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January 9, 2023

To:

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David Penn

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Heidi Johnson
Office of Lawyer Regulation
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Madison, WI 53703

Nicholas Smith
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You are hereby notified that the Court has entered the following order:

No. 2023XX16-D

Office of Lawyer Regulation v. David V. Penn

The complainant, Office of Lawyer Regulation (OLR), moves the court for an order to show cause under SCR 22.21, directing Attorney Penn to inform the court in writing why his license to practice law in Wisconsin should not be temporarily suspended due to medical incapacity. OLR alleges that Attorney Penn's "continued practice of law poses a threat to the interests of the public and the administration of justice." OLR supports its motion with an affidavit from an OLR investigator that provides the factual basis for the motion. OLR also moves the court for an order sealing the supporting affidavit of its investigator, which contains information required by law to remain confidential. In that same motion, OLR requests "authority to disclose" the fact that it filed a motion for an order to show cause to two Vilas County Circuit Court judges and one of Attorney Penn's clients.

Having considered the motions and supporting materials,

IT IS ORDERED that the motion to issue an order to show cause is granted. Attorney Penn shall respond within ten days from the date of this order and show cause why his license to practice law in Wisconsin should not be temporarily suspended due to medical incapacity. If there is no such response, the court will proceed under SCR 22.21, as it deems appropriate;

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IT IS FURTHER ORDERED that in the event Attorney Penn files a response to the order to show cause, the Office of Lawyer Regulation may file a memorandum in support of or in opposition to the requested temporary license suspension within 10 days of when the response is filed;

IT IS FURTHER ORDERED that the motion to seal is granted. The clerk of this court is directed to seal the affidavit of the Office of Lawyer Regulation investigator that was filed with the motion to show cause;

IT IS FURTHER ORDERED that the Office of Lawyer Regulation's request for authority to disclose the filing of the motion to show cause is denied as unnecessary. Upon issuance of this order, by operation of SCR 22.21(2m), "the motion under sub. (1), and the order to show cause are public information." The Office of Lawyer Regulation does not need an affirmative grant of authority by this court to share such information; and

IT IS FURTHER ORDERED that pursuant to SCR 22.21(2m)(a), (b), and (e) the clerk of this court is directed to redact the motion to show cause and the motion to seal in order to retain the confidentiality of: (1) the identity of the Officer of Lawyer Regulation investigator who filed the accompanying affidavit; (2) Attorney Penn's confidential medical information; and (3) other information identified by the Office of Lawyer Regulation as being confidential as a matter of law.

Sheila T. Reiff
Clerk of Supreme Court