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April 27, 2018

Clerk of Supreme Court  
P. O. Box 1688  
Madison, WI 53701

**RE: Petition 17-06  
John Birdsall / Henry Schultz Petition to Raise Minimum Court Appointment Fee**

Dear Supreme Court Members:

I am sure you will hear a number of comments from the Wisconsin Bar members indicating how unfair the current court appointment rate is for Wisconsin lawyers and law firms. My comment relates to an entirely different aspect of this problem.

As a former prosecutor who is now engaged in primarily civil practice for the last 34 years, I am not personally affected by the rate established for court appointed representation. However, I do see the effect it has upon the legal system which I have grown to respect and admire in new ways through my career.

Our legal system is founded on the principal that every person accused of a crime has a right to a trial by a jury of their peers and a right to competent legal representation. What I have seen occur gradually in the legal community over the last 30 years is that the more competent attorneys have been unwilling to accept court appointments in large part due to the unreasonably low rates being paid. What has occurred, as a direct result of that, is that many, if not most of the lawyers taking on court appointments, are marginally competent. The increasing number of appeals raising the issue of competence of legal counsel likely has a direct relation to the payment rate.

The question I raise is whether the foundation of our legal system is being served by providing only marginally competent legal counsel to persons who are at risk and without other adequate means to defend themselves against the power of the state. Are we truly providing an adequate defense to these persons when only marginally competent legal counsel is made available of their defense?

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Thank you for this opportunity to comment on this important subject and I am hopeful that you are able to make a change in the best interest of our Wisconsin legal system.

Sincerely,

PINKERT LAW FIRM LLP

A handwritten signature in blue ink, appearing to read "Randall J. Nesbitt".

Randall J. Nesbitt

RJN:hb

cc: Atty. John Birdsall ([jbirdsall@birdsall-law.com](mailto:jbirdsall@birdsall-law.com))

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