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Sent Via Electronic Mail

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

RE: Written Comments Regarding Rule Petition 19-04 and 19-05

Dear Clerk of Supreme Court:

Thank you for the correspondence regarding Petition 19-04 and 19-05. I am writing as a practitioner with several comments regarding the two Petitions. I am commenting on the two Petitions in one correspondence because I consider the two Petitions to be clearly linked together and considerations regarding the authority of a Referee are greatly impacted by who is selected to serve as Referee.

Before commenting, I must make it clear that I am writing as a member of the State Bar of Wisconsin and a practitioner in the field of ethics and professional responsibility. I currently serve as Chair of the Committee on Professional Ethics of the State Bar of Wisconsin but I am not writing in that capacity. I would also appreciate the opportunity to provide oral comments to the Court at the hearing on June 6 regarding both of these Petitions but again such comments will be in my personal capacity and not in my capacity as Chair of the State Bar Committee on Professional Ethics. I may be asked to make comments on behalf of the Board of Governors of the State Bar of Wisconsin; however, that would be in a separate capacity.

Generally speaking, I write in support of Petition 19-04 and 19-05 except as it relates to the authority of a Referee to issue of disciplinary suspension of up to three months. I do not support that portion of Petition 19-05 which authorizes a Referee to issue a Disciplinary Suspension to a lawyer in an amount of up to three months as I believe that any type of suspension of a law license should be made by the Supreme Court because of the serious nature of that type of discipline.

I offer the following further comments for consideration by the Court:

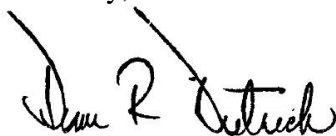
- I think that the number of 24 Referees is too high a number of individuals that would be available to consider a lawyer discipline matter. I believe it will be a challenge for the Court to sign up 24 lawyers to serve in that capacity and I would recommend that the panel of Referees be limited to 12-15 referees.
- Throughout the two Petitions, there is a clear focus on assigning a Referee from the geographical Region where the lawyer is located. While I do understand and appreciate

that geographical location should be criteria for assigning a Referee to consider a pending matter, I do believe that the quality of the Referee should be an overriding criteria and should supersede the decision to select a particular Referee based upon geographic location.

- I applaud the commitment to the training of Referees in order to provide a high-quality Referee decision and a decision that would follow established requirements for the consideration and determination by the Referee. I also recommend that the Supreme Court ask for an evaluation of the Referee from the parties involved in a litigation matter so that the Court has some level of documentation that could be reviewed on a regular basis to determine whether the appointed Referee is of sufficient quality to continue to serve as Referee.
- I agree with the proposed changes in Petition 19-05 that would allow a Referee to approve a consensual discipline matter which would result in the suspension of a lawyer license or a Stipulation by OLR and the lawyer to proposed facts and discipline and I would recommend that those type of proceedings not be subject to appeal for review by the Supreme Court. If OLR and the lawyer are able to reach an agreement for either a Stipulation or a consensual discipline, that proceeding should be subject to review by a Referee and the decision by the Referee should be final. I believe this would reflect some current practices before the Court.
- While I believe that this would not be a common occurrence, I do agree with the portion of the Petition that would allow or authorize a Referee to make a decision regarding the issuance of either a private reprimand or a public reprimand and that such decision would be final unless appealed to the Court for review. This would place a higher responsibility on OLR and the Respondent Attorney to properly litigate the matter before a Referee knowing that the decision of the Referee would typically be final.
- I do not agree with the proposal that a Referee be authorized to issue up to a three-month suspension of a law license. It is not clear to me whether a proceeding involving a Complaint for suspension of a law license for three months or less is the proceeding being considered under this Rule change or whether a Complaint could be filed seeking a longer suspension but the Referee chooses to issue a less than three month suspension and therefore the matter is considered final unless a request for review is filed with the Court. Since it is likely that a request for review will be filed in the case of a law license suspension as discipline, I believe it is best to keep the current process in place where the Referee prepares a Recommendation and Report that is considered by the Court.

I look forward to presenting information to the Supreme Court about these matters. Thank you for the opportunity to comment regarding these proposed Rule changes.

Sincerely,

A handwritten signature in black ink, appearing to read "Dean R. Dietrich". The signature is written in a cursive style with a large initial "D" and "R".

Dean R. Dietrich