

No. 07-08

In the Matter of the Petition for Amendment to
Supreme Court Rule SCR 31.04 Relating to
Creation of a Comity Rule for Continuing Legal Education

AMENDED
PETITION

To: Chief Justice Shirley S. Abrahamson
Justice Ann Walsh Bradley
Justice N. Patrick Crooks
Justice David Prosser, Jr.
Justice Patience D. Roggensack
Justice Louis B. Butler
Justice Annette Kingsland Ziegler

Filed with the Clerk of Court David R. Schanker
Clerk of Supreme Court Office
110 East Main Street, Suite #215
Madison, WI 53703

On June 18, 2007, the undersigned filed a petition with the Court for and on behalf of the Board of Bar Examiners. The petition proposed an amendment to SCR 31.04 to create a subparagraph (3) relating to comity for non-resident Wisconsin-licensed attorneys who meet the continuing legal education requirements of their home jurisdictions.

By Order dated September 4, 2007, the Court scheduled a hearing on the petition to be conducted on November 27, 2007, at 9:30 a.m.

On September 14, 2007, the Board of Governors of the State Bar of Wisconsin met in regular meeting and considered the petition. The President of the Non-Resident Lawyers Division expressed concerns with certain language of the petition, *i.e.*, “. . . who does not regularly practice in Wisconsin . . .” On motion duly made and seconded, the Board of Governors voted to recommend changing the aforementioned language to read, “A lawyer who is admitted in Wisconsin . . .”

On October 19, 2007, the Board of Bar Examiners, meeting in regular session, considered the amended language. The Board declined to adopt the recommendation of the State Bar Board of Governors. The Board of Bar Examiners expressed concern that an attorney whose practice was solely or primarily in Wisconsin but who was also licensed in another jurisdiction could attempt to claim continuing legal education credit under the rules of the other jurisdiction rather than under Wisconsin’s rules. The Board of Bar Examiners proposed its own change to the wording of the rule such that it will

now read, "(3) A lawyer whose practice is principally in another United States jurisdiction which has mandatory CLE requirements . . ." The remainder of the proposed rule would remain the same.

PROPOSED AMENDMENT:

SCR 31.04 Exemptions.

(3) A lawyer whose practice is principally in another United States jurisdiction which has mandatory CLE requirements that are substantially similar in content (including legal ethics and professional responsibility requirements), mode of presentation, and duration to Wisconsin's and who is current in meeting that jurisdiction's requirements is exempt from the attendance requirement of SCR 31.02 but shall comply with the reporting requirement of SCR 31.03. Whether another jurisdiction's requirements are substantially similar to Wisconsin's shall be determined periodically by the board, and its determination shall be final.

Petitioners request favorable consideration of the revised language.

Dated this 9th day of November, 2007.

Respectfully submitted,

John E. Kosobucki,
Director, Board of Bar Examiners
State Bar #1016065
110 East Main Street, Suite #715
Madison, WI 53703