

February 20, 2014

Honorable Shirley S. Abrahamson
Chief Justice, Wisconsin Supreme Court
and Justices of the Wisconsin Supreme Court
16 East State Capitol
P.O. Box 1688
Madison, WI 53701-1688

Re: Petition 13-14 to Amend SCR 60.04

Dear Chief Justice Abrahamson and Justices:

I had planned to speak in person in support of the above-referenced Petition. However, an unavoidable scheduling conflict has prevented me from appearing in person and I would appreciate your acceptance of this letter in lieu of my oral presentation.

I have been a member of the Wisconsin Bar since 1974. I have practiced in numerous counties throughout the state, including many rural counties as well as metropolitan counties, such as Dane and Milwaukee. I have had significant contact with other litigation attorneys, not only in my practice but also in bar-related activities, such as the Rock County Bar Association and the Board of Governors in which I represent District 12, which includes five counties in southwestern Wisconsin.

In the early years of my practice, I had a diverse litigation practice, which included criminal law, family law, and general civil litigation. More recently, my practice has involved business law and business litigation. I have personally encountered cases with pro se litigants in virtually all areas of my practice.

My experience has been that many trial judges are unsure of what practices they may employ when faced with pro se litigants and there is not only substantial variation among counties but also substantial variation from judge to judge within a county. I have encountered judges who, in my view, take too active a role in assisting pro se litigants or who otherwise leave represented clients feeling that they are not on a level playing field. But the more substantial problem is judges who are reluctant to take already permissible steps to facilitate just outcomes.

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When a judge believes that any procedural advice to a pro se litigant is prohibited by the judge's oath to maintain impartiality, the real issues in a case frequently are not addressed. This complete hands-off approach negatively affects the public's confidence in the judicial system. I believe the proposed rules provide a "reasonable" method of balancing the concerns of all parties.

I believe the proposed rules will promote a consistent understanding of what is permissible and, by that means, help trial judges to be more consistent with pro se litigants while still allowing substantial discretion in appropriate cases. Due to the diverse forms of litigation that are presented to a trial court, no rule can resolve all situations that are presented.

In order for the court system to be respected by the public, litigants must have the impression that the issues have been fairly heard and that the court was impartial. Assistance from a judge in a way that allows the issues to be fairly raised, but without crossing the line of appearing to be an advocate for any litigant, is the goal. The proposed rule will facilitate pro se litigants being fairly heard, while not giving represented clients the impression of partiality.

Very truly yours,

BRENNAN ■ **STEIL** s.c.

By:


George K. Steil, Jr.
gksteil@brennansteil.com