

FILED**JUL 7 2025**

STATE OF WISCONSIN

**CLERK OF SUPREME COURT
OF WISCONSIN**

IN SUPREME COURT

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST THOMAS L.
FRENN, ATTORNEY AT LAW.

OFFICE OF LAWYER REGULATION,

Case No. 2025AP356-D

Complainant;

THOMAS L. FRENN,

Respondent.

SUPPLEMENTAL ORDER ON CROSS-MOTIONS FOR RECONSIDERATION

On June 30, 2025, I issued an order denying Attorney Frenn's motion to dismiss the Complaint and granting OLR's motion for judgment on the pleadings. By doing so, I inadvertently "jumped the gun" because according to the Order Following Scheduling Conference, Attorney Frenn was entitled to serve and file a reply brief by July 3. He filed a motion for reconsideration on that date making that point, among others. Upon my inquiry to counsel about how to proceed, Attorney Frenn responded that I may consider his motion for reconsideration and supporting brief as his reply brief. The purpose of this supplemental order, therefore, is to address the remaining arguments in what is now deemed Attorney Frenn's reply brief.

Attorney Frenn makes three substantive arguments in his reply brief. First, he argues that OLR has failed to meet its burden to prove a violation of SCR 20:1.14(a) by clear, satisfactory, and convincing evidence. *See* SCR 22.16(5). The parties, however, agreed that there is no dispute of material fact, and I also perceive none. Therefore, the evidentiary standard applicable to the burden of proof (e.g., preponderance of the evidence; clear, satisfactory, and convincing

evidence; evidence beyond a reasonable doubt) drops out of the analysis. The undisputed material facts either do or do not amount to a violation of SCR 20:1.14(a) as a matter of law, and I have concluded that they do.

Second, Attorney Frenn argues that he “was hired to make a recovery for the estate of [Patricia] Skiera, not to represent her personally.” (Frenn Reply Br. at 1.) Again, the parties agreed that there is no disputed issue of material fact, and one of the material facts to which they agreed is that Attorney Frenn was engaged to represent Patricia Skiera, period. Moreover, I fail to perceive how a distinction between a living person and her estate, assuming that distinction to be valid in any context, has any effect on an attorney’s duty under SCR 20:1.14(a). For example, adversary counsel engaged or appointed to represent a putative ward with respect to a petition for guardianship of her estate logically has the same duty under that rule to confer with his client as he would if he were instead or in addition representing her with respect to a petition for guardianship of her person.

Finally, Attorney Frenn contends that OLR cites and that there exists no authority for its interpretation of the rule. OLR, however, cites ABA Comment [1] to the rule: “a client with diminished capacity often has the ability to understand, deliberate upon, and reach conclusions about matters affecting the client’s own well-being.” That is authority; indeed it is compelling authority. While OLR cites no case law on the issue presented by these cross-motions¹—namely, whether it applies if the client has been adjudged incompetent—the plain language of the rule compels the conclusion that Attorney Frenn contravened it under the undisputed facts.

For the foregoing reasons, I adhere to my June 30, 2025 decision and reiterate my denial of Attorney Frenn’s motion to dismiss and grant of OLR’s motion on the pleadings. Attorney

¹ None of the case law cited by Attorney Frenn addresses that issue.

Frenn has indicated his unavailability until July 24. I ask that by July 31, 2025, the parties confer and propose a date and time for a telephonic status conference.

Dated July 4, 2025.

A handwritten signature in black ink, appearing to read "Charles H. Barr". The signature is fluid and cursive, with a large initial "C" and "B".

Charles H. Barr, Referee