

SUPREME COURT OF WISCONSIN

No. 13-05

**In the matter of the Petition to Create a
Procedure for Enforcement of Supreme Court
Disciplinary Orders.**

FILED

JUN 24, 2014

Diane M. Fremgen
Clerk of Supreme Court
Madison, WI

On May 29, 2013, Kevin Klein, then-President of the State Bar of Wisconsin, Rod Rogahn, Board of Administrative Oversight Chairperson, and Keith Sellen, Office of Lawyer Regulation (OLR) Director, together filed a petition requesting that the court create Supreme Court Rule (SCR) 22.18m to provide a procedure for enforcement of Supreme Court disciplinary orders. The court requested some additional information and the petitioners provided a written response dated September 17, 2013. Comments were received from the supreme court commissioners.¹

On Friday, October 25, 2013, the court conducted a public hearing on the petition. Keith Sellen presented the petition to the court. He provided background information about the petition and indicated that the petitioners agreed with some of the supreme court commissioners' recommendations but disagreed with others. No other testimony was taken. At the court's ensuing open conference, the

¹ Supreme Court Commissioner Julie Anne Rich did not join the commissioners' written comments because of her role directly assisting the court with its consideration of the rules petition.

court discussed the petition, acknowledging that there were issues that warranted further consideration, including: whether the rule should be limited to situations involving a lawyer's willful failure to comply with a disciplinary order, whether additional procedural requirements are warranted including a right of appeal, whether the rule should include motions for contempt, and what the appropriate burden of proof should be. The court then voted 4:3 to deny the petition, as drafted (Chief Justice Shirley S. Abrahamson, Justice Ann Walsh Bradley, and Justice David T. Prosser dissenting). After some further discussion, Justice N. Patrick Crooks moved to reopen the matter. Justice Michael J. Gableman seconded that motion. The court then voted 5:2 to reconsider the petition (Justice Patience Drake Roggensack and Justice Annette Kingsland Ziegler dissenting).

The court then discussed how the proposed rule might be restructured and whether the court should direct the petitioners to confer with interested parties and to bring back a revised proposal. Chief Justice Abrahamson moved that the court create a committee with one or two supreme court commissioners, Keith Sellen or his designee, Chief Justice Abrahamson, Justice Crooks, and any other interested justice, then bring a revised proposal to the court. The court noted that the OLR should have some discretion as to the composition of the committee. Justice Crooks seconded the Chief's motion. The court then voted 4:3 in favor of the motion (Justice Bradley, Justice Roggensack, and Justice Ziegler dissenting). As a result of this motion, the court will return the petition to the OLR with directions to convene a committee to discuss and refine the proposal.

Thereafter, the petitioners may submit an amended petition to the court.

IT IS ORDERED that the Office of Lawyer Regulation form a committee to craft a revised draft rule for the court.

IT IS FURTHER ORDERED that the petition is held in abeyance pending receipt of an amended petition.

Dated at Madison, Wisconsin, this 24th day of June, 2014.

BY THE COURT:

Diane M. Fremgen
Clerk of Supreme Court

