



# Supreme Court of Wisconsin

OFFICE OF COURT COMMISSIONERS

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MADISON, WISCONSIN 53703

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December 1, 2022

Timothy Samuelson, Director  
Travis J. Stiern, Trust Account Program Administrator  
Office of Lawyer Regulation  
110 E. Main Street, Suite 315  
Madison, WI 53703

Re: Rule Petition 22-05, In the Matter of amendment of Supreme Court Rules 20:1.15 and 20:1.0, Relating to Electronic Banking

Dear Director Samuelson and Administrator Stiern (petitioners):

I am assisting the Wisconsin Supreme Court with its consideration of rule petition 22-05, filed on July 15, 2022. The petition asks the court to amend SCR 20:1.15 and 20:1.0 to permit electronic transactions in lawyer trust accounts. At a closed conference on November 29, 2022, the court voted to solicit written comments from interested persons and conduct a public hearing at a date to be determined in early 2023. On December 1, 2022, a letter to interested persons was circulated requesting written comments in anticipation of the public hearing.

In addition, the court invites the petitioners to provide answers to the following questions concerning the proposed changes referenced below:

1. The petition proposes amending SCR 20:1.15(b)(1) to add the following language: "Except as provided by sub. (b)(3), a lawyer shall not hold any funds in a trust account that are unrelated to a representation." The petition also would create SCR 20:1.15(b)(6) to state, in part: "Advanced legal fees and costs. A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred." And the petition would add the following language to SCR 20:1.0(dm): "Notwithstanding that lawyers have a property interest upon receipt of flat fees, such fees can only be earned by the provision of legal services."

The petitioners are invited to more fully explain why these changes are requested and how these provisions pertain to allowing electronic transfers of trust funds.

2. The petition proposes adding several comments following SCR 20:1.15(f)(1) that appear to impose substantive obligations upon attorneys, including requirements relating to reimbursements of ACH reversals prior to accepting additional electronic deposits, maintaining written confirmation of authorization for electronic disbursements, and disclosing in writing any third-party electronic payment vendor surcharges for which clients may be responsible.

Given that Comments to SCRs generally are not adopted by the court as part of the rules and are instead provided as interpretative guidance, the petitioners are invited to explain on what specific provisions in existing SCRs these comments are based.

3. There are two provisions in the petition that strike references to SCR 20:1.15(f)(4)b. and replace it with (3)b. See Pet. App. A at 17 (amending SCR 20:1.15(k)(6)) and App. A at 23 (comment to SCR 20:1.15(f)). However, the petition proposes repealing SCR 20:1.15(f)(3) in its entirety and leaving that provision blank. Other provisions in the petition propose repealing references to SCR 20:1.15(f)(3)b. See Pet. App. C at 1.

The petitioners are invited to advise whether the above two provisions striking references to SCR 20:1.15(f)(4)b. and replacing them with references to (3)b. should be included or amended.

The court requests that petitioners submit a written response to these questions by Friday, December 30, 2022, with the Clerk of Supreme Court, Attention: Deputy Clerk-Rules, P.O. Box 1688, Madison, WI 53701-1688. Please also email a Microsoft Word version of your response to [clerk@wicourts.gov](mailto:clerk@wicourts.gov).

If you have specific questions or other comments with regard to this matter, please contact me by mail at P.O. Box 1688, Madison, WI 53701-1688; by telephone at 608-266-7442; or by email at [tim.barber@wicourts.gov](mailto:tim.barber@wicourts.gov).

Very truly yours,

/s/

Timothy Barber

Supreme Court Commissioner

cc: Chief Justice Annette Kingsland Ziegler  
Justice Ann Walsh Bradley  
Justice Patience Drake Roggensack  
Justice Rebecca Grassl Bradley  
Justice Rebecca Frank Dallet  
Justice Brian Hagedorn  
Justice Jill J. Karofsky