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Sent Via Electronic Mail

Clerk of Supreme Court
Attention: Deputy Clerk-Rules
P.O. Box 1688
Madison, WI 53701-1688
clerk@wicourts.gov

RE: Statement of State Bar of Wisconsin Regarding Petition 19-07 Submitted by OLR
Process Review Committee

Dear Clerk of Supreme Court:

I am writing as representative for the Board of Governors of the State Bar of Wisconsin to submit comments regarding Petition 19-07. I understand that this matter is scheduled for hearing before the Supreme Court on September 16 and request the opportunity to appear and make comments to the Court at that hearing.

The Board of Governors for the State Bar of Wisconsin reviewed Petition 19-07 at its meeting in April 2019. The Board of Governors voted to oppose various provisions in proposed Petition 19-07 as follows:

- The Board of Governors opposes the creation of SCR 22.03(2g) relating to the requirement that a respondent promptly furnish a copy of a Notice of Investigation to a person with supervisory authority or to all law partners and shareholders in a law firm where the respondent practices law or requires notice to a former law firm if the circumstances relate to events that occurred while employed at a former law firm.
- The Board of Governors specifically opposes SCR 22.03(2r) which would give the Office of Lawyer Regulation discretion to inform the members of a law firm or former law firm of the notice of an investigation regarding a lawyer employed by that firm.

In both instances, the Board of Governors believes that circumstances surrounding the employment of an individual attorney by a law firm should be addressed by the individual law firm as part of the employment relationship and should not be a matter that is addressed in the Supreme Court Rules. Further, the Board of Governors believes that law firms should assume responsibility for the requirement of reporting if an investigation is brought against a particular lawyer and that such requirements should be part of the employment policies of the law firm.

- The Board of Governors opposes Section 9, Section 10, Section 11 and Section 12 relating to the confidentiality of papers, files, transcripts, communications and proceedings relating

to an investigation of the conduct of a lawyer being considered public information particularly following the Issuance of a Written Cause to Proceed determination by the Preliminary Review Panel.

The Board of Governors believes that the information regarding a grievance against a particular lawyer should be kept confidential and only to become public information at the time a formal complaint is filed against a lawyer. The proposed Rule changes would allow the Office of Lawyer Regulation to release various documents when a decision is made to proceed with a hearing to determine whether or not a lawyer may have violated the Rules of Professional Conduct after review by the OLR Preliminary Review Panel.

The primary concern at this stage of the proceedings is that there has not been any type of hearing or any type of adjudication of issues relating to a potential violation of the Rules yet information would be released by the Office of Lawyer Regulation which would be subject to publication and an assumption of wrongdoing on the part of the lawyer. This eliminates the due process considerations to be afforded to a lawyer when a complaint is filed by the office Lawyer Regulation.

- The Board of Governors supports the amendment to SCR 20:1.18 (1) which will provide that a grievance regarding the conduct of an attorney must be communicated to the Office of Lawyer Regulation within six (6) years after the time that the person should have known of the conduct. The Limitation of six (6) years is consistent with the general understanding of a statute of limitations for a proceeding of this type.

Based upon these considerations, the Board of Governors respectfully requests that the Supreme Court limit the provisions of Petition 19-07 that would be implemented as requested by the OLR Process Review Committee. We appreciate the opportunity to present this information to the Court on September 16, 2019.

Sincerely,

A handwritten signature in black ink, appearing to read "Dean R. Dietrich". The signature is written in a cursive style with a large initial "D" and "R".

Dean R. Dietrich