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FILED

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Cornelia G. Clark
Clerk of Supreme Court
Madison, WI

SUPREME COURT OF WISCONSIN

In the Matter of the Amendment of
the Supreme Court Rules: SCR
10.06, 10.07 and 10.08 -
Composition and Quorum of State
Bar Board of Governors Executive
Committee; Annual Meetings of the
State Bar

ORDER
No. 00-11

On January 16, 2001, the court held a public hearing on the petition filed on September 13, 2000, by the Board of Governors of the State Bar of Wisconsin requesting amendment of the Supreme Court Rules to increase the membership of the Executive Committee and to increase the number of members required to demand a meeting of the Executive Committee. The petitioner also requests amendment of Supreme Court Rule 10.06 (3) to specify that a majority of members constitutes a quorum and to allow participation in a meeting of the Executive Committee by facsimile or e-mail. The petitioner further requests amendment of Supreme Court Rule 10.07 to provide that an assembly of members may be held only at the annual meeting.

IT IS ORDERED that, effective the date of this order, Supreme Court Rules 10.06 (1) and (3), 10.07 (2), and 10.08 (6) are amended to read:

Section 1. 10.06 (1) and (3) of the Supreme Court Rules are amended to read:

10.06 (1) Members; selection. The executive committee consists of the president, the president-elect, the immediate past-president, the chairperson of the board of governors, one representative each from the nonresident lawyers division, government lawyers division, and young lawyers division selected from their board of governors representatives and 4 6 additional members elected annually by the board of governors at its ~~June~~ final meeting of the fiscal year. The 4 6 additional members shall be elected from among the governors-elect and the current governors who will serve on the board of governors during the following fiscal year. A vacancy occurring in the selected membership may be filled by action of the board of governors.

(3) Meeting; quorum. The executive committee shall meet at the call of the president, or at the call of the executive director upon the written demand of at least ~~3~~ 5 of its members. All members shall be given at least 48 hours' notice by mail or telephone of the time and place of any meeting. ~~Five~~ A majority of all members ~~present at a meeting~~ constitutes a quorum. No action may be taken by the committee except upon the concurrence of at least ~~5~~ a majority of all members. The concurrence may be registered by mail, ~~or~~ telephone, facsimile, or e-mail.

Section 2. 10.07 (2) of the Supreme Court Rules is amended to read:

10.07 (2) Assembly of members. An assembly of the members of the state bar may be held at each annual ~~and midwinter~~ meeting for the purpose of discussing any issues of association public policy.

Section 3. 10.08 (6) of the Supreme Court Rules is renumbered 10.08(6)(a) and is amended to read:

10.08 (6) Procedure for filing petition.

(a) The petition must be complete when filed with the state bar headquarters. Upon filing, the petition ~~will~~ shall be examined by the state bar executive director or his or her designee in order to determine all of the following:

~~(a)~~ 1. ~~whether~~ Whether the question is properly the subject of a referendum~~†.~~

~~(b)~~ 2. ~~whether~~ Whether the signatures are of members of the state bar who are eligible to vote~~†.~~

~~(c)~~ 3. ~~whether~~ Whether the signatures satisfy the geographic distribution and time requirements set forth in sub. (5) (f) and (g)~~†.~~

~~(d)~~ 4. ~~whether~~ Whether the petition is otherwise in order as required by ~~these rules~~ this section.

(b) The ruling of the executive director shall be communicated to the person designated in the petition as soon as practicable and within ~~two~~ 2 weeks ~~of~~ after the date on which the petition is filed.

IT IS FURTHER ORDERED that notice of these amendments of the Supreme Court Rules shall be given a single publication of a

copy of this order in the official state newspaper and in an official publication of the State Bar of Wisconsin.

Dated at Madison, Wisconsin, this ____ of March, 2001.

BY THE COURT:

Cornelia G. Clark
Clerk of Court

SHIRLEY S. ABRAHAMSON, CHIEF JUSTICE (*concurring and dissenting*). I would not amend the composition of the Executive Committee of the State Bar Board of Governors at this time. I would prefer that the Board of Governors and the supreme court address the size and composition of the Executive Committee after the powers of the Executive Committee have been determined. Once we decide the powers of the Executive Committee, we can better determine the appropriate size and composition of the Committee.

Supreme Court Rule (SCR) 10.06(2) governing the powers of the Executive Committee is outdated and needs revision. For example, the Executive Committee's powers over grievance committees and disciplinary matters were eliminated at least 25 years ago.

Furthermore, as a justice of the court that mandates membership in the State Bar of Wisconsin and as a member of the Bar, I am concerned about whether the Board of Governors is delegating its responsibility as the decision-making entity of the Bar to the executive committee, a smaller, less

representative body. I am also concerned about whether the Board is monitoring the Executive Committee to ensure that the Executive Committee is not exceeding its powers under SCR 10.06(2). For example, contrary to the Supreme Court Rules, the Executive Committee recently petitioned the court for a rule change without the authorization of the Board.

The Board of Governors has itself expressed concerns about delegating its powers to the Executive Committee and reducing the Board of Governors, the elected representatives of the Bar, to a debating or discussion society rather than the decision-making entity. According to minutes of recent meetings of the Board of Governors, the Board is grappling with distinguishing between those issues that the Executive Committee can address and those issues that should be addressed by the full Board. The Bar has appointed a committee to review the Supreme Court Rules governing the State Bar and to propose amendments to those rules. SCR 10.06(2) is one of the rules being addressed.

SCR 10.06(2) provides as follows:

(2) Powers. The executive committee may exercise all the powers and perform all the duties of the board of governors between the meetings of the board except the executive committee shall not, unless otherwise authorized by the board of governors: amend the bylaws; make rules or regulations governing nominations or elections; prescribe regulations for proceedings before grievance committees; or initiate the taking of any referendum or poll of members of the association. The executive committee shall directly receive and act upon all reports of committees on disciplinary matters without reporting to the board of governors. The minutes relating to disciplinary matters shall be kept separate from the general

minutes and shall be confidential. The executive committee shall prepare an annual budget for submission to the board of governors and shall perform such other duties as the board of governors may prescribe. Unless otherwise ordered by the board of governors, the executive committee shall not express publicly any opinion on any matter including legislation of major public interest or concern or of major importance to the members of the association. A complete summary of the general minutes of each meeting of the executive committee shall be promptly printed in the Wisconsin bar bulletin, with a notation that any interested person may obtain a copy of the general minutes upon request to the secretary.

For the reasons set forth, I write separately.