

May 21, 2019

Clerk of the Supreme Court  
P.O. Box 1688  
110 East Main Street, Suite 215  
Madison, WI 53701

RE: Petition 19-16 to Amend Wis. Stat. Chapter 802

Dear Honorable Justices of the Wisconsin Supreme Court:

I am writing in support of Petition 19-16 filed by Quarles & Brady LLP. The Petition requests that the Court amend the Rules of Civil Procedure to restore the important role of “ghostwriting” in *pro bono* limited scope legal representation.

I engage in *pro bono* limited scope representation of clients of the Family Law Clinic of the Marquette Volunteer Legal Clinic, and provide that brief legal advice and drafting of documents at the Milwaukee Justice Center located in the Milwaukee County Courthouse. I do this through the Leander J. Foley, Jr., Matrimonial Chapter of the American Inns of Court, and have done so for many years. In 2015, the Leander J. Foley, Jr., Matrimonial Chapter of the American Inns of Court received the Pro Bono Publico award from the Milwaukee Bar Association for the amount of members we have had volunteer at the Family Law Clinic.

Many members of the Leander J. Foley, Jr., Matrimonial Chapter of the American Inns of Court, including me, discontinued or reduced their participation in that *pro bono* work after the 2018 amendment of Wis. State. Sec. 802.05(2m). One of the hallmarks of giving brief legal advice and drafting documents is that the volunteer attorney will not be going to court with the client or providing further legal work beyond that provided in the Clinic during Clinic hours.

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I became--and remain--worried that disclosing my name and bar number on documents drafted in a brief legal advice clinic setting would give the Clinic client the impression that I was now their attorney, and that they would be able to look me up on the Internet or otherwise and contact me further about their case outside of the clinic setting.

In addition, although I certainly would never ghostwrite a frivolous pleading, I have concerns that if a Clinic client later was not successful at her or his court appearance arising from the documents I drafted, the judge might hold it against me that I drafted the pleadings in the first place, even though I have no control over how the Clinic client presented his or her case in court. This could harm my reputation with that judge to the detriment of paying clients I represent through my law firm.

I also am concerned that Clinic clients might make edits/additions to documents after I draft them but before those clients file them with the court, including perhaps adding a frivolous claim for relief. Again, with my name and bar number on such a pleading, I am concerned that a judge might hold it against me because she or he does not know who drafted what portion of a pleading that now has my name and bar number on it.

Although my commitment to providing our most disadvantaged with access to justice has caused me to return to working in the Family Law Clinic after a period of time in which I avoided it because of the 2018 amendment, such has not been the case with other members of the Leander J. Foley, Jr., Matrimonial Chapter of the American Inns of Court, who have not returned to staffing the Family Law Clinic. I personally remain concerned and upset when I have to sign and put my bar number on documents I prepare at the Family Law Clinic.

Legal services are expensive and the clients I serve at *pro bono* clinics rely on limited scope representation like ghostwriting to access justice. I urge you to restore the important role of ghostwriting in limited scope legal representation to avoid the very real reluctance of lawyers to provide *pro bono* services to the low-income community members who need *pro bono* assistance the most.

Thank you for your consideration of this letter. I am enclosing nine copies of this letter and will also send it via email to your office.

Yours very truly,

SCHMIDT, RUPKE, TESS-MATTNER & FOX, S.C.

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