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November 30, 2009

VIA MESSENGER

Mr. David Schanker
Clerk, Wisconsin Supreme Court
110 East Main Street, #215
Madison, WI 53703

Re: In the Matter of the Disciplinary Proceedings Against the Honorable Michael J. Gableman; Wisconsin Judicial Commission v. The Honorable Michael J. Gableman Case No. 2008AP2458-J

Dear Mr. Schanker:

Enclosed for filing in the above matter please find the original and nine copies of Respondent's Reply in Support of Motion to Review Recommendation of the Judicial Conduct Panel on the Basis of the Record in the Judicial Conduct Panel Proceedings.

Please file the original and return a file-stamped copy with the messenger completing this delivery. Thank you for your time and attention to this matter.

Sincerely,

MICHAEL BEST & FRIEDRICH LLP

A handwritten signature in blue ink, appearing to read "Eric M. McLeod", is written over the name of the sender.

Eric M. McLeod

EMM:skt

Enclosures

cc: James C. Alexander, Esq.
James R. Bopp, Jr., Esq.

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CLERK OF SUPREME COURT
OF WISCONSIN

IN THE SUPREME COURT
OF THE STATE OF WISCONSIN

FILED

NOV 30 2009

In the Matter of Judicial Disciplinary
Proceedings Against the
Honorable Michael J. Gableman

CLERK OF SUPREME COURT
OF WISCONSIN

Wisconsin Judicial Commission,

Case No. 2008AP2458-J

Complainant,

v.

The Honorable Michael J. Gableman,

Respondent.

**RESPONDENT'S REPLY IN SUPPORT OF MOTION TO REVIEW
RECOMMENDATION OF THE JUDICIAL CONDUCT PANEL ON THE BASIS
OF THE RECORD IN THE JUDICIAL CONDUCT PANEL PROCEEDINGS**

Respondent, Justice Michael J. Gableman ("Justice Gableman"), by his attorneys, respectfully offers the following reply to the Wisconsin Judicial Commission's ("Judicial Commission") response to Justice Gableman's Motion to Review Recommendation of the Judicial Conduct Panel on the Basis of the Record in the Judicial Panel Proceedings.

1. In its response to the Motion, the Judicial Commission agreed that the factual record established before the Judicial Conduct Panel ("Judicial Panel") is complete and can form the basis for review by this Court. However, the Judicial Commission requests additional briefing and oral argument. The purported basis for the Judicial Commission's request is that "this is a case of substantial and continuing public interest." (Response, ¶ 2) It is unclear how the fact that this is a case of substantial and

continuing public interest supports the Judicial Commission's request and the Judicial Commission offers no explanation in that regard.

2. Pursuant to Wis. Stat. § 757.91, this Court "shall review the findings of fact, conclusions of law and recommendations" of the Judicial Panel. As noted in Justice Gableman's motion, the issues which form the basis for the Judicial Panel's Recommendation have been fully briefed by the parties. The Judicial Panel conducted a lengthy oral argument. Those proceedings are part of the record in this case. Importantly, this case was filed in *this* Court pursuant to Wis. Stat. § 757.85(5) and the Recommendation, along with the record, briefs and arguments of the parties, have been presented for this Court's review under Wis. Stat. § 757.91. This statutory review does not explicitly provide for, nor does it implicitly contemplate, further proceedings in the form of briefing or argument.

3. The Judicial Commission does not suggest in its response that there are additional issues the parties failed to address in their briefs or that they were not afforded a full opportunity to expand upon the relevant issues during oral argument before the Judicial Panel. Rather, the Judicial Commission proposes that the parties merely repeat those proceedings a second time. That this is a matter of public interest does not justify the Judicial Commission's position and further proceedings would simply constitute an unnecessary use of judicial resources and additional expense to the parties.

4. The parties agree that the factual record in this matter is complete and neither party suggests that any further development of that record is necessary to enable this Court to review the proceedings and conclusions of the duly appointed Judicial Panel.

WHEREFORE, Justice Gableman respectfully requests that this Court review the Judicial Panel's Recommendation on the basis of the record established in the proceedings before the Judicial Panel, including the briefs and arguments that are a part of that record.

Dated this 30th day of November, 2009.

MICHAEL BEST & FRIEDRICH LLP
Attorneys for Respondent

By: 
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