

September 12, 2011

Supreme Court of Wisconsin
c/o Clerk of the Supreme Court
Attention: Carrie Janto, Deputy Clerk
P.O. Box 1688
Madison, Wisconsin 53701-1688

RE: Petition 10-08, Petition to Establish a Right to Counsel in Civil Cases

Dear Honorable Justices:

The Wisconsin Equal Justice Fund (“WEJF”) hereby submits these brief comments in support of Rule Petition 10-08 for Amendment of SCR 11.01 (the “Petition”). WEJF is a non-profit fundraising organization that distributes private contributions from Wisconsin attorneys and law firms through the Wisconsin Trust Account Foundation to three separate legal services groups aimed at providing legal services to the poor: Legal Action of Wisconsin, Disability Rights Wisconsin, and Wisconsin Judicare, Inc.

Given its history and purpose, WEJF can speak to one of the questions that should fairly be raised during consideration of this Petition: “How have members of the State Bar of Wisconsin helped to ameliorate the lack of access to justice for the impoverished?” \$4 million in contributions to WEJF over the last fifteen years illustrates the financial generosity of Wisconsin lawyers toward WEJF's member organizations. Further, this generosity has remained remarkably consistent despite recent economic challenges. These contributions, however, do not and will not ever approach the funding necessary to have a substantial impact on the current, ever-expanding gap between the need and availability of legal services for the poor. Instead, it is WEJF's position that only systemic changes like those provided by Petition 10-08 will lead to equal and meaningful access to justice for Wisconsin's poor.

History of WEJF

In 1996, the federal government cut funding for legal services programs that provide free civil legal help to poor people. The State Bar of Wisconsin, under the leadership of Attorney John Skilton, responded by forming the State Bar Commission on the Delivery of Legal Services (“Commission”) to study Wisconsin's system for the provision of civil legal services to low income individuals and families.

This Commission concluded that private support for our state's legal services programs was sorely lacking, as was public awareness of these needs. Lawyers, law firms, foundations, and local corporations were not financially supporting these programs, even though they were providing critical legal services to thousands of individual low-income clients and preventing a wide variety of societal ills.

The Commission, following the recommendation of the American Bar Association, proposed that the State Bar develop an organization to lead efforts in raising funds and awareness of legal services for the state's poorest. The State Bar agreed and initiated the Equal Justice Coalition ("EJC") in 1997, allotting a \$75,000 grant to seed its fundraising efforts.

EJC then moved to carry out a fundraising campaign to address the immediate needs of Wisconsin's legal services programs. The plan included a three-year initial campaign to raise funds from individual lawyers, law firms, and local foundations and corporations. By the third year of the campaign, EJC had received about \$1,200,000 in pledges. However, at the conclusion of this initial action, the EJC Board of Directors, recognizing the remaining unmet needs of these legal service providers, determined that dissolving the organization would not serve the long-term needs of the programs that EJC was created to help.

At the end of 2001, the EJC determined it would become an on-going annual campaign and changed its name to Wisconsin Equal Justice Fund, Inc. to reflect the Board's new commitment to an annual fund drive to raise money for low income legal service providers. Today, WEJF is a thriving annual fund that raises approximately \$300,000 per year from corporations, law firms, and individual attorneys to provide a stable, profession-based source of continuous funding for its member organizations. WEJF also contributes annually to a Legal Services Endowment Fund that will begin to provide funding for legal services when it reaches \$1,000,000. (The current balance is just over \$427,000).

WEJF Is Capable of Playing a Meaningful, but Complementary Role in Reducing Inequities in Access to Our Justice System

WEJF has successfully broadened its reach and contributions beyond even the most optimistic assessment of its original mandate. But the enormity of economic need here is too great to be solved by the charitable efforts of the private bar. And citizens' *constitutional rights* to equal justice should not depend on the financial status of state charities. As spelled out in greater detail by others,¹ one rough estimate predicts the cost at \$56 million per year to provide legal representation to indigent litigants facing the loss of

¹See, e.g., the Memorandum Supporting Rule Petition 10-08 for Amendment of SCR 11.02 filed by Legal Action of Wisconsin on behalf of 1,320 Wisconsin Residents.

certain basic human needs. Even if WEJF and like entities were able to double or triple their annual contributions in the coming years, they could not provide an amount close to this financial sum. Wisconsin lawyers should both lead and participate in this financial effort – and by any reasonable estimation they do. But they cannot fund this movement alone.

Furthermore, in evaluating the interplay between funding from sources like WEJF, and the funding necessary to support the proposed rule changes sought in the Petition, it is important to remember that there are tens of thousands of people in need of legal advice that never see the inside of the Courtroom, and would thus never fall under the new proposed rule. Indeed, WEJF's three member organizations each provide invaluable legal advice and direction to thousands of clients each year to help them avoid the need for litigation -- and the concomitant burden on the legal system.

WEJF intends to continue to aggressively seek contributions from the private bar and from corporations on behalf of its member organizations. It expects that these efforts will continue to provide a valuable source of support for Wisconsin's indigent population as it attempts to navigate Wisconsin's legal system. However, it is WEJF's position that it is time for Wisconsin to do more for its underserved citizens and to make real, systemic changes that will ensure that the promise of equal justice in Wisconsin is fulfilled. The proposed amendment to SCR 11.02 is one such change, and WEJF supports its implementation.

Sincerely,

Christopher Hanewicz
President
Wisconsin Equal Justice Fund