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In the Matter of the Petition  
To Amend Wis. Stat. § 809.19(3)                      Petition

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TO: Chief Justice Shirley S. Abrahamson  
Justice Jon P. Wilcox  
Justice Ann Walsh Bradley  
Justice N. Patrick Crooks  
Justice David Prosser, Jr.  
Justice Patience D. Roggensack  
Justice Louis B. Butler

[To be] Filed with the Clerk of Court Cornelia G. Clark  
Clerk of Supreme Court Office  
110 E. Main Street  
Suite 215  
Madison, WI 53703

Petitioner, the State of Wisconsin Department of Workforce Development ("DWD"), hereby petitions the Wisconsin Supreme Court pursuant to the Court's rulemaking authority under Wis. Stat. §751.12 and its administrative authority over all courts conferred by Article VII, §3 of the Wisconsin Constitution, to amend the Supreme Court Rules of Appellate Procedure, Wis. Stat. § (Rule) 809.19(3) as set forth herein.

The child support program under Wis. Stat. § 49.22, is a federally funded, state administered program, the purpose of which is to establish paternity and establish and enforce child support obligations. In Wisconsin, the DWD is responsible for administration of the program, which is operated in 71 county and 3 tribal agencies. County

Boards are required to contract with the DWD to implement and administer the program under Title IV of the Federal Social Security Act. See Wis. Stat. § 59.53(5).

The DWD is authorized by s.49.22 (7) to delegate its authority to represent the State of Wisconsin in child support and paternity actions to attorneys responsible for support enforcement under s. 59.53(6). Attorneys responsible for support enforcement are authorized to represent the State in actions or proceedings under ss. 49.22(7), 767.075, 767.08, 767.45 and Ch. 769. However, the authority of child support agency attorneys under either s.49.22 or s. 59.53(5) is limited to representation of the State. No attorney-client relationship exists between the agency attorney and the individuals who apply for child support services. See Wis. Stat. § 767.075(2). Rather, a child support agency attorney's participation in a case is limited, as a matter of law, to issues related to establishing paternity and child support.

It is not uncommon for an appeal to be filed in such cases that relates to the custody or placement of the child, but not to child support. The State is not a party of interest in those issues. Nonetheless, DWD has been repeatedly advised that if the State determines that an appeal does not raise issues related to child support, it is not sufficient to simply notify the court of this fact with a brief letter. Indeed, DWD has been advised that such a letter:

[D]oes not discharge [DWD's] responsibilities under our rules of appellate procedure. If the respondent feels that the appeal does not raise issues related to child support, it should file a brief stating that legal position and the legal authority for it.

In another instance, after filing a letter indicating it was not a party of interest to the appeal, the DWD was threatened with sanctions pursuant to Wis. Stat. § 809.83(2) for failure to file a brief.

The briefing requirement is time consuming and costly for counties. It is of no benefit to the client, the State. Therefore, the DWD hereby petitions the Wisconsin Supreme Court for an order amending Wis. Stat. 809.19 (3) (a), as follows:

**Section 1.** Wis. Stat. s. 809.19(3) (a)2. of the rules of appellate procedure is amended to read:

2. The brief must conform with sub. (1), except that the statement of issues and the statement of the case may be excluded, and, a respondent who is not a party in interest to the appeal may file a statement that no brief will be filed.

Respectfully submitted this 8<sup>th</sup> day of March, 2006.

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