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**MARY M. KUHNMUENCH**  
Judge, Branch 5

**MR. TOMARA A. PULLIAM**  
Deputy Court Clerk -  
Judicial Assistant

December 5, 2016

Clerk of Supreme Court  
Attention: Deputy Clerk-Rules  
P.O. Box 1688  
Madison, WI 53701-1688

RE: Rule Petition 16-04, In re amendment of Supreme Court Rule Chapter 20 relating to Limited Scope Representation

Dear Justices of the Supreme Court:

We write in support of the proposed amendment to SCR 20:2.4 creating a new sub (c) to allow lawyer – mediators to draft settlement documents in family cases. This petition seeks to amend the existing Rule governing lawyers acting as neutrals to allow a lawyer who is serving as a mediator in a case arising under Chapter 767 of the Wisconsin Statutes to draft, complete, modify, or file documents that confirm, memorialize, or implement the results of the mediation. The underlying premise of the proposed amendment is that such drafting is simply an extension of the mediation process as long as the lawyer maintains a position of absolute neutrality throughout the process and the participants give their informed consent. (The Rule sets forth various safe guards designed to ensure that such consent is truly informed and that the lawyer – mediator drafting the documents remains neutral.)

We note that the proposal, which is an outgrowth of the PPAC subcommittee on limited scope representation, has been widely vetted with a number of constituencies and enjoys the support of the Ethics Committee and the Family Law Section of the State Bar of Wisconsin, OLR, the Wisconsin Lawyers Mutual Insurance Company and the Association of Family Court Commissioners.

The simple truth is that the overwhelming majority of people involved in family court cases do not hire lawyers. Equally true is that the family courts encourage resolution through the use of alternative dispute resolution. In family law cases involving children, achieving a voluntary settlement is especially valuable to the parties. It is not enough that the parties reach an agreement, however; for sake of clarity and predictability, and to ensure the parties and the judge understand the terms they have agreed on, the agreement must be reduced to writing in the form of a Marital Settlement Agreement. There are several other documents including a financial disclosure form and Findings of Fact Conclusions of Law and a Judgment of Divorce that must

also be drafted and submitted to the court. Although most lawyer-mediators would be competent to prepare such documents, various rules have prevented them from doing so. The proposed amendment will provide family law litigants with access to the help of lawyer-mediators practicing within the code of ethics, who after assisting the parties to reach agreement freely, knowingly and fairly, could assist them in efficiently and properly completing the family court process. We believe that the amendment would be a positive step forward for the public, the courts and the legal profession, and urge its adoption.

Sincerely,

Milwaukee County Circuit Court Family Division  
Hon. Michael Dwyer, Presiding  
Hon. Mary Kuhnmuench  
Hon. Kevin Martens  
Hon. Richard Sankovitz  
Hon. Paul VanGrunsven