



# Wisconsin State Public Defender

315 N. Henry St. - 2<sup>nd</sup> Floor  
PO Box 7923 Madison, WI 53707-7923  
Office Number: 608-266-0087 / Fax Number: 608-267-0584  
www.wisspd.org

**Kelli S. Thompson**  
State Public Defender

**Michael Tobin**  
Deputy State  
Public Defender

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April 9, 2012

Carrie Janto, Deputy Clerk  
Wisconsin Supreme Court  
P.O. Box 1688  
Madison, WI 53701-1688

Re: Supreme Court Rule Petition 11-09, In the Matter of the Petition to Amend SCR 60.04(1)(g) relating to ex parte communications in treatment courts

Dear Ms. Janto:

Petition 11-09 proposes changes to SCR 60.04 to include an exception to the general prohibition against judicial ex parte communications to allow judges to fully participate in therapeutic or problem-solving courts, mental health courts, or treatment courts. The collaborative role of participants in the treatment teams working with these types of courts creates tension with the current rules. This tension causes some judges to decline to participate in treatment courts.

The Wisconsin State Public Defender commends the judges of this state for their hard work and commitment to implementing treatment and problem solving courts. Without judicial leadership such innovations cannot succeed. It is inspiring to see judges respond to the demonstrated success of such courts by adapting to the new role these courts require.

Even with rule changes that facilitate participation of lawyers and judges in treatment courts, it is important to remember that we do so as part of a treatment team. It is still important that team members share information even if it was obtained in an ex parte communication. The issue of ex parte communication is not the only rule or practice that needs modification in order to have lawyers and judges engage in the activities of treatment courts. But, the ex parte rule is an important part and a part that the Supreme Court can help to change. The Wisconsin State Public Defender supports the petition and urges the court to adopt the language proposed.

Sincerely,

Kelli S. Thompson  
Wisconsin State Public Defender