

81-1206

NO. ~~81-1206~~

STATE OF MINNESOTA
IN SUPREME COURT

In the Matter of the Petition)	
of the Minnesota State Bar)	PETITION TO AMEND
Association, a Corporation, for)	
Amendment of Rules Relating to)	COURT RULES
Registration of Attorneys.)	

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

Petitioner, Minnesota State Bar Association, states:

1. Petitioner is a non-profit corporation composed of attorneys at law duly licensed to practice before this Court. Of the approximately 12,000 attorneys licensed to practice law in Minnesota, approximately 8,000 are members of the Minnesota State Bar Association (MSBA).

2. Canon 2 of the Code of Professional Responsibility provides: "A lawyer should assist the legal profession in fulfilling its duty to make legal counsel available." Ethical Consideration 2-25 of the Code delineates the responsibility of the legal profession and of individual attorneys to provide for the availability of legal services to persons unable to pay for those services and to support organized efforts to deliver these services.

3. The Minnesota State Bar Association has consistently supported the efforts of Minnesota attorneys to provide legal services to indigent persons in civil matters, and programs funded by the national Legal Services Corporation to provide those services. During this year, when the elimination of federal funding for the Legal Services Corporation and for local legal services programs was proposed, the MSBA and at least ten county or district bar associations passed resolutions in support of the continued existence and public funding of these programs.

4. Although final action has not been taken by Congress it is more clear that some funding for the Legal Services Corporation may be continued but that the amount will be substantially reduced from that of past years.

5. In further response to this threat to the existing Minnesota system for delivery of civil legal services to the indigent, in June, 1981, the Minnesota State Bar Association appointed a Committee on Legal Assistance to the Disadvantaged, chaired by Gerald A. Regnier of Saint Paul and Stephen Rolfsrud of Mankato, and gave the Committee the following charge:

Study and recommend to the Board of Governors alternative methods for providing voluntary participation by all members of the bar in Minnesota to assure continued legal assistance to the disadvantaged.

6. In August, 1981, a Subcommittee on Legal Practice: Supreme Court and Bar of Minnesota, was appointed by the Committee, with James L. Baillie of Minneapolis appointed as Subcommittee Chairman. The Subcommittee's general charge was to:

determine appropriate changes (if any) in Supreme Court rules and design legal service options to implement plan for services to the disadvantaged.

The Subcommittee was specifically charged with investigating a surcharge on attorney licensing fees as one means of implementation of its general charge.

7. During August, 1981, the Subcommittee studied the existing system of legal service programs in Minnesota and the serious financial difficulties which those programs will experience as a consequence of reduction of federal funding of the Legal Services Corporation for 1982 and succeeding years. The Subcommittee's estimates of the effect of reduction or elimination of LSC funding on Minnesota's programs are attached as Exhibits A and B. The Subcommittee also studied existing organized pro bono programs, through which members of the Minnesota Bar provide attorneys' services on a voluntary basis to the poor of this state.

8. The Subcommittee determined that the coming reduction of federal funding to Minnesota's legal services programs will result in a sharp decrease in the ability of such programs to meet the legal needs of disadvantaged persons in Minnesota in 1982 and thereafter; that pro bono attorney programs could provide important assistance in meeting the increased need of disadvantaged persons for legal services; that there is a need both to maintain existing legal services programs and to organize pro bono programs in areas of the state where they do not now exist; and that among the most feasible methods of organizing such pro bono programs is the organization of such programs using the staff facilities and other resources of existing legal services programs.

9. The Subcommittee further determined that the maintenance of legal services programs and the organization of pro bono programs would require funding to enable legal services programs to maintain some staff capability to provide direct client service in all areas of the state, to assist local and statewide pro bono efforts.

10. The Subcommittee determined that the most immediately feasible and appropriate way to generate some such funding for these efforts would be to seek a one year surcharge for 1982 on the attorney registration fee required to be paid by each attorney practicing law in Minnesota. The Subcommittee further determined that such a surcharge would be an important statement to the general public and to potential private funding sources of the State Bar's determination to ensure the continuation and improvement of legal services to the disadvantaged in this state.

