselves in felony, misdemeanor and infraction cases. These are numbers that we could not have imagined 15 years ago when courts first started to see an increasing number of people representing themselves.

There are reasons for this, but I will not go into all of the research here. However, two of the biggest reasons are economics and education. Some people come to court alone because they can't afford to hire an attorney. There are not enough pro bono hours and reduced fee programs to accommodate all of these cases. Others come to court without an attorney because they believe they have the education and intellectual capacity to understand the law and court processes well enough to proceed on their own. Under either scenario, this can cause a great deal of frustration for the self-represented party, the court, and the litigants on the other side of the case.

To help alleviate some of this frustration, the court requested and received funding to establish a new position we titled the Citizen Access Coordinator. This person will be responsible for instituting a support center for self-represented litigants that will provide information about court rules, processes, and forms. The coordinator is not intended to be the legal adviser of the self-represented litigant.

At the request of the Administrative Council, I asked the Judicial Planning Commission to consider the current judicial districts and make recommendations related to redistricting. Under the North Dakota Constitution, the Supreme Court is authorized to divide the state into judicial districts. The last time there was a major realignment of the districts was in 1979 – shortly after I came to the bench, to put it into perspective—and it is time to give them a fresh review.

The three new judges authorized by the legislature will help to alleviate the increasing workload caused in great part by our flourishing economy. One of the goals of the review is to bring the case loads per judge into a better balance. The commission has sent recommendations to the court which are now out for comment. Please take a look at the options they are recommending and give us your opinion.

The court recently adopted Administrative Rule 57 which gives the Supreme Court the authority to declare a judicial emergency. If an emergency is declared, the court can suspend, toll, extend or otherwise grant relief from deadlines and schedules. We have had to take this action before, in 1997 and 2011, on an ad hoc basis using the inherent power of the judiciary to manage the court system.

This rule formalizes the process and will allow us to suspend statutes of limitations, designate temporary venues, and close courthouses in an orderly fashion. Now that we have a formal process in the statutes and in our rules, we hope we will not have to use it.

Much of what I have discussed involves action taken by the recent legislative assembly. The judicial branch fared well in that our request for new judges, new positions and a few new programs were, for the most part, well received. Contrary to what is taking place in several of the other states, our judicial system is not under attack by the other branches. That does not mean we can be complacent. I am grateful to the Bar Association and its individual members for their support and for their vigilance in defending the rule of law and the rights and liberties of our citizens.

I also thank the members of SBAND for their service on the joint bench/bar committees, our disciplinary boards and the other bar committees that are so vital and so important to the continued vitality of the association, the judicial branch and the legal profession in general. We are privileged to live in a state in which respect and civility are still the norm, not the exception. But our good fortune also brings responsibility.

We are not a large judicial system nor a large Bar Association. We have limited financial resources and even more significant, we have limited human resources. Nevertheless, we must continue to look introspectively and outwardly for ways to become more efficient and more relative to our role in government and society. We will continue, as our resources allow, to examine new programs in order to determine whether they will enhance our system of justice and serve the citizens as well as the profession.

Future projects could include looking at operations within our clerks offices as the duties change as a result of technology and whether we need and have the resources to establish additional specialty courts such as veterans courts, mental health courts, reentry courts and probate courts. These are only examples of some of the proposals that have potential application in our judicial system in North Dakota.

But I do not want to alarm you with the specter of immediately changing the course of the courts. Rather, I look forward to continued good relations and cooperation with President Morris, the Board of Governors and the association.



I am not an avid reader or a good reciter of poetry, but in closing I end with a poem from a book of poetry I received about law, lawyers and judges. The poem by James Clarke is entitled “Bit Players.” I read it for you to mull in your mind without further comment from me.

After the performance, and the judge and lawyers have bowed to each other and strutted off the stage, the victims are quickly shunted off to the wings with the rest of the props to await the next unpaid curtain call.

Thank you for your good will, and best wishes to SBAND for a successful year ahead.

