

**STATE OF WISCONSIN
SUPREME COURT**

In the matter of:

**The petition of the State Bar of Wisconsin
proposing revisions to SCR 12.02(6) and SCR 12.03(7)
concerning the Lawyers Assistance Corporation**

**MEMORANDUM IN SUPPORT OF STATE BAR OF WISCONSIN'S PETITION FOR
REVISION OF SUPREME COURT RULE 12.02(6) AND 12.03(7)**

To: The Honorable Justices of the Supreme Court

The State Bar of Wisconsin has petitioned the Court for a revision to Supreme Court Rules 12.02(6) and 12.03(7), concerning the relationship of attorneys appointed as trustees to handle the law practices of sole practitioner who have died, disappeared, or become medically incapacitated and the Lawyers Assistance Corporation ("Corporation") which was created by the State Bar of Wisconsin in response to these Rules. The Board of Governors approved this petition on February 26, 2010, by a unanimous vote. The Board of Governors acted upon the recommendation of the board of directors of the Corporation, which voted unanimously on March 31, 2009, to dissolve for reasons explained below.

The State Bar has filed a separate petition setting forth the specific rule changes sought.

History of the Lawyers Assistance Corporation

Supreme Court Rules 12.02 and 12.03 sets forth a system which may be used by the circuit courts of this state to appoint trustee attorneys to handle the law practices of sole practitioners who have died, disappeared, or become medically incapacitated.

Following discussions by Bar leaders in the early 1990s, the concept of creating a procedure to handle the practices, offices and files of sole practitioners who die, disappear, or become medically incapacitated was introduced to the Supreme Court in 1992. After further refinement of the concept, in December 1993 the Supreme Court promulgated SCR 22.271 (now SCR 12.02 and 12.03) establishing a procedure for circuit court judges throughout the state to appoint trustee attorneys to address these concerns. The Corporation was incorporated in April 1994 to provide services under the Rules. Its primary purpose was to create an entity through which to

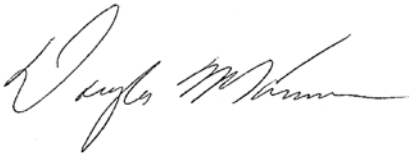
obtain professional liability insurance against potential malpractice claims arising from the acts of the attorneys as trustees.

The program envisioned by the Rules has been used only sporadically. Those situations addressed by the Rules (and others, such as the abandonment of a practice without death, disappearance or incapacity, or the death of the only active practitioner in a small firm) are often dealt with by the local legal community without accessing a formal, structured plan. The State Bar of Wisconsin has continued to maintain professional liability insurance in the name of the Corporation to protect those trustee attorneys acting under the Corporation. It has also helped some trustees meet out of pocket expenses such as postage and file storage.

Justification for Proposed Rule Change and Dissolution of the Corporation

The Corporation's board of directors has concluded that the Corporation no longer serves any significant function. Most professional liability insurance carried by those who might serve as trustees covers these risks now. The State Bar of Wisconsin has coverage for those attorneys performing *pro bono* services under its aegis and the trustee services appear to fit under it. With its primary function in the program gone, and with the program, to the extent it is used, able to function without it, there is no reason to perpetuate the Corporation. The proposed Rule change takes the Corporation out of the Rules and authorizes its sole member, the State Bar of Wisconsin, to dissolve it.

Respectfully submitted, this 29th day of June, 2010



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