

SUPREME COURT AGENDA

Open Rules Conference
Thursday, September 12, 2013
9:30 a.m.
Supreme Court Hearing Room

Public Hearing

- I. Rule Petition 10-09: In the Matter of the Petition for Amendment of various Rules in Chapter SCR 20 filed 10/21/10 by John Nicholas Schweitzer. Returned to Mr. Schweitzer. Attorney Schweitzer filed amended petition 4/23/13; Preliminary memo (with copy of amended petition) distributed 6/3/13. Court discussed at 6/11/13 open rules conf.: Court voted to schedule public hearing. Notice of public hearing issued 7/8/13; letter to petitioner requesting supplemental memorandum sent 7/8/13; Supplemental memorandum received 8/5/13; letter soliciting public comment sent 7/16/13 (comments due 8/30/13). Staff hearing memo to follow before hearing.
- II. Rule Petition 13-03: Petition to amend SCRs 10.03(3) and (7) Relating to Inactive Members Requesting Active Status and Readmission After Resignation From the State Bar, filed 5/22/13 by State Bar, Board of Administrative Oversight, BBE, and the OLR. Preliminary Memo circulated 6/6/13. Court discussed at 6/11/13 open rules conf.: Court voted to schedule public hearing. Notice of public hearing issued 7/8/13; letter soliciting public comment sent 7/16/13 (comments due 8/30/13); letter requesting additional information from petitioners sent 7/16/13 (response due 8/30/13); OLR/BAO response rec'd 8/14/13. Staff hearing memo to follow before hearing.

Open Rules Conference Matters

- III. Discussion & decision on re: Rule Petition 10-09
- IV. Discussion & decision on re: Rule Petition 13-03
- V. Discussion & decision on pro hac vice inquiry (re: interpretation of SCR 10.03(4)(b)). **Staff memo to be circulated.**
- VI. Rule Petition 13-02: Petition to create SCR 40.145 relating to waiver of fees for qualified veterans, filed 1/30/13 by BBE. Preliminary memo circulated 2/20/13. Court discussed at 2/28/13 rules conf.: Court voted unanimously to adopt petition/following amendments: include bar exam waiver per request of Steve Levine & Dep't of Veterans Affairs, and for the rule to be effective as early as possible to include as many qualified veterans as possible; and to solicit public comment on the rule. JR circulated draft order and letter soliciting public comment on 3/26/13. Court discussed at 4/12/13 open conf.: court approved draft order and draft letter with minor revisions. FINAL ORDER issued 4/19/13. Letter soliciting public comment sent 4/19/13. Comment period ends 7/19/13;

any comments received will be placed in public file and may be considered by court at future open conf. No comments received. **Staff to draft and circulate order formally closing matter before 9/12/13; Court approval of order by email if possible by 9/12/13.**

- VII. Rule Petition 13-06: Petition to amend SCR 22.12 Relating to Stipulations in Lawyer Disciplinary Proceedings filed 06/12/13 by the OLR. **Preliminary Memo to be distributed.**
- VIII. Rule Petition 13-07: Petition to amend SCR 10.04 and SCR 10.05 relating to Officers and the Board of Governors of the State Bar of Wisconsin filed 07/03/13 by the State Bar. **Preliminary Memo to be distributed.**
- IX. Rule Petition 13-08: Petition to amend SCRs 10.05(4)(a)(5) and 10.05(4)(g) Board of Governors, Functions; SCR 10.06(2) Executive Committee, Powers; SCR 10.09(2) Disbursements; SCR 10.12 Official Publication; Notice to Members; SCR 10.13(2) Amendment, Amendment of Bylaws filed 07/03/13 by the State Bar. **Preliminary Memo to be distributed.**
- X. Rule Petition 13-09: Petition to amend SCRs 10.03(3) and 10.03(5) relating to classes of membership and membership dues and reduction of dues filed 07/03/13 by the State Bar. **Preliminary Memo to be distributed.**
- XI. Rule Petition 13-10: Petition to amend SCR Chapter 20 and Wisconsin Statute Chapters 800, 801, 802, and 809 relating to Limited Scope Representation filed 07/16/13 by the Director of State Courts on behalf of PPAC. **Preliminary Memo to be distributed.**
- XII. Rule Petition 13-11: Petition to amend SCR 10.03(4)(b)2 relating to Pro Hac Vice Applications filed 07/17/13 by the Board of Administrative Oversight and the OLR. **Preliminary Memo to be distributed.**
- XIII. Rule petition 13-12: Petition to create SCR Supreme Court Rule 22.21m relating to Public Notice of Formal Investigations in the Public Interest filed 08/28/13 by Board of Administrative Oversight and the OLR. **Preliminary Memo to be distributed.**

Information Items

- A. Rule Petition 08-01A (Juries): Rule petition 08-01 amended ch. 756, specifically changing the number of jurors for a misdemeanor case from 6 to 12 under 756.06(2)(am). Wis. Stat. § 972.02(2) references a misdemeanor jury of 6; needs clean-up amendment. Memo to court dated 9/4/12 with draft order circulated 9/5/12. Court discussed at 9/19/12 rules conf. Court agreed to refer this matter to the legislature to handle. **Transferred to Legislature, discussed by staff with Nancy Rottier; Nancy sent e-mail inquiring if this can be handled as a correction bill by Law Revision Committee; draft bill (LRB-0493/P1) received from the LRB on 11/7/12; copy of draft bill sent to court 11/29/12; bill not yet introduced; no court action required.**

