

May it please the Court

I have a few comments on Rule Petition 13-04, which I understand is proposed by the State Bar of Wisconsin.

I. Introduction.

I am Former Supreme Court Referee Timothy L. Vocke. I served for about 25 years until I no longer received assignments from the Clerk's Office in 2011.

As such, I have no dog in this fight, but I do have some thoughts as to the State Bar's proposal on having 4 Referees to handle all OLR Disciplinary Matters.

II. Background.

Although living in Rhinelander, I handled cases in a wide geographic area including: Superior, Amery, Eau Claire, Madison, Milton, Oconto, Oshkosh, Milwaukee, and in many places between those venues. I did NOT handle cases in my immediate area, because up until 2009, I was an Attorney in private practice and did not want the appearance of a conflict of interest by handling case against Attorneys that I might very well see as an opposing Attorney. Additionally, I limited the length of time that I served as both a Reserve Judge as well as a Referee in one year because the time spend in those capacities took away from my practice. Frankly, I saw time spent as a Referee essentially as Pro Bono service to the Bar and SCOW as it did not cover expenses of running a law office. As a result, I turned down many cases, but still served in an average of 2 per year prior to OLR and 2-4 after OLR came into being. At the same time, I limited my Reserve Judge time to a couple weeks per year. I also handled stipulated Private and Public Reprimands, but neither charged for them nor kept track of them, but I estimate that I would receive as many as 6 in a year.

As a matter of general interest to SCOW, the actual venue of hearings included not only the County Court House where the Respondent resided, but also the Second District Court of Appeals Courtroom, OLR's offices in both Milwaukee and Madison, hotel/motels,

Milwaukee's State Office Building, my law office and the offices of other Attorneys; whatever was agreeable with both sides to the dispute.

Among the more difficult cases that I handled were Donald Eisenberg, Alan Eisenberg and Richard Heilprin. I handled no cases in which it appeared that more than a week was necessary for the final hearing by choice.

When I worked in a solo office, my staff helped set up cases as well as the scheduling; from 1998 to 2009 when I stopped practicing law, I handled all of those functions unassisted because the firm that I was with did not want anything to do with disciplinary cases.

III. Comments on the Petition.

That brings me to why I do not believe the idea of merely four SCOW referees is efficacious.

I watched the Wisconsin Eye when SCOW discussed this matter and SCOW mentioned one obvious problem: you would now essentially have 4 new, full time employees.

The idea of having Reserve Judges who do not practice law and retired litigators as Referees, in my opinion is a good one; but 4 is not enough.

Those members of SCOW who have been litigators and/or Circuit Judges will realize that a trial/final hearing, is simply the tip of the litigation iceberg. There is scheduling including at least one and some times more than one Scheduling Conference, correspondence, a motion practice(some which mandate a separate hearing), Motions in Limine, Discovery Disputes, a Final Pretrial which is sometimes in person, written decisions prior to the Report and Recommendation, etc. Additionally, some Final Hearings are not completed in one sitting and occasionally, the Sanction Hearing is held separately from the Final Hearing. Since it is unlikely that a fully retired Reserve Judge or litigator will have a staff, all those functions will be handled personally by the Referee including setting up the file. That in itself will limit the number of matters that one Referee can reasonably be

expected to handle.

In addition, both sides have the right to substitute a Referee, and on occasion the Referee will recuse him or herself. For example, 2 recent Rhinelander cases involve members of my church, so I would not feel that it would be appropriate to take them on.

In my opinion, to make this system work, SCOW will need no less than a dozen Referees. I understand that the Bar thinks that having only 4 Referees will lead to consistency, but I have my doubts. There is no more likelihood that Referees will use the same format than it is likely that all Circuit Judges will use the same format. It is SCOW that is responsible for consistency in the final decision based upon the various Reports and Recommendations.

Some Referees feel the necessity to have post hearing briefs; others such as Judge John Murphy and I feel/felt comfortable in rendering a decision from the bench based upon our training as Circuit Judges. I told both sides to be prepared to make final arguments at the hearing. As you well know, delays lead to delays in rendering decisions.

IV. Conclusion.

Four SCOW Referees, working on their own, will not be able to handle the number of Disciplinary Cases that are in the system. Without a staff, much of the work that will have to be done is not Judicial in nature, but administrative. In as much as both a Respondent as well as OLR may file recusal requests, the Clerk will find herself appointing more than one Referee to single cases. There will be excessive travel for the Referees and I expect that Reports and Recommendations will be filed at a much slower rate.

I realise that my input is late, but in as much as I'm no longer involved in the Disciplinary System, I was reluctant to file anything; after chatting with one of the the Justices, I decided to do so, however.

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Hon. Timothy L. Vocke, Ret.