11. Accordingly, on August 29, 1981, the Full Committee considered these findings and recommended to the Board of Governors of the MSBA that the MSBA petition the Supreme Court of the State of Minnesota for a one year surcharge on attorney registration fees in 1982, in the amount of \$25.00 per attorney, with a lesser surcharge for attorneys whose permanent residence is

outside Minnesota, or who have been admitted to practice less than three years, or who are on duty in the armed forces of the United States. The Committee also determined that more substantial and longer term funding should also be sought for legal services and pro bono programs in the state, and therefore also recommended a joint effort by the MSBA and the legal services programs to seek private (corporate and foundation) funding for 1982, and public funding through a surcharge on civil filing fees (a matter to be brought before the Minnesota Legislature in 1982). The Committee further recommended that the funds raised by a surcharge in the license fee be distributed by the Court, with the assistance of an advisory committee appointed by the Court. The members of the advisory committee would include practicing attorneys familiar with the provision of civil legal services to persons unable to pay for such services and would also include eligible clients.

12. At its regular meeting on September 12, 1981, the Board of Governors of the Minnesota State Bar Association approved the Committee's recommendations, and determined to petition the Minnesota Supreme Court:

for a one year increase in the attorney registration fee on a graduated basis, not to exceed \$25.00. These monies are to be directed through existing legal services programs, with the understanding that a portion is to be used to expand and develop local pro bono programs; a second portion to be used for state-wide coordination of volunteer local services through the MSBA.

WHEREFORE, Petitioner respectfully requests the Supreme Court of the State of Minnesota to amend its rules for the practice of law in Minnesota, and for the registration of attorneys, in the form submitted herewith as Exhibit "C."

DATED: NOVEMBER 13, 1981

MINNESOTA STATE BAR ASSOCIATION, A
NON-PROFIT CORPORATION

BY: Clinton A. Schroeder
Clinton A. Schroeder, Its President

BY: Gerald A. Regnier
Its Committee on Legal Assistance
to the Disadvantaged
Gerald A. Regnier, Co-Chairman
Stephen P. Rolfsrud, Co-Chairman

ESTIMATED NUMBERS OF 1982 CLIENTS
WHO WILL NOT BE SERVED AS A RESULT OF LSC CUTS

	50% LSC cut	100% LSC cut
SOUTHERN MINNESOTA REGIONAL LEGAL SERVICES	7,734	15,422
CENTRAL MINNESOTA LEGAL SERVICES	5,250	9,500
JUDICARE OF ANOKA COUNTY	--	1,000
LEGAL AID SERVICE OF NORTHEASTERN MINNESOTA	1,496	3,000
NORTHWEST MINNESOTA LEGAL SERVICES	1,675	3,350 ¹
ANISHINABE LEGAL SERVICES	600	800 ¹
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TOTAL	16,755	33,072

1. Program eliminated

Exhibit "A"

EFFECT OF LSC CUTS ON MINNESOTA PROGRAM BUDGETS

	1981 BUDGET	1981 LSC	LSC % OF TOTAL	LOST AT 50% LSC CUT	REMAINING BUDGET	LOST AT 100% LSC CUT	REMAINING BUDGET
Southern Minnesota Regional Legal Services	\$2,050,000	\$1,550,000	75.6	\$775,000	\$1,275,000	\$1,550,000	\$500,000 ¹
Central Minnesota Legal Services	2,450,000	1,260,000	51.3	630,000	1,820,000	1,260,000	1,190,000 ²
Judicare of Anoka County	120,000	50,000	41.6	25,000	95,000	50,000	70,000
Legal Aid Service of Northeastern Minnesota	775,000	450,000	58.1	225,000	550,000	450,000	325,000 ³
Anishinabe Legal Services	160,000	160,000	100	80,000	80,000	160,000	-0- ⁴
Northwest Minnesota Legal Services	600,000	521,000	86.8	260,500	339,500	521,000	-0- ⁴
TOTAL	<u>\$6,155,000</u>	<u>\$3,991,000</u>	<u>64.8</u>	<u>\$1,995,500</u>	<u>\$4,159,500</u>	<u>\$3,991,000</u>	<u>\$2,085,000</u>

1. Only Ramsey County offices remain open
2. Only Hennepin County offices remain open
3. Only St. Louis County offices remain open
4. Any remaining funds not available because match required; all service to area eliminated