- B. Rule Petition 09-07: In the Matter of: The Petition of the State Bar of Wisconsin to Modify Chapter 72 of the Supreme Court Rules ("Expunction") filed 06/30/09 by Diane S. Diel, President, State Bar of Wisconsin. Amended petition filed 10/27/09 by Douglas W. Kammer, President, State Bar of Wisconsin. **Pending before Legislative Committee of Judicial Conference.**
- C. Rule Petition 12-01: Report on Court's Rule Making Function (Report and Recommendation of the Wisconsin Supreme Court Advisory Committee on Rule Procedures submitted to the Supreme Court in May 2011 regarding the court's rule making function). Public hearing held: 3/5/12; held by PDR, April 2012; PDR filed draft rule proposal 11/28/12; Court discussed at rules conf. on 1/22/13; PDR filed red-lined (track changes) copy of draft rule proposal on 1/23/13; SSA draft letter to interested parties circulated to court 2/5/13. Court discussed at rules conf. on 2/28/13; on vote of 4 to 3 court adopted the concept of a "calendar cycle" for rules matters that will identify deadlines and dates for filing and considerations of petitions, comments, and court hearings; letter to interested parties to be re-drafted. JR revised and circulated letter to interested parties on 4/3/13. PDR submitted revised version of letter to court at open conf. Court discussed at 4/12/13 (SSA holds letter) and 6/11/13 open rules conf. **Letter approved by Court sent to interested parties by staff on 6/21/13; responses due 8/16/13 (Judicial Council was granted extension to file any response until after its next meeting in September). PDR filed amendment on 8/2/13.**
- D. Rule Petition 12-07: Petition to amend SCRs 70.03 and 70.12(1)(c)3. and create SCR 70.12(5), (6) and 70.16, relating to the Supreme Court Finance Committee, filed by Justice Patience Drake Roggensack on 7/6/12. Preliminary memo circulated 9/18/12. Court discussed at 9/19/12 rules conf.; Court voted 6 to 1 to solicit public comment and schedule for further discussion at a future open rules conference (AWB would have held public hearing). Public comment solicited on 10/18/12 to standard list of recipients, as well as additional persons/entities stated on record at the 9/19 rules conf. Scheduled for discussion at 1/15/13 rules conference; staff memo circulated 1/9/13; PDR held 1/15/13 to file response to SSA's 12/13/12 filing. **PDR filed comment on 8/28/13.**
- E. Rule Petition 12-08: Petition to Create SCR 74.02, Appointment of the Judicial Commission Members, filed by Chief Justice Shirley S. Abrahamson on 7/31/12. Preliminary memo circulated 9/17/12. Court discussed at 9/19/12 and 9/25/12 rules confs. Court voted, 4 to 3, to not hold public hearing and to deny petition. **Draft denial order circulated 10/15/12; approvals received at 10/31/12 rules conf.; SSA holding order to write.**
- F. Rule Petition 12-09: Petition to create Rules under Supreme Court Rules Ch. 80 and amend Supreme Court Rule 98.07, Publication of Rules filed by Publication Committee on 9/7/12. Preliminary memo circulated 9/17/12. Court discussed at 9/25/12 rules conf. Court voted to schedule public hearing. Notice of public hearing issued 10/11/12; public input solicited 11/16/12; staff hearing memo circulated 1/10/13; public hearing held 1/15/13; petition granted (4 to 3); **draft order circulated 1/29/13 (rec'd approvals from SSA, AWB, NPC – PDR holding order to write on 2/4/13).**

- G. Rule Petition 12-11: Petition to create a Judicial Code Review Committee, filed 12/27/12 by Chief Justice Abrahamson. Preliminary memo circulated 1/10/13. Court started discussion at 1/22/13 rules conference. DOJ filed comment 2/7/13; Wis. Trial Judges Ass'n filed comment 2/15/13; Judicial Comm'n filed comment 2/22/13. Court discussed at 2/28/13 rules conf.: DTP wants side-by-side comparison of ABA Model Rule vs. Wisconsin rule. Commissioner Julie Rich to comment on court's 2/28/13 discussion. JR e-mail to court 3/20/13. Court discussed at 4/12/13 open conf. JR to compile side-by-side comparison of Wis. code vs. 2007 ABA code, as revised, with assistance of a summer intern. **Staff to circulate comparison table(s) to court.**
- H. Rule Petition 13-04: Petition to amend rules relating to Referees in the Lawyer Regulation System filed 5/22/13 by State Bar, Board of Administrative Oversight, and the OLR. Preliminary Memo circulated 6/5/13. Court discussed at 6/11/13 open rules conf.: Court voted to schedule public hearing. JR to draft letter requesting additional information from petitioners. **Notice of public hearing issued 8/1/13 (public hearing: 10/25/13); letter soliciting public comment sent 8/5/13 (comments due 9/30/13); letter to petitioners seeking additional information sent 8/5/13 (response due 9/30/13). Staff hearing memo to follow before 10/25/13 public hearing.**
- I. Rule Petition 13-05: Petition to Create a Procedure for Enforcement of Supreme Court Disciplinary Orders filed 5/29/13 by State Bar, Board of Administrative Oversight, and the OLR. Preliminary Memo circulated 6/5/13. Court discussed at 6/11/13 open rules conf.: Court voted to schedule public hearing. JR to draft letter requesting additional information from petitioners. **Notice of public hearing issued 8/1/13 (public hearing: 10/25/13); letter soliciting public comment sent 8/5/13 (comments due 9/30/13); letter to petitioners seeking additional information sent 8/5/13 (response due 9/30/13). Staff hearing memo to follow before 10/25/13 public hearing.**
- J. DTP's memorandum on Justice on Wheels. Court agreed to place this item on rules administrative conference. Memo from Amanda Todd circulated 10/22/12 for discussion at 10/31/12 rules conference. **SSA e-mail 12/7/12 to court and Amanda Todd re further outreach proposals; Amanda Todd's memo circulated 8/30/12.**