



September 30, 2013

Justices of the Wisconsin Supreme Court  
c/o Clerk of Supreme Court  
ATTN: Deputy Clerk- Rules  
P.O. Box 1688  
Madison, WI 53701-1688

RE: Comments on Rule Petition 13-04; Petition to Amend Rules Relating to Referees in Lawyer Regulation System

VIA email [clerk@wicourts.gov](mailto:clerk@wicourts.gov) and [susan.gray@wicourts.gov](mailto:susan.gray@wicourts.gov)

May it please the Court:

I am Hannah C. Dugan, a licensed attorney in the State of Wisconsin and a certified referee for the Wisconsin Supreme Court. I was sent a copy of the above-referenced Petition with a request to submit comments as a potentially interested party.

As a means of background, I was licensed in the State of Wisconsin in 1987, and have represented hundreds of clients in state and federal administrative hearings, and in municipal and state court trials and proceedings. The Court appointed me to serve on its Ethics 2000 Commission and on the Wisconsin Judicial Commission. I have served as vice-chair of the State Bar's Professional Responsibility Committee, and on various other civic ethics boards. In 2010, the Court certified me as a Permanent Referee in attorney discipline matters. Since that time I have reviewed and reported on case-types along the entire spectrum of disciplinary cases—from Office of Lawyer Regulation consent stipulations to complicated revocation proceedings. I have refereed 18 cases during the past three years.

In summary, the Petition calls for panel of four referees, and an alternate panel with an unspecified number of referees. The concept I support in the Petition is that a core group of referees be designated, and an alternate panel of referees be available for the various conflict and location scenarios that inevitably will arise.

I am not certain whether four or six or eight is the correct number. I do not know the processes used by other states. However, I think that advantages do exist in designating a core group of referees.

1) As identified by the Petition, greater efficiencies can be achieved.. For example a referee could be appointed immediately at the time of filing instead of weeks later. Greater efficiencies or increased timeliness of decisions can be realized also through a referee who reviews cases more regularly. I experienced an increase in assigned cases last year; more frequent review and application of the standards did create efficiencies in my casework. By analogy, my experience is that the OLR attorneys prepare and present cases at hearing more efficiently than do OLR-appointed counsel. I

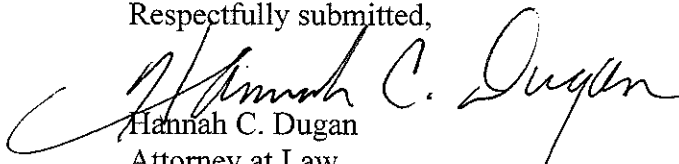
ascribe this efficiency to the regularity with which OLR attorneys address commonly raised issues.

2) The Petition states that “the small number [of referees] provides advantages of quality...., and uniform application of disciplinary standards.” I do not see a relationship between the number of referees and the advantages as stated above. However, I can envision such advantages, if, in creating a core group of referees, the Court also creates the expectation of greater communication between and among the referees. We work in isolation from each other in a system that calls for progressive discipline. The Court’s review of recommendations in light of case law precedence might be better served by having a core group of referees that serve as sounding boards to each others’ concerns and who engage in problem solving around emerging issues, e.g., the variations in sanctions and the seemingly increased use and types of conditions in reprimand cases.

3) I agree with Referee Mohr’s comments regarding the Petition’s seeming preference of reserve judges over trial attorneys, and the inferred greater neutrality or fairness of judges. I add to the comments only that the Court might consider preferring the appointment and cultivation of trial attorneys for referee appointments. As a self-regulating system there is a consistency in appointing attorney-referees. However, more to the point, preferring trial attorney appointment is more practical for the court system in the long term, given the small number of available reserve judges and the need for them to serve as actual trial court reserve judges.

In their submission, the Supreme Court Commissioners identify for the Court important perspectives and ideas about underlying concerns to address and about improving the attorney regulatory process.<sup>1</sup> They raised issues to consider beyond the Petition’s call for improvements with respect to the size of the referee “pool” and the characteristics of the referees in that “pool.” I support the Petition with respect to identifying a core number of referees to undertake the body of disciplinary work, if done so with the expectation that fewer referees would create greater efficiencies and issue decisions more expeditiously.

Respectfully submitted,

  
Hannah C. Dugan  
Attorney at Law

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<sup>1</sup> The Commissioners’ submission identifies that the Court currently, within its administrative authority, can adjust the referee system’s shortcomings without relying on a petition that is limited in scope.