EXECUTIVE DIRECTOR TONY J. WEILER: Thank you, Chief. For those of you who don’t me—man, it is bright up here—I’m Tony Weiler. I’m your new Executive Director. I have been your Executive Director for nine days, and they said you need to give an Executive Director’s report, and I figured it might be one of the shortest in history.

FROM THE FLOOR: Yea.

EXECUTIVE DIRECTOR WEILER: Yes. Thank you. I do want to thank, first of all, Judge Hagerty and the Board of Governors for allowing me this opportunity to serve as your Executive Director. I have said to many people a lot of what I have done in my career has helped to prepare me to do this job. I’m looking forward to it very much.

Fortunately, I had fantastic mentors in my professional career: Justice Sandstrom, Al Wolf, Jack McDonald, Dave and Mike at Maring Williams, and others who always imparted into me that service to the bar is important not only to—not only to us as a profession, it’s part of our practice, and it helps our community.

So I have grown up, I guess, in this association. I’ve grown to understand what we do. I’m excited to serve as your Executive Director, and I’m excited to see where we are going as lawyers.

I want to thank Bill Newman for helping me in this transition. He could not be more helpful, gracious and forthcoming with information only when I ask. So thank you, Bill. I have told the story a couple of times that I’ve been told many times I have big shoes to fill. Fortunately, Bill said his are only nine-and-a-half’s, so I’m okay there.

Somebody said, Well, you know, somebody had to follow John Elway. And that’s true. And I keep trying to figure out who followed John Elway. So I hope that’s not—I hope that’s not the case for me. So, Bill, you’re John Elway. Thank you very much.

The Bar Association—we are in great shape. We are in great shape in numbers, we are in great shape financially, we are in great shape with the fantastic board. I am blessed to step into a fantastic staff who really make this organization work and run. I’m excited to get through June and learn

all of their names. That's not true. And so I do really appreciate the opportunity.

And what I want to leave you with is that, you know, we are here to provide value to you as members of this association. We are here to provide value in what you do on a daily basis. And so if you have thoughts, comments, concerns, questions, please give me a call, send me an email. I'd love to have coffee with you. I'd love to hear your ideas. I'd love to have a conversation with you about where we are going and where we can continue to make great strides.

When I became the Commissioner of Labor, I followed Lisa McEvers, who was very good, who is now Judge McEvers. And one thing the Governor told me—he said, This place is in great shape. Don't mess it up.

And I promise to you that I will do my best to follow that advice in this position. So thank you very much.

PRESIDENT HAGERTY: Community service comes in many forms. The association is very proud of the efforts of its volunteer lawyer program and all of the individuals who donate hundreds of hours providing free legal time to those who would not otherwise be able to afford our legal system.

Every year we recognize those individuals who donate an extraordinary amount of time to pro bono cases. This year the top three attorneys contributing to SBAND's volunteer lawyer program were Vanessa Berge who donated 620 hours. She's not able to be here today. I suspect she's busy. We're also recognizing two people who have made great contributions over the years and continue to do so. And if you would come up, please, to be recognized. Robert Keogh who donated 279 hours, and Kent Morrow who donated 250 hours.

We have a gift for you, a small token of our appreciation. I hope that you will help me thank these great volunteers. They are truly pro bono heroes.

And I hope you will consider that as applause to every single person who donated pro bono services, who provided services to their community. It all matters. It matters immensely.

One of the things that we will do today is recognize two outstanding committee chairs. I'm pleased to recognize Sandi Tabor who chaired our legislative committee. You wouldn't believe the hours that Sandi puts into this effort as she reads every single piece of legislation and then assigns other members of the legislative committee to read those bills that she thinks might have an impact on our legislative concerns and then report on them. Reports are then made to the Board of Governors. It's a weekly meeting, a working committee, and Sandi just spends an inordinate amount

of time helping us in that effort. She isn't able to be here today either. I suspect she's busy maybe reading the last of the bills.

