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A Limited Liability Partnership



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CLERK OF SUPREME COURT
OF WISCONSIN

By Electronic Mail: clerk@wicourts.gov and carrie.janto@wicourts.gov

To the Distinguished Justices of the Wisconsin Supreme Court:

Re: Petition to Amend SCR 81.02

I write in support of the Petition to Amend SCR 81.02, which I understand will be coming before the Court for a public hearing on May 16, 2018. I have been a proud Wisconsin lawyer for 44 years. After graduating from the University of Wisconsin Law School I served as an Assistant District Attorney in Milwaukee County, then entered private practice. I am old enough to remember the abuses engaged in by some Circuit Judges who used their appointment power to ride roughshod over lawyers seeking the court's favor.

The establishment of the State Public Defender system in 1979 was a great accomplishment. The fact that the fees paid to those handling such cases have barely budgeted over the past 40 years is a great embarrassment. We should all be ashamed.

Upon first entering private practice in 1977 I accepted numerous cases for indigent defendants, initially accepting all types of cases, then focusing on serious felony matters, and finally accepting only 1st degree intentional homicide cases. I stopped taking Public Defender appointments when I could no longer justify to my partners the loss our law firm incurred for every hour I worked. While it saddened me, it became an economic necessity.

Since then I have given back to the legal community in other ways. I served for almost 19 years as a municipal judge, elected to the position five times, then serving for five years as a reserve municipal judge. I was twice elected President of the Wisconsin Municipal Judges Association and attended several State Judicial Conferences. I served for almost ten years a member of the State Bar of WI Board of Governors. And I was appointed as Retained Counsel by this honorable Court representing the Office of Lawyer Regulation. (I should note that the rate of pay for OLR Retained Counsel was not then, and remains to this day, nothing to write home about. But it was important work and I did it gladly and with great pride.) I continue to help mentor young lawyers in a number of significant ways, including as Program Chair of the Fairchild Inn of the American Inns of Court.

I will not recount all of the reasons why the level of payment for Public Defender appointments should be raised to at least \$100. Others have already argued eloquently in that regard, and will do so at the hearing. Nor will I address how miserly Wisconsin's low private bar reimbursement rate is, when compared to almost every other state in this country, including many in the Deep South. Others have addressed those statistical realities far better and more eloquently. I will observe that it is a shameful reality that must not be permitted to continue to succumb to politics and penury.

The current rate of reimbursement for those accepting private bar appointments is the equivalent of perhaps half what the actual rate was in 1979. How many professions can make that statement? How many plumbers, electricians, mechanics or physicians are restricted from charging more now than they charged 40 years ago? And that despite the fact they have much greater knowledge and experience than when they first started practicing their professions, but are forced to accept a diminished standard of living? How does that make any sense?

Inflation has exacted a toll on all wage-earners, including judges, over the past forty years. It takes \$364.14 in 2018 dollars to buy that which could be purchased for \$100 in 1979. <https://www.dollartimes.com/inflation/inflation.php?amount=100&year=1979>. As a result, it is unlikely to surprise you to learn that the compensation of federal district judges has quadrupled since 1978 (\$54,500 to \$208,000 --- source: <http://www.uscourts.gov/judges-judgeships/judicial-compensation>). Wisconsin judicial salaries may have increased at a somewhat lower rate, but likely still far more than the private bar rate has increased. Imagine, then, how many private bar counsel must feel when they are compensated at a level insufficient for them to cover their overhead, much less make a profit and then be able to make the required payments on their substantial student loans.

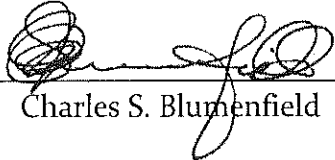
The private bar reimbursement rate should be raised to \$100 per hour. Perhaps there is some basis to differentiate between attorneys due to the types of cases handled, but not by much. The path is clear, the reasoning sound, the position being advanced unassailable. You are being called upon to uphold the clarion call of the mandate of *Gideon*. I implore you to do that which politics will forever prevent the legislative or executive branches from doing: raise the private bar reimbursement rate. It is your duty.

Thank you for your consideration of these comments.

Very truly yours,

BLUMENFIELD & SHEREFF, LLP

By: _____


Charles S. Blumenfield