



STATE BAR OF WISCONSIN

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September 8, 2014

Wisconsin Supreme Court
110 East Main Street, Suite 215
P.O. Box 1688
Madison, WI 53701-1688

RE: Petition 14-01 (Crime Victim Privacy)

Dear Honorable Justices:

In response to Julie Ann Rich's Aug. 5, 2014, request for comment on petition 14-01, I ask that the court consider the attached comments from the State Bar of Wisconsin's Appellate Practice Section.

Thank you for your consideration. If you have any additional questions, please do not hesitate to contact State Bar of Wisconsin Executive Director George Brown or Public Affairs Director Lisa Roys.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Gagan'.

Robert R. Gagan, President
State Bar of Wisconsin
5302 Eastpark Blvd.
P.O. Box 7158
Madison WI 53707-7158

APPELLATE PRACTICE SECTION

MEMORANDUM

To: Carrie Janto, Deputy Clerk
From: State Bar of Wisconsin Appellate Practice Section
Date: September 8, 2014
Re: Support of Petition 14-01 with Proposed Change to 809.86(3)

The State Bar of Wisconsin's Appellate Practice Section has discussed this petition over the past year or so, as it affects a significant portion of our membership. We are happy to see that many of the concerns that we had with earlier iterations of the proposed rule have been addressed.

In all, the Appellate Practice Section Board supports this petition in its current form, as we believe it will address a much-needed area of concern with respect to the rights of victims of crimes. Protecting the identity of crime victims in appellate filings is a worthy objective, and this proposal does that without requiring the use of particular labels to designate victims. However, we do ask that the Court consider a substantive change to the language of the proposed rule.

Proposed Change to 809.86(3)

The proposal states that the parties “may identify a victim by one or more initials or other appropriate pseudonym.” We think that the term “pseudonym” is a bit misused in this context. Our understanding is that the Judicial Council is using that word to allow the use of generic descriptors, such as “victim,” “complainant,” “student,” “child,” “neighbor,” etc., even though most dictionaries define “pseudonym” as a fictitious *name* used to conceal one's identity. We would not want courts to insist that counsel assign victims fake names (e.g., “John Doe”) in order to refer to them, and we would hope that they would not interpret “pseudonym” in that way. Perhaps the phrase “or other appropriate designation” would be better. Within the context of the rule, the only designation that would be appropriate would be one that protects the identity of a victim, but it would properly ensure practitioners have more flexibility with respect to terms they use.



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