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April 30, 2018

*VIA E-MAIL (clerks@wicourts.gov / carrie.junto@wicourts.gov)*

Supreme Court of Wisconsin  
Attention: Deputy Clerk – Rules  
PO Box 1688  
Madison, WI 53701-1688

RE: In Re The Petition to Amend SCR 81-02

Dear Honorable Supreme Court Justices:

I submit this comment in support of the above-referenced petition.

The Petition includes statistics. Here are my statistics. I have a 2012 Dodge Durango that was purchased in October 2015 with about 55,000 miles. As of this weekend, the odometer is passing over 203,000 miles. Over 66,000 miles were incurred last year. Over 70% of those miles were for my legal practice. Over 90% of those miles were for court appointed and state public defender appointed cases.

I am compensated at 51 cents per mile, notably less than the federal mileage rate, 60-90 days after the completion of a state public defender case. For the court appointed cases, my travel is compensated by payment of mileage. For the state public defender cases, my travel is compensated by payment of mileage as well as an hourly rate of \$25 per hour. My home is my office. We moved to Dunn County in late 2017, so that my wife could be closer to work. My closest county for SPD coverage in 2017 was Eau Claire. My farthest county for SPD coverage in 2017 was Bayfield County (round trip of 348 Miles). The average week involves at least 40% of my billable hours being spent on the road. My 2017 SPD coverage included the following counties: Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Dunn, Eau Claire, Jackson, Langlade, Lincoln, Monroe, Pepin, Price, Rusk, Sawyer, Taylor, Trempealeau, and Washburn. My 2017 court appointed coverage included Chippewa, Eau Claire, Sawyer, and Washburn.

I did not emerge from law school with a passion for being a public defender. My first three years of practice were in the high-volume world of collections law, which in hind sight was great preparation for the high-volume world of criminal defense, specifically public defender work. My next two years were in a rural small town practice in Southeastern Minnesota, where I became exposed to criminal law both as a city prosecutor and doing criminal defense. In 2015, life and my legal career brought me home to Wisconsin. At my swearing in, Justice Prosser,

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who was also my deacon while growing up in Outagamie County, reminded me of my duty as an officer of the court to represent all those in need of representation, including the indigent.

To that end, I left a respected law firm to go into practice on my own so that I could maximize the number of court appointed and public defender cases I could take. For me, this petition is not about increasing my profit. It's about putting as many starfish back in the sea as possible. In order to increase the number of starfish going back in the sea, the State needs to increase the number of people putting those starfish back. I admittedly enjoy traveling beautiful northern Wisconsin, interacting with attorneys and judges throughout the state, and getting an opportunity to meet citizens who have been charged with crimes. However, I travel to many locations where there are local and regional attorneys who aren't taking public defender appointments. If these local public and regional attorneys took public defender appointments, I could narrow my range to more fully meet the needs of the region where I live.

Moreover, for similarly situated solo attorneys, the increase of the rate provides the ability to hire at least one staff person. There are only 24 hours in the day. Despite our best efforts, we need to schedule sleeping and time away from the legal practice. A legal assistant or paralegal gives these indigent clients a voice on the other end of the phone instead of a voice mail. The time currently spent doing necessary unbillable administrative work could be spent with increased time on the case, including increased client in person contact, as well as an expedited resolution for our clients. In addition to clients, it provides a voice on the other end of the phone for court staff to aid court administration in scheduling.

In addition to hiring at least one person, more senior, experienced attorneys, could hire an associate to mentor. This is a benefit to the practice and to clients. This past week the Wisconsin Association of Criminal Defense Lawyers held its second annual conference. After an exceptional educational experience last year, I was unfortunately unable to attend this year based on my busy SPD schedule. The mentoring and assistance available through this organization is an immense to myself and other young criminal defense attorneys. The ability for the senior attorneys to relay their experience and knowledge to the next generation is money well spent by the state in increasing the rate.

Finally, the concept of putting starfish back in the sea isn't just limited to obtaining acquittals for not guilty persons. It's providing a voice at a bail modification hearing that the defendant may not have had at the initial bail hearing so that they can fight for their defense outside of jail.

It's providing a native American family struggling with addiction with not only an advocate for their criminal issues but also an advocate for their civil issues with regard to Child Protective Services – Indian Child Welfare Act actions. While we see the impact of methamphetamine on



non-native communities, the Lac Court Oreilles, Bad River, and St. Croix Chippewa communities are also losing generations to methamphetamine. It's important for these parents to have a voice in the process from the very beginning of the process. It's also important for them to have counsel who can also stay with them for the duration of the process. Often payment to attorneys who represent respondents in these cases are advancing the state of Wisconsin billable hours and mileage for years before the case comes to completion.

It's providing a voice to someone going through a Chapter 51 or Chapter 55 commitment. It's making sure that due process is followed.

It's providing a voice to someone going through the congested Child Support Enforcement, so that they stop digging the whole of arrears any deeper and their story is told.

For all these reasons, I support and ask for the adoption of this Petition.

Sincerely,

*Electronically signed by Matthew Z. Kirkpatrick*

Matthew Z. Kirkpatrick  
Attorney at Law