

**BAYFIELD COUNTY CIRCUIT COURT
TENTH JUDICIAL DISTRICT OF WISCONSIN
BAYFIELD COUNTY COURTHOUSE**

Hon. John P. Anderson
Circuit Judge

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Clerk of Supreme Court
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re: Rule Petition 17-06, In re petition to amend SCR 81.02

I write this letter in support of Rule Petition 17-06 regarding compensation for court appointed attorneys.

As a judge in a single judge county, I have firsthand experience with attempting to find lawyers willing to take court appointed cases at the present rates. Many attorneys will accept the present rate for guardian ad litem appointments, but in cases that are more complex or time consuming, or will require a jury trial, the present rate simply is not acceptable to most attorneys.

When I have to appoint an attorney for someone who does not qualify for a State Public Defender in criminal cases, if the case has one or more felony charges, I have had to agree to pay the court appointed lawyer an hourly rate above the present rate set by SCR 81.02. I have had to agree to rates of \$100/hour or slightly more. While qualified defense attorneys with trial experience may accept an enhanced rate, even though it is well below market value, they agree to take the cases out of concern for the defendant's rights and the integrity of the system.

This problem is exacerbated by a new phenomenon taking hold in my court and other rural courts. In the last year or two, I have had to appoint lawyers at higher rates for criminal defendants who *are* eligible for public defender representation, but the public defender's office cannot find an attorney willing to accept the very low reimbursement rate paid. I have had individuals sitting in jail unable to post cash bond in serious felony cases for upwards of four to six weeks without representation. Once such a lengthy time has passed, I feel I have no choice but to find an attorney at county expense. I find it hard to conclude that allowing someone to be held in custody without legal representation for that long is something other than a constitutional crisis. It is also becoming an unfunded mandate imposed upon the counties, requiring that they shoulder the costs which are supposed to be covered by the state through the public defender's office.

I would like to put this issue in perspective by referring your attention to other professional expenses that each local circuit court must budget for and pay. In mental

commitment cases, whether adult or juvenile, the court must appoint medical examiners to evaluate a person held after probable cause has been found. Even in the far northern reaches of our state, I am confronted with approving bills from our local behavioral health facility for evaluations performed by a Doctor of Psychiatry or a PhD level psychologist. We are charged \$245.84 per quarter hour for a psychiatrist and \$135.59 per quarter hour for a psychologist. *This equates to an hourly rate of \$983.36/hour and \$542.36/hour respectively!* I point these costs out not to suggest lawyers need to be paid the same, but to illustrate that judges must utilize other professionals in a variety of cases and must pay the costs of those services as well. Those costs go up all the time. We do the best we can and work with our local county administrators and local medical providers to negotiate fair rates. In mental commitment cases, I have had lawyers appointed by the public defender's office, often with years of experience, sitting in court getting paid \$40.00/hour cross-examining a psychiatrist getting paid \$983.36/hour and both are being paid by tax dollars. I find it difficult to justify such disparity.

The present rule petition is a step in the right direction. It will not solve all of our problems, but at it will help and it will send a message. I doubt any of us in the justice system enjoy seeing how Wisconsin compares with other states regarding rate of pay for attorneys in these very important cases. I had hoped our friends in the legislative and executive branches would have considered these problems and taken steps to remedy them by now. They have not.

I ask the Court to consider seriously approving this petition or something substantially close to the same.

Very truly yours,

/S/ John P. Anderson

John P. Anderson
Circuit Judge

cc: e-copy to clerk@wicourts.gov
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Atty. Henry R. Schultz