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February 12, 2014

Clerk of Supreme Court  
Attention: Deputy Clerk---Rules  
P.O. Box 1688  
Madison, WI 53701-1688

Re: Petition 13-14 to Amend SCR 60.04

Supreme Court Justices:

I write in support of the proposal to amend SCR 60.04.

I have been deeply involved in family law for my entire 49 years as a lawyer. Over the years I have represented thousands of family law clients throughout Western Wisconsin. I have served as the Chair of the State Bar Family Law Section and have had the privilege to serve as State Bar President, and along with our attorney, Kathleen R. Avoles, we author the Family Law chapter of the State Bar's Wisconsin Attorney's Desk Reference. I am still practicing and currently represent family law clients. Over the past decade, I have seen the initial trickle of pro se clients swell to the tsunami we now have. And I see the judges struggle with the effects of litigants that cannot be expected to know sophisticated procedural rules, complex rules of evidence and the basics of legal document drafting.

The proposed rule change is a step in the right direction. In many respects, this proposed rule simply legitimizes the procedures already followed by many of our thoughtful judges. In order for our system to function, judges must be allowed to guide the pro se litigants through this foreign territory for them. Realistically, this problem is not going to go away. We need to authorize the necessary judicial intervention when necessary. I have total confidence that all of the judges I know will maintain their impartiality as they always have.

On a related topic, although I strongly support the proposed amendment, standing alone it does not solve the problem. I propose that we next move on to consider potential simplification of rules of procedure and rules of evidence for some cases. I believe that Wis. Stat. §799.209 regarding procedure in small claims actions would be a good place to start. Although I have not deeply studied the issue, I have drafted a simple suggestion as a starting point for the discussion. It is appended to this letter.

**BAKKE NORMAN, S.C.**



Gary L. Bakke

cc: Margaret J. Vergeront

Special Trial Procedures:

- (a) In any action tried to the court, when at least one party is not represented by counsel, the court may order that the matter shall be conducted with a modified trial procedure and with modified rules of evidence.
- (b) Any such order shall be in writing and shall be entered and served not less than 10 days prior to the commencement of the hearing or trial.
- (c) Any such order shall explicitly explain the modified procedure and rules of evidence. The order may adopt the procedures set forth in Wis. Stat. §799.209 or may specify other reasonable rules and procedures designed to efficiently and fairly develop the relevant facts.
- (d) The court shall not consider any evidence that is offered, unless it is permitted by the rules of evidence or by the modifications allowed under this section.