

No. 2008AP2458-J

STATE OF WISCONSIN IN THE SUPREME COURT

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

WISCONSIN JUDICIAL COMMISSION

v.

THE HONORABLE MICHAEL J. GABLEMAN.

April 30, 2009

To:

James C. Alexander
Judicial Commission
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Madison, WI 53703

Hon. Michael J. Gableman
Wisconsin Supreme Court
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You are hereby notified that the Court has entered the following order:

Before Snyder, P.J., Fine, J. and Deininger, Reserve Judge, Judicial Conduct Panel

As directed by this Panel's January 29, 2009 order, the Judicial Commission filed a Statement of Facts, Justice Gableman filed a Statement of Facts and Response to the Commission's Statement, and the Judicial Commission filed a Response to Justice Gableman's Statement. In addition, the Judicial Commission has filed a motion compel Justice Gableman "to dispute or not" several factual statements in the Commission's Statement of Facts. The Judicial Commission also asks that several factual statements in its Statement of Facts be "deemed

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admitted” because Justice Gableman made “no response to the substantive facts” set forth by the Commission.

The January 29, 2009 order was issued in response to the parties’ joint proposal that they submit factual statements to help identify “what, if any, factual disputes exist.” To the extent that Justice Gableman’s Response may not directly “dispute” the Commission’s Statement of Facts, the Response simply suggests that factual disputes exist and that an evidentiary hearing is necessary to resolve those disputes. The Panel does not believe that any purpose would be served by further submissions and, therefore, the Panel denies the Commission’s motion to compel.

Given the existence of factual disputes, an evidentiary hearing is the next step in the process. *See* WIS. STAT. § 757.89. Justice Gableman has previously waived his right to have the hearing held in his county of residence and, therefore, the hearing will be held in the courtroom of District 2 of the Court of Appeals, 2727 N. Grandview Blvd., Suite 300, Waukesha, WI.

To facilitate the scheduling of the evidentiary hearing, the Judicial Commission and Justice Gableman shall inform the Panel of the following:

1. The estimated amount of time required to present evidence on the disputed facts.
2. The earliest date by which the party will be prepared to conduct the evidentiary hearing.
3. Any dates in May, June, July and August that counsel is not available.
4. Whether the party requests the issuance of a scheduling order to establish pre-hearing deadlines and, if so, a proposed timeline for those deadlines. *See* WIS. STAT. § 802.10(3).
5. Whether the party wants to submit pre-hearing briefs.

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The parties' submissions shall be filed within 10 days from the date of this order, and after consideration of the parties' submissions, the Panel will issue an order addressing further proceedings in this matter.

IT IS ORDERED that the Judicial Commission's motion to compel is denied.

IT IS FURTHER ORDERED that the Judicial Commission and Justice Gableman file a response to the matters set forth above within 10 days from the date of this order.

David R. Schanker
Clerk of Supreme Court and Court of Appeals