And I also want to recognize Jack McDonald. Jack, if you'd come up. Jack chaired the Justice System Energy Impact Task Force. We have a plaque for Jack. But the hours that went into preparation and collection of information was incredible, but then it was followed with presentations to all of the legislators, to the Governor, and active work during the legislative session. We identified legislative goals which included funding of judgeships, funding of court staff, increased funding for indigent defense, supporting efforts to provide funding for civil legal services. And Jack was there every step of the way, and also with the law school initiative. So thank you very much, Jack.

This organization works because of volunteers, because of committees, because of task forces, and your efforts actually make the association work. At this time I'm going to call on Jack McDonald. Don't get too comfortable there. Please come up and give us the report of the North Dakota Bar Foundation.

MR. JACK McDONALD: Thank you very much, Judge Hagerty. I appreciate it. First of all, I want to thank everyone for the award for the outstanding chair. I didn't realize that was coming. It's very—I like it. I appreciate it very much. So thank you very much.

The report from the Bar Foundation is in your handout, so I'm not going to read it word for word, just to cover some of the highlights a little bit about the Bar Foundation. Some of you know or may not know, the Bar Foundation really has two arms. It's kind of like an umbrella organization. One arm is the IOLTA, the Interest on Lawyer Trust Accounts, that is funded by money that comes from the banks that keep your trust accounts. Unfortunately, the interest rates have gone down so precipitously in the last few years that that fund is dwindling very fast.

This year we had \$37,000—sorry, not this year, but December 12th we had \$37,000 through December 12th from IOLTA. If you want some comparisons, in 2011 we had \$46,000. In 2010 we had \$63,000. In 2009 we had \$79,000. And in 2008 we had \$140,000. So we've gone from 140,000 in 2008 to 37,000 in 2012. So it's been a pretty bad drop.

And so we're going to try to keep working on that. We have an IOLTA committee that meets every year. The goal of IOLTA people is to fund programs for the disadvantaged and the poor and for people who don't have access to legal services.

This last year we did make three awards. Even though we didn't have that many funds, we made three awards to Legal Services of North Dakota, LSND, for 50,000, the SBAND Volunteer Law Program for 6,000, and the

Southern Minnesota Regional Legal Services Program for \$3,100. That was a total of \$59,000.

And you can say, well, you only had \$37,000. How does that work? Fortunately, we had some reserves, which are dwindling a little bit, so we dipped into our reserves for \$21,000 to make it 59,000.

I want to thank the members of the IOLTA committee for their work. For 2012 the IOLTA committee members were David Peterson, Krista Andrews, Timothy Priebe, Bethany Andrist and Mary Van Sickle.

Then the other part of the Bar Foundation is the foundation itself, and that's the group that tries to provide funds for public service. And the foundation's role is to serve a public function, and we use the money that we get from our membership. People donate to the Bar Foundation. We raise money through the silent auction every year. Maybe you heard President Hagerty say that that's coming up at 6 o'clock. We hope that you all participate in the silent auction and make it a success. That's our main fund-raiser for the year.

The Bar Foundation distributes almost all of its money in the areas of lawyer service and public education. For 2013 we made a decision a couple days ago. The Bar Foundation approved contingent funding for the law school. In honor of Professor Randy Lee, we partially endowed a chair at the law school. It's a nice big chair about this high and it's got arm pads and everything.

And then, in addition, we have scholarships. The Bar Foundation gives scholarships for the Law Review case note, comment awards, we give homecoming scholarships for the top first-year law students, and we give a grant to UND for its public interest law program—internship program.

Our total foundation revenue for 2012 was \$85,000. And as I said, that includes all the contributions and all the money raised from the silent auction.

We also administer what's called a pro bono fund, and in 2010 the general assembly at this meeting decided to create a pro bono fund and allow people to contribute directly to pro bono services rather than other things that the Bar Foundation does.

And so the pro bono fund has been operating now for two years, and it's been fairly successful. It certainly could be better. We had \$16,500 in 2012. We had \$17,665 in 2011. That money has been given to LSND, and then when the Bar Foundation met on Wednesday, we distributed another \$15,000 to LSND.

So the fund-raiser is tonight. I hope, again, that you all come and participate and try to bid those prices up. As Judge Hagerty said earlier, this is not a bargain basement thing for Wal-Mart or anything. I hope you

all come and work hard. We're going to give away the quilt. There's still time to buy tickets on that. We're going to give that away at the banquet.

