

SUPREME COURT OF WISCONSIN

No. 11-05

In the matter of the petition to review change
in State Bar Bylaw.

FILED

OCT 7, 2011

A. John Voelker
Acting Clerk of Supreme
Court
Madison, WI

Pending before the court is a challenge to recent amendments to Article I, Section 5 of the bylaws of the State Bar of Wisconsin. The Board of Governors approved the changes in April 2011.¹ On April 15, 2011, these proposed bylaw changes were duly filed with the Supreme Court pursuant to SCR 10.13(2) and Article IX of the State Bar bylaws.² SCR 10.13(2) provides that:

A petition for review of any such change in the bylaws will be entertained by the court if signed by 25 or more active members of the association and filed with the clerk of the court within 60 days after publication of notice of the change. Hearing upon such a petition will be pursuant to notice in such manner as the court directs.

On July 6, 2011, 25 active members of the State Bar of Wisconsin filed a petition asking this court to review and void or amend the

¹ SCR 10.13(2) provides that the provisions of the bylaws of the State Bar are subject to amendment or abrogation by resolution adopted by vote of two-thirds of the members of the board of governors, or action of the members of the association expressed through the referendum procedure defined in SCR 10.08.

² The amendment was also duly published in the May 2011 Wisconsin Lawyer.

amendment. The bylaw amendment concerns the arbitration process used when a State Bar member asserts that an expenditure of State Bar dues by the State Bar was not for purposes of "regulating the legal profession" or "improving the quality of legal services," as required by SCR 10.03(5)(b)1.

The petitioners challenge the legal effect of the amendment, asserting that it may be inconsistent with Wis. Stat. Ch. 788 (Arbitration) by, *inter alia*, improperly providing for *de novo* judicial review of an arbitrator's decision. The petitioners propose alternative bylaw language which they ask this court to adopt.

The court has reviewed prior challenges to State Bar bylaw amendments. See S. Ct. Order 07-10, 07-13, 2008 WI 11 (issued Feb. 12, 2008, *eff.* Feb. 12, 2008). The court discussed the matter at open administrative conference on September 15, 2011, and concluded it would benefit from additional information prior to proceeding on the petition. Therefore,

IT IS ORDERED that on or before November 15, 2011, the petitioners and the State Bar of Wisconsin shall each file and exchange letter briefs addressing: (1) whether the amendments to Article I, Section 5 of the bylaws of the State Bar of Wisconsin providing for *de novo* judicial review of an arbitrator's decision is inconsistent with Wis. Stat. Ch. 788 (Arbitration) or cases interpreting that statute, and (2) whether the supreme court has the authority to adopt proposed bylaw language. Responsive letter briefs may be filed within ten (10) days of receipt of the initial letter briefs.

IT IS FURTHER ORDERED the letter briefs ordered above shall be submitted in hard copy (include one original and nine copies). The paper copies shall be mailed to the Clerk of the Supreme Court, P.O. Box 1688, Madison, WI 53701, and an electronic copy of the letter briefs (in MS Word format) shall be e-mailed to the Office of the Clerk of the Supreme Court at clerk@wicourts.gov and carrie.janto@wicourts.gov.

IT IS FURTHER ORDERED that the court will discuss this matter at open administrative conference on Monday, December 5, 2011, at 9:45 a.m., in the Supreme Court Room in the State Capitol, Madison, Wisconsin. At this conference, the court may choose to schedule a public hearing, request additional information from the petitioners and/or the State Bar of Wisconsin, or others, schedule further open administrative conference to continue discussion, or take some other action on the matter.

Dated at Madison, Wisconsin, this 7th day of October, 2011.

BY THE COURT:

A. John Voelker
Acting Clerk of Supreme Court