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Rhineland, Wisconsin Regional ADR Practice

Judge Vocke has mediated and arbitrated over 1,000 civil disputes during his career as a private neutral. He has extensive experience in the areas of personal injury, professional malpractice, E&O, contract, commercial, products liability, employment, wrongful termination and insurance coverage matters. Judge Vocke mediates and arbitrates throughout Wisconsin and Minnesota, and in Chicago.

Curriculum Vitae

- Circuit Judge - Vilas County - 1979 to 1983
- ADR Provider 1987 to present
- “AV” Rating by Martindale-Hubbell
- As a neutral, has presided in an excess of 1,000 mediations, arbitrations and other ADR proceedings.
- Seasoned litigator, having tried over 100 jury trials to verdict as an attorney advocate

Specialized Training

- One day’s mediation training in 1986 under the auspices of Wisconsin Supreme Court as a Medical Malpractice Mediator;
- Three days’ arbitration training under the auspices of the State of Wisconsin as an Interest Arbitrator in 1987;
- One-half day’s arbitration training under the auspices of the National Association of Security Dealers in 1998;
- Forty hour civil mediation course sponsored by the Wisconsin Supreme Court and provided by the John Paul Jones Group under the auspices of the National Judicial College in May of 1999 (one of 39 graduates of this, the first course of its type held in the State of Wisconsin)
- Member of faculty for the above mentioned civil mediation course in May of 2000
- One-day mediation course sponsored by the Wisconsin Supreme Court in March of 2002 entitled “Mediation: Its Potential and Limitations”

Other Training

- 1 week of Wisconsin Judicial College - 1978
- 3 weeks of National Judicial College - 1979
- 1 week Civil Litigation training at National Judicial College - 1981
- Articles: On mediation for CTCW, Wisconsin Opinions (May 28, 1997) and Wisconsin Law Journal (May 28, 2003)
- Teaching Experience: Wisconsin State Bar, CTCW, WATL and State of Wisconsin Judiciary

Education

- Graduate of the University of Wisconsin Law School 1973
- University of Kansas, BA 1970

Professional Experience

- Assistant District Attorney, Racine County, 1973 - 1976.
- District Attorney, Vilas County, 1976 - 1979
- Has tried over 100 jury trials to verdict.

Professional Activities

- State Bar of Wisconsin: Judicial Independence Committee (1987-1993), chair (1991, 1992);
- Bench Bar Committee 1996-2000 (2007 - present);
- Trial Judge of the Year/Lifetime Achievement Award Subcommittee, co-chair (1997-2000)
- Oneida-Vilas-Forest County Bar Association
- Legislative Council’s Special Committee on Pre-Trial Release (1980-1981)
- Wisconsin Supreme Court Code of Professional Responsibility Committee (1984-1985)
- Reserve Judge Representative to the Executive Committee of the Judicial Conference (1997-2003)
- Civil Trial Counsel of Wisconsin
- State Bar Representative to the Judicial Council (2000-2003)
- Former member of the Board of Directors of the State Bar Alternative Resolution Section

continued



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Professional Speaking & Writing

- Presentations to State Bar of Wisconsin, Civil Trial Counsel of Wisconsin, and Wisconsin Academy of Trial Lawyers on subjects including stress reduction in the workplace, the seat belt defense, and Alternative Dispute Resolution techniques including hands on demonstrations
- Presentations to Wisconsin Judicial Conference on subjects including security issues and civil law issues
- Wisconsin State Bar CLE Program on Ethics in the Real World, 1999 panel member
- Hearing Procedures for Wisconsin Supreme Court Referees, panel member
- Bench Book Project on Traffic, contributor
- Bench Book for Referees (a work in progress), contributor
- Author of articles for Wisconsin Opinions and CTCW Publications.

Community Activities

- Wisconsin High School Mock Trial coach at Rhineland High School, judge on regional, state and national levels
- Boy Scouts of America, District Chair of Headwaters District of Samoset Council (1985 to 1987) District Chair of Crystal Lake District (2006 to present)
- Boy Scouts of America Samoset Council Board Member (2006 to present)
- Boy Scouts of America Risk Management Committee (2007 to present)
- Former board of director's member of Northwood's Hospital of Phelps
- North Central Instructor's Black Belt Federation (1992 - present)
- Reactive self-defense instructor for: State of Wisconsin Judiciary, Rhineland School District and Wisconsin Conservation Corps
- Cellist for No Strings Attached
- Sam Dan Tae Kwon Do
- Sam Dan Hapkido
- Inducted into the World of Family Sokeship Council International Hall of Fame as a Instructor of the Year (1997)

To schedule a case with Timothy L. Vocke, contact Mike Weinzierl at mweinzierl@resolutesystems.com or 800-776-6060, ext. 125.

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