The last thing I want to do is thank the members of the Bar Foundation. In addition to myself as chairman, Jack Marcil has been vice chairman, Wally Goulet, Gail Hagerty, Jim Hill, Sherry Mills Moore, Nancy Morris, Timothy Priebe, Kathryn Rand, the Dean of the law school, Paul Richards, Lolita Romanick and Thomas brothers Ben and Robert. So thank you very much. Thank you.

PRESIDENT HAGERTY: Well, Nancy pointed out I was moving the meeting along just a little too quickly. I neglected to call on Aubrey Zuger for the financial report.

MS. FIEBELKORN ZUGER: I think Gail forgot because generally the Bar Association is, as Tony said, very financially sound. We received another audit resulting in another unqualified opinion for the Bar Association. To summarize, our assets are up over the last year, our revenue is up over the last year, and our expenditures are slightly up over the last year too, although the expenditures are not up as much as the revenue is, so that's good.

The increase in revenue is primarily because of license fee increases and the pro hac fees that have been coming in as a result of more attorneys being admitted in North Dakota.

The main expenditure that is kind of on our horizon is that we have been—the bar association has currently been occupying the C.B. Little house here in Bismarck, and we've been getting a pretty good deal on our rent. Unfortunately, the diocese wants their house back, and we have to find a new space in which we can put the Bar Association. So we expect that that is going to cause an increase in our rental cost and our lease expenses are going to increase.

So you'll see in the report that for the 2013 expense budget our rent expenses are increased greatly because at some point prior to next June we're going to have to move, and we expect that our rent expenses will increase. But otherwise our financial situation looks good and we expect that that will continue.

PRESIDENT HAGERTY: In your materials you have Committee, Section, and Task Force Reports. We are going to have a report from John Olson on the Legal Assistance Program, and the rest of them you may peruse.

MR. JOHN M. OLSON: I can't see anybody out there, but I know you're there. I'm pleased to just spend a few minutes with you on the Lawyers Assistance Program. I was brought onto that committee, I guess, a year and a half ago, and the Lawyers Assistance Program was created

pursuant to Administrative Rule 49 back in 2004. And up until a few years ago, I really didn't know too much about the Lawyers Assistance Program either, but I just think it's worth a remainder just to tell you what the program is all about.

The purpose was to supervise lawyer conduct, provides for the establishment of a mechanism to protect the public, assist lawyers in the performance of their duties and responsibilities in the representation of clients and to maintain and improve the integrity of the legal profession.

That was the purpose. The committee itself has six members. Three are appointed by the Board of Governors, and three are appointed by the Chief Justice. Two of the members are lay people. And right now we have Diane Wehrman, myself and Michelle Gayette from Bismarck on the committee. The other members are—let's see. I better look at my notes here—Robin Huseby, Nick Hall and Agnes Harrington, all lawyers except for Michelle Gayette, who's a trained addiction counselor and works with the Department of Human Services, and Agnes Harrington, who has a good pharmaceutical background which really does help our committee on some of the things that we do.

The committee operates in strict confidence, and our members, our volunteers, and so forth, the people that help us are protected by immunity in the performance of whatever duties that we exercise with this committee.

I just want to point out, I don't think there's been very many studies recently, so I'm going by some old studies, and I'm not sure the statistics have improved any, in fact, I would guesstimate that they have gotten worse, but there are some older studies that stated that there's about 15 to 20 percent of our profession that suffers from addiction from impairment, alcohol and drugs primarily, and about 30 percent or even more, a third of our profession suffers from some significant depression at some time or another.

Those are pretty startling statistics. In fact, our profession, I think, is the top profession of all of those studied that suffer from those kinds of ailments. So it's a pretty significant problem and one that we, I think, are addressing as best we can, but we need to, I think, do more outreach in our communities and wherever we're at and make sure that we are getting to those people that don't have the help that they really should get. And, of course, stigma and a lot of other things go into addiction and mental health issues.

