
ASK KENNEDY

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Special Guest Dorothy Lick, NDBA

Our Special Guest this month is Dorothy Lick, who is the Senior Vice President of Education at NDBA. She will be discussing her role within NDBA and all the great resources available to bankers through NDBA. Thank you, Dorothy!

Member Questions

Question #1: Can an attorney serve a bank a subpoena for bank information on a customer by email or fax rather than serving it by mail or in person? If so, is this true for all subpoenas?

Response: **Subpoenas must be made by personal service under Rule 4(d) of the North Dakota Rules of Civil Procedure.**

An excerpt from the rule is as follows:

(1) By Whom Process Served. Service of all process may be made: within the state by any person of legal age not a party to nor interested in the action; and outside the state by any person who may make service under the law of this state or under the law of the place in which service is made or who is designated by a court of this state.

(2) How Service Made Within the State. Personal service of process within the state must be made as follows:

... (D) upon a domestic or foreign corporation or upon a partnership or other unincorporated association, by (i) delivering a copy of the summons to an officer, director, superintendent or managing or general agent, or partner, or associate, or to an agent authorized by appointment or by

law to receive service of process in its behalf, or to one who acted as an agent for the defendant with respect to the matter upon which the claim of the plaintiff is based and who was an agent of the defendant at the time of service; (ii) if the sheriff's return indicates no person upon whom service may be made can be found in the county, then service may be made by leaving a copy of the summons at any office of the domestic or foreign corporation, partnership or unincorporated association within this state with the person in charge of the office; or (iii) any form of mail or third-party commercial delivery addressed to any of the foregoing persons and requiring a signed receipt and resulting in delivery to that person;...

Links to the full applicable rules can be found below.

[NDCRP Rule 45. Subpoena](#)

[NDCRP Rule 4. Persons Subject to Jurisdiction; Process; Service](#)

Question #2: Hypothetical:

We have a recently deceased bank customer that owned a certificate of deposit, as a sole owner, with a named beneficiary that is an incapacitated ward of the state. The deceased did not have a will, and the court appointed the deceased's sibling to serve as the personal representative. The proceeds of the CD were paid out to the state appointed guardian for the benefit of the ward, and the account closed. The personal representative is now requesting information regarding the CD, including whether the account is still open and/or who the proceeds were paid to. The deceased had previously informed the PR of the existence of the CD.

Is the bank under any obligation to provide this information to the PR/estate?

Response: Below is the section of the North Dakota Century Code applicable to POD accounts, which defines an account as inclusive of a CD. The Chapter of the North Dakota Century Code linked below is called Non-Probate Transfers on Death, meaning that the assets as encompassed in the Chapter exist outside of the decedent's estate and generally outside of the control of a personal representative.

[Chapter 30.1-30 Non-Probate Transfers on Death](#)

It is best practice to instruct the PR to provide you with anything that they think may support their ability to gain access to the non-probate asset information.

State and Federal Updates on Remote Notaries

Remote Online Notarization (RON) is the process of working with a notary public to notarize important documents virtually instead of in person. RON has been legal in North Dakota since 2011 under the [Revised Uniform Law on Notarial Acts](#) (RULANA) codified in the North Dakota Century Code 44-06.1.

Congressman Kelly Armstrong (R-ND) applauded the House of Representatives' passage of the [SECURE Notarization Act of 2023](#), which updates and modernizes the notarization process of the United States. This is Armstrong's first bill to pass the House in the 118th Congress, and aims to offer consumers a convenient way to safely and securely complete documents. The Act will allow notaries public to perform RON in interstate commerce, as well as allow signers located outside of the U.S. to securely notarize documents. The passage of the SECURE Notarization Act of 2023 will allow for the immediate nationwide use of RON performed in interstate commerce and allow those such as military personnel stationed outside of the U.S. to securely notarize documents.

Did You Know False Statements Concerning Bank Values Can Result in Penalty?

[The North Dakota Century Code \(NDCC\) 6-08-13 and 6-08-15](#) contains provisions which aim to protect banks from false statements, slander, and libel. See below for excerpts of the relevant statutes:

6-08-14. False statements concerning bank values - Penalty.

Any person who knowingly makes or publishes any book, prospectus, notice, report, statement, exhibit, or other publication containing any statement which is false and which is intended to give and does give a substantially greater or less apparent value to the shares, bonds, or property, or any part thereof, of any state banking association than said shares, bonds, property, or any part thereof possess in fact, is guilty of a class A misdemeanor.

6-08-15. Slander or libel of bank or credit union - Safe deposit, annuity, surety, or trust company - Aiding or abetting - Penalty - Liability for damages.

Any person who willfully and maliciously makes, circulates, or transmits to another or to others, any false statement, rumor, or suggestion, written, printed, or by word of mouth, which directly or by inference is derogatory to the financial condition, or which affects the solvency or financial standing, of any state or national bank, of any state or federal credit union, or of any annuity, safe deposit, surety, or trust company authorized to do business in this state, or who counsels, aids, procures, or induces another to start, transmit, or circulate any such false statement or rumor, is guilty of a class A misdemeanor, and in addition thereto is liable in damages to such association, or corporation, or the receiver thereof, to be recovered in a civil action brought for that purpose.

Greater North Dakota Chamber Recognizes Christie Huber Obenauer: A Woman You Need To Know

The Greater North Dakota Chamber (GNDC) is excited to announce that Union State Bank's CEO, Christie Huber Obenauer, is recognized in their inaugural lists of [15 Women You Need to Know](#) and [5 Women to Watch in North Dakota business](#). These lists call out individuals to celebrate their success as these accomplishments are furthering the progress of their organizations and industries. Congratulations to Christie on this well-deserved acknowledgement.



ABA Now Accepting Applications for Emerging Leader Awards

The application period is now open for ABA's emerging leader awards, which recognize the next generation of bank leaders committed to the highest standards of achievement and service to the industry and their communities.

Applications will be accepted until June 30. Individuals can also nominate colleagues or peers for the award. Submissions will be judged by a diverse steering committee; among the qualities and characteristics the committee will be looking for are dedication to the profession, inventiveness, leadership skills, mentoring ability and personal integrity. Winners will be announced on aba.com and honored at ABA's Annual Convention. [Apply or submit a nomination.](#)

North Dakota Legislative Update

Keep a look out for the NDBA's 2023 Legislative Summary coming soon.

Upcoming NDBA Events

NDBA has many exciting and informational events planned. Below are some special dates to mark on your calendars!

SCHOOLS/ SEMINARS

Principles of Secured Lending Seminar | May 16 | Hilton Garden Inn, Grand Forks

Hosted by North Dakota Bankers Association

[Click for more information](#)

Compliance School | May 22-25 | Radisson Hotel, Bismarck

[Click for more information](#)

National School for Beginning Ag Bankers | June 26-29 | Black Hills State University, Spearfish, SD

Hosted by South Dakota Bankers Association. [Click for more information](#)

The Power of Prevention: How to Safeguard Yourself Against Cybercrime | June 8 | Online Event

Hosted by North Dakota State University Extension. [Click for more information](#)

CONFERENCES

- **2023 SDBA/NDBA Annual Convention** | June 4-6 | Sioux Falls SD
- **2023 Peer Group Consortium** | July 27 | Bismarck
- **2023 NDBA Regional Group Meetings** | September 11-14 | Grand Forks, Fargo, Bismarck, and Minot
- **2023 Ag Credit Conference** | September 28-29 | Bismarck
- **2024 Bank Management Conference** | February 16-17, 2024 | Westin Kierland, Scottsdale AZ