
**In re Matter of the Review
of the Office of Lawyer Regulation****MEMORANDUM IN
SUPPORT OF
PETITION 15-__**

This matter comes before the Wisconsin Supreme Court upon the petition of Chief Justice Shirley S. Abrahamson of the Wisconsin Supreme Court to create supreme court rules providing for review of the Rules of Professional Conduct for Attorneys (SCR ch. 20) and the organization, operation, and procedures of the lawyer discipline system (including SCR ch. 21, 22) and the creation of a Lawyer Regulation Review Committee. The petition is being submitted to assure that the subject of the petition is properly before the court. See Open Rules Petition Conference Agenda, Jan. 20, 2015, item K (Rule Petition 13-04).

The current lawyer discipline system was established 15 years ago. Since then, several lawyer regulation cases¹ and rule petitions² have raised issues relating to the Rules and the functioning of the lawyer discipline system, including the time for initiating and completing discipline cases; OLR's discretion in charging, dismissing charges, and diversion; the use of OLR's scarce resources used for minor violations of the Rules; allowing respondent lawyers to

¹ See, e.g., OLR v. Kratz, 2014 WI 31, ¶¶98-104, 353 Wis. 2d 696, 851 N.W.2d 219 (Prosser, J., concurring in part & dissenting in part); OLR v. Johns, 2014 WI 32, ¶¶68-76, 353 Wis. 2d 746, 847 N.W.2d 179 (Abrahamson, C.J., dissenting); OLR v. Osicka, 2014 WI 33, ¶¶34-38, 353 Wis. 2d 656, 847 N.W.2d 343 (Abrahamson, C.J., concurring); id., ¶¶40-58 (Prosser, J., dissenting); OLR v. Osicka, 2014 WI 34, ¶¶35-39, 353 Wis. 2d 675, 847 N.W.2d 333 (Abrahamson, C.J., concurring); id., ¶¶41-54 (Prosser, J., dissenting).

² See, e.g., Rule Petition 13-04 (petition of OLR's Board of Administrative Oversight and State Bar of Wisconsin to amend the rules relating to referees in the lawyer regulation system); Rule Petition 13-06 (petition of OLR's Board of Administrative Oversight and State Bar of Wisconsin relating to stipulations in lawyer disciplinary proceedings); Rule Petition 13-12 (petition of OLR's Board of Administrative Oversight relating to public notice of formal investigations); Rule Petition 14-06 (OLR's petition relating to exercise of discretion by OLR director and staff); Rule Petition 14-07 (OLR's petition relating to electronic banking procedures for trust accounts). Rule petitions are available online at <http://www.wicourts.gov/scrules/supreme.htm>.

appear before the Preliminary Review Committee; the possible disbanding of the Preliminary Review Committee inasmuch as apparently over 90% of the OLR's recommendations are accepted;³ and the bifurcation of proceedings before the referee into hearings on the alleged violation of the Rules and on the recommended sanctions.

This petition enables the court to facilitate an impartial, objective review of the Rules and the lawyer discipline system and to address issues in the lawyer regulation system in a comprehensive manner rather than piecemeal in opinions and rule making.

In 2014, OLR Director Keith Sellen consulted with John S. Gleason, Of Counsel, Colorado Supreme Court Office of Attorney Regulation Counsel, and Jerome E. Larkin of the Supreme Court of Illinois' Attorney Registration and Disciplinary Commission, seeking ways to improve the management and operation of OLR. Their report, attached as Appendix A, provides nine key recommendations for change and has already prompted the filing of rule petitions.⁴ The creation of a Lawyer Regulation Review Committee as proposed by this rule petition would allow for further review of the Rules and the lawyer discipline system.

Respectfully submitted this ____ day of _____, 2015.

Shirley S. Abrahamson
Chief Justice
Wisconsin Supreme Court

³ Johns, 353 Wis. 2d 746, ¶69 (Abrahamson, C.J., dissenting).

⁴ Rule Petition 14-06 (OLR's petition relating to exercise of discretion by OLR director and staff); Rule Petition 14-07 (OLR's petition relating to electronic banking procedures for trust accounts). Other rule petitions relating to the subject of this petition are pending. See., e.g., Rule Petition 13-04 (relating to referees in the lawyer regulation system); Rule Petition 13-05 (relating to enforcement of supreme court disciplinary orders).

APPENDIX A