Our case load right now is about 12. We have diversion, we have self-referrals, we have the Supreme Court that, in the disciplinary action process, has referred various cases to our committee, and we advise

individual assistance programs for each attorney that comes into our program.

We have a couple of—or three people who have helped us immensely. They are former members. I'd like to mention Dave Bossart and Leslie Oliver and Mark Larson who have stayed on in an advisory role and have really provided some good assistance. As I look around the crowd here, there are other volunteers that have helped us, and I just want to say thank you to all the committee members and to the volunteers.

In the short time I've been with this committee, I've noticed that our mentorship program, our accountability program that we afford lawyers who come into our program, I think, really do well. And I think it's that person-to-person contact that we have, the confidential relationship that we have that really demonstrate some success, and I think we've witnessed on a number of occasions how impacting and how successful our program is. So I say thank you to all of the people that are associated with this program and the volunteers.

Of course we need more. We need more interest out there. There are brochures. I think we sent them out to every lawyer in the state. You can contact our North Dakota [lap@gmail.com](mailto:lap@gmail.com) and there will be information that will be provided, or else you can contact any of the members individually. If there's anybody out there that has concerns or any kind of need for help, please use that email address and somebody will get back to you.

I'd like to thank Bill Newman and his staff for the work that they've done for us on this committee. Especially I'd like to thank Jane Gilbertson from the SBAND office who has served as our secretary since I've been there and long before then. And I'd like to thank Tony for coming on as our secretary in the future. I think it's going to be a good relationship, Tony, because I think it will give you an opportunity to see the success that we've had, but also to gauge the need that's out there and maybe make the decisions and do the assessment that we need to do to reach more people out in our bar communities.

We're also—I see Dean Rand is here, and we're also looking at extending this program to law students. We do have occasion where law students graduate with some difficulty sometimes and their licenses may be restricted. So I think it's high time that we extend some outreach to our law students at the University of North Dakota. And we're trying to fashion a program or connection with that, and I think we're going to have probably something to report to you the next time we return next year. Most of the states do have law students involved in their outreach lawyers assistance programs, so I think there's precedent for doing that.

I think that's about it. I know that I see a number of my lawyer lobbyist colleagues here, and God knows, within two and a half hours of the constitutional shutdown of the session, we all needed rehabilitation services. So we all can use some help sometimes. And I just thank you, and hopefully, if you're interested, you'll get in touch with us and help us out. We've got good training sessions that we conduct as well. Thank you very much.

MS. NANCY JO MORRIS: I would like to offer the following resolution of thanks.

Resolution Number 1: Appreciation. Whereas, the businesses and organizations that graciously sponsored portions of the 2013 Annual Meeting and those that participated as sponsors and exhibitors are: First International Bank & Trust, ALPS, Big Muddy Bar Association, Eide Bailly, LLP, Fredrikson & Byron, Maring Williams Law Office, Media Productions, North Dakota Commission for CLE, North Dakota Bar Foundation, Serkland Law Firm, Starion Financial, Vogel Law Firm, Zuger Kirmis & Smith.

Exhibitors include ABA Retirement Funds, ALPS, Assessment & Therapy Associates of Grand Forks, Casemaker, Eide Bailly, Legal Services of North Dakota, NDGives, North Dakota Law Review, Pifer's Auction, SBAND Law Related Education Programs, SBAND Lawyer Referral & Information Services, SBAND Volunteer Lawyer Program, SBAND Lawyer Assistance Program, and the UND School of Law.

Whereas, without their participation and financial support, the 2013 Annual Meeting of the State Bar Association of North Dakota would not have been the success that it is.

Be it resolved further, that the above be thanked for their gracious support.

Resolution Number 2 of appreciation. Whereas, members of the South Central Judicial District and others have put considerable time and efforts into planning and organizing the 2013 Annual Meeting of the State Bar Association of North Dakota, and whereas, those persons deserve special thanks for their efforts.