Exhibit "B"

EXHIBIT "C"

PROPOSED AMENDMENT,
RULES
OF THE
SUPREME COURT
FOR
REGISTRATION OF ATTORNEYS

RULE 2. REGISTRATION FEE

In order to defray the expenses of examinations and investigations for admission to the bar and disciplinary proceedings, over and above the amount paid by applicants for such admission, with exceptions hereinafter enumerated, each attorney admitted to practice law in this state and those members of the judiciary who are required to be admitted to practice as a prerequisite to holding office shall hereafter annually pay to the clerk of the supreme court a registration fee in the sum of Forty-five Dollars (\$45.00) or in such lesser sum as the court may annually hereafter determine.

Such fee, or a portion thereof, shall be paid on or before the first day of January, April, July, or October of each year as requested by the clerk of the supreme court.

All sums so received shall be allocated as follows:

\$ 7.00 to the State Board of Law Examiners

\$ 5.00 to the State Board of Continuing Legal Education

\$33.00 to the Lawyers Professional Responsibility Board

The following attorneys and judges shall pay an annual registration fee of Twenty Dollars (\$20.00):

(a) Any attorney or judge whose permanent residence is outside the State of Minnesota and who does not practice law within this state;

(b) Any attorney who has not been admitted to practice for more than three years;

(c) Any attorney while on duty in the armed forces of the United States;

The Twenty Dollars (\$20.00) so received shall be allocated as follows:

\$7.00 to the State Board of Law Examiners

\$5.00 to the State Board of Continuing Legal Education

\$8.00 to the Lawyers Professional Responsibility Board

Any attorney who is retired from any gainful employment or permanently disabled, and who files annually with the clerk of the supreme court an affidavit that he is so retired or disabled and not engaged in the practice of law, shall be placed in a fee-exempt category and shall remain in good standing. An attorney claiming retired or permanently disabled status who subsequently resumes active practice of law shall promptly file notice of such change of status with the clerk of the supreme court and pay the annual registration fee.

Any judge who is retired from any gainful employment or permanently disabled, who no longer serves on the bench or practices law, and who files annually with the clerk of the supreme court an affidavit that he is so retired or disabled and not engaged in the practice of law, shall be placed in a fee-exempt category and shall remain in good standing. A judge claiming retired or permanently disabled status who subsequently resumes service on the bench or the active practice of law shall promptly file notice of such change of status with the clerk of the supreme court and pay the annual registration fee.

In order to maintain and improve delivery of attorneys' services in civil matters to indigent and disadvantaged residents of Minnesota, a surcharge shall be imposed upon all attorney

registration fees otherwise due and payable pursuant to this Rule in the year 1982.

The surcharge shall be in the amount of \$25.00 for each attorney or member of the judiciary who is otherwise required by this rule to pay an annual registration fee in the amount of \$45.00.

The surcharge shall be in the amount of \$10.00 for each attorney or judge who is otherwise required by this rule to pay an annual registration fee in the amount of \$20.00.

All sums received as surcharge in 1982 shall be allocated to an Advisory Committee on Civil Legal Assistance, whose members will be appointed by further order of this Court on or before January 1, 1982. The Advisory Committee shall consist of nine members appointed by the Supreme Court including seven attorneys at law who are well acquainted with the provision of legal services in civil matters to persons unable to pay for such services and two persons who would qualify as eligible clients. Four of the attorney at law members shall be nominated by the state bar association in the manner determined by it, and three of the attorney at law members shall be nominated by the programs in Minnesota providing legal services in civil matters with funds provided by the federal Legal Services Corporation in the manner determined by them; provided, that in making the appointments of the attorney at law members, the Court shall not be bound by these nominations.

The Committee shall accept applications for these funds, and shall distribute these funds in accordance with this rule, subject to review by the Court.

The funds shall be disbursed to existing programs which provide general civil legal services to indigent and disadvantaged persons in Minnesota, particularly in rural areas, upon the undertaking by such programs to use a portion of the funds to assist in the development and improvement of delivery of legal

services by local volunteer attorneys. A portion of the funds shall be used to assist in the state-wide coordination of local volunteer attorney programs.