

SUPPORTING MEMORANDUM

In the Matter of the Petition
To Establish a Procedure for
Enforcement of Supreme Court
Disciplinary Orders

TO: Chief Justice Shirley S. Abrahamson
Justice Ann Walsh Bradley
Justice N. Patrick Crooks
Justice David T. Prosser, Jr.
Justice Patience D. Roggensack
Justice Annette Kingsland Ziegler
Justice Michael J. Gableman

Filed with the Clerk of Court Diane Fremgen
Clerk of Supreme Court
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The Board of Administrative Oversight (BAO), State Bar of Wisconsin, and Office of Lawyer Regulation (OLR) provide the following memorandum in support of the petition to establish a procedure for enforcement of Supreme Court Disciplinary Orders.

Petitioners believe that the Supreme Court has inherent constitutional authority to enforce its disciplinary orders. The Court has done so in Disciplinary Proceedings Against Hetzel, 124 Wis. 2d 462, 369 N.W.2d 394

(1985), and recently in Disciplinary Proceedings Against Lister, 2012 WI 102; 2012 Wisc. LEXIS 523.

Presently, Supreme Court Rules, Chapter 22, do not provide a procedure for enforcement of Supreme Court disciplinary orders. The Court has noted the absence of a procedure in Chapter 22 and directed the Office of Lawyer Regulation to prepare and file a rule petition. Lister, paragraph 29.

Petitioners propose that the Court create Supreme Court 22.18m as provided in Appendix A. Petitioners believe the procedures in Appendix A would provide due process to attorneys, would provide guidance to the Office of Lawyer Regulation and to referees, and would establish a framework for the Supreme Court to make decisions.

The proposed rule provides that the director or special investigator may file a motion with the court that states the grounds and requests relief. The Court would issue an order to show cause. Upon receipt of the motion, response from the attorney, and reply from the director or special investigator, the Court would decide the motion on the submissions or refer the matter to a referee. Referees would conduct hearings and file reports in accordance with the procedures in Supreme Court Rules 22.15 and 22.16.

Upon receipt of the referee report, or upon the submissions of the parties when no referral is made to a referee, the Court would dismiss or deny the motion, or impose enforcement measures, including suspension or revocation of the license of the attorney, conditions on continued practice or on seeking reinstatement, or monetary payment.

Finally, the rule would expressly preserve the authority under the rules of the director or special investigator to initiate an investigation or proceeding, as well as the constitutional, statutory, and inherent authority of the Supreme Court.

Respectfully submitted this ___ day of _____, 2013.

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