Now therefore, be it resolved, that the State Bar Association of North Dakota extends a special thank you to those persons involved in the planning and organization of this Annual Meeting, particularly to the Members At Large: Brenda Blazer, Chair, for planning and overall coordination of a multitude of details; Sophie Young Morgan, Thomas M. Jackson, Zachary E. Pelham, Rebecca Lynn Binstock, Amy Marie Oster, James M. Cailao, and Judge Cynthia M. Feland.



Resolution Number 3 of appreciation. Whereas, President Gail Hagerty and her husband, Dale Sandstrom, have served the State Bar Association of North Dakota during the past year at a great personal sacrifice to themselves and their family, and whereas, the State Bar Association of North Dakota has been greatly improved and enriched due to their efforts.

Now therefore, be it resolved, that the State Bar Association of North Dakota commend President Gail Hagerty and Dale Sandstrom for their dedicated efforts.

I would now entertain a motion to approve the resolutions of appreciation.

FROM THE FLOOR: So moved.

MS. MORRIS: Second?

FROM THE FLOOR: Second.

MS. MORRIS: All those in favor?

(Responses of “aye”).

MS. MORRIS: Thank you.

PRESIDENT HAGERTY: It is appropriate for us to take a moment at this time to remember our colleagues who passed away since this time last year. If you'd please stand, I'd like to read their names. There's information about each of them in your material.

Commander Frank J. Wikenheiser

John A. Richardson

William C. Kelsch

Fred Arnason

John A. “Jack” Dietz

Jeffrey Lee Sheets

Warren Johnson

Nicholas J. Matt

A. Roger Kringlie

Philip Dudley Stafine

Judge Frank Magill

Marnie Soggie

Thank you. We will now conduct elections for President-Elect and Secretary-Treasurer. We are operating under our absentee ballot procedures. We will not be having open nominations from the floor except for those candidates who have filed nominating petitions. We will have a short nominating speech for the candidates who filed a petition for the office of President-Elect and Secretary-Treasurer. I would recognize Al Wolf to nominate Jack McDonald as President-Elect.

MR. ALBERT A. WOLF: Judge Hagerty, first of all, thank you for a good year of leadership in this organization. I felt so confident in your presidency that I didn't spend a lot of time coming to meetings or worrying about what's going on.

I also want to thank John Olson for including law students in this program of his. I sure know that when I was in law school in a law fraternity in Minneapolis in my law school years, I needed that type of program a lot more than I need it now.

I think it's great to be with this organization whenever you can because it's such a great organization. And to be able to stand here today and recommend and nominate my partner, Jack McDonald, is a real pleasure and honor. A lot of times you have to introduce people to the Bar Association to take certain positions or opportunities, but not for Jack McDonald. He's been around so long and so well organized. I asked him when he told me he was going to do this whether he had the energy. And he said, Well, I just got a lot of new energy out of this new committee I was working with the other day. So maybe that was worthwhile doing.

I think he might be doing one different thing in his efforts this next year. He wants to establish more holidays—legal holidays because then he can work more days when nobody else is working. He's got a great facility to do that.

I don't think after what's happened just today I need to indicate the benefits that this organization will receive and the state of North Dakota will receive from Jack McDonald's tour as President, and so I nominate Jack McDonald.

PRESIDENT HAGERTY: Is there a second?

FROM THE FLOOR: I second the nomination.

PRESIDENT HAGERTY: Is there a motion to declare Jack McDonald president-elect?

MR. PATRICK WARD: So moved.

PRESIDENT HAGERTY: I'll need a name from whoever made the motion.

MR. WARD: Pat Ward.

PRESIDENT HAGERTY: Pat Ward. And a second?

MR. DANIEL CROTHERS: Second.

PRESIDENT HAGERTY: And your name?

MR. CROTHERS: Crothers.

PRESIDENT HAGERTY: I can't see out there. All right. All in favor?

(Responses of "aye").

PRESIDENT HAGERTY: Anyone opposed?

(No response).

PRESIDENT HAGERTY: Well, Jack, you did it. Jack, we'll give you the microphone if you'd like.

PRESIDENT-ELECT MCDONALD: I don't need anything right now.

PRESIDENT HAGERTY: In that case, I will recognize Ron McLean to nominate Aubrey Fiebelkorn Zuger for the position of Secretary-Treasurer.

MR. RONALD H. McLEAN: It is my honor to be asked to nominate Aubrey for this position. I first came to know Aubrey when she was a law student when she was a tremendous student and she was actively involved in the Trial Team at the University of North Dakota, a team that did so well that it traveled nationally to various competitions. But after that she became basically the coach and general manager of the UND Law School team, and whatever successes they've had since that time I think are all directly due to Aubrey. We have talked a lot about what the law school should do and should mean. I for one think it has one goal, to make these young people passionate and confident about trying cases. I can't think that there's anything more important than the UND Trial Team in doing that, and there is no one more involved than Aubrey. She's an excellent lawyer in Fargo with the Fredrikson law firm, and you heard the unqualified opinion from the SBAND.

Now, while I occasionally have contact with Aubrey, I have hourly contact with her husband, Peter, my young partner. And to know about Aubrey, you need to know some things about Peter. These are all said with love and affection. I love him like a son. He's a great young lawyer. But, you know, he got to go to Hawaii on the Jackrabbit Bar, and I didn't.

Peter's a thin fellow. I urge the doctor to write mildly obese instead of moderately obese. But he says he stays thin by eating 8,000 calories a day. And by God, he does. He comes to work at 8:00 in the morning with six Tupperware containers containing berries, tuna, oatmeal, tuna, nuts, tuna, twigs, tuna, spaghetti, tuna, and so it goes.

So the other day we had a Supreme Court argument on Monday, and I urged, why doesn't he stop with the client at Jamestown for ice cream. He tells me he'd rather sip Bakken crude. So I asked him early in our relationship, What does your wife think of these eating habits? She thinks I'm crazy. Enough said. Now, if somebody could tell Al Wolf and I where that young lawyers meeting is.

PRESIDENT HAGERTY: You may just follow Jack McDonald to the young lawyers meeting. He'll show you where it is.

Is there a second to the nomination of Aubrey Fiebelkorn Zuger?

MR. PETER ZUGER: I'll second.

PRESIDENT HAGERTY: Peter, thank you. You know, Dale also went to the Western States Bar Convention in Hawaii, so we were well represented there.

Is there a motion to declare Aubrey Fiebelkorn Zuger as Secretary-Treasurer?

MR. ROBERT SNIDER: So moved.

PRESIDENT HAGERTY: Name?

MR. SNIDER: Bob Snider.

PRESIDENT HAGERTY: Thank you. Second?

JUSTICE CAROL KAPSNER: Second. Kapsner.

PRESIDENT HAGERTY: There's a motion and a second. All in favor?

(Responses of "aye").

PRESIDENT HAGERTY: Anyone opposed?

(No response).

PRESIDENT HAGERTY: Well, the moment I've been waiting for. At this time it is my great pleasure to turn the gavel over to your new President, Nancy Morris. I will assume the coveted title of Past President.

PRESIDENT MORRIS: Thank you very much, Gail. Before I adjourn this meeting, I have the privilege of presenting to President Gail, a true leader and innovative President of the year. We really have had an outstanding year, and as Tony says he has big shoes to follow, so do I. I recognize that. But it truly has been a wonderful year, you've done a fantastic job, and we really can't say thank you enough. This is a plaque in appreciation, and I understand there's also being a donation made at your request to the pro bono fund for the Bar Foundation. So thank you very much.

PRESIDENT MORRIS: And meeting adjourned. Thank you.

(Whereupon the meeting concluded at 4:39 p.m.)

#### CERTIFICATE OF COURT REPORTER

I, Ronald G. Harnden, a Registered Professional Reporter, do hereby certify that I recorded in shorthand the foregoing proceedings had and made of record at the time and place hereinbefore indicated.

I do hereby further certify that the foregoing typewritten pages contain an accurate transcript of my shorthand notes then and there taken.

Dated at Bismarck, North Dakota, this thirteenth day of June, 2013.

Ronald G. Harnden, Registered Professional Reporter