

In the Matter of the Petition for
Amendment to Supreme Court
Rule 10.03(4)(b)2 Relating to
Pro Hac Vice Applications

PETITION 17-09

RESPONSE OF PETITIONER TO COMMENTS RECEIVED

The petitioner in this matter, the Wisconsin Access to Justice Commission, by its president, James A. Gramling Jr., hereby submits the following response:

1. All comments directly addressing the merits of the petition support the petition.

Eighteen comments on this petition were filed with the Court. The comments included five from Native American tribes based in Wisconsin and Minnesota, one from an Indian Law Clinic in Michigan, and another from the Wisconsin Tribal Judges Association. In this group of seven, four commenters specifically expressed support for the petition's request to raise the pro hac vice fee and three were silent on the merits, choosing instead to focus on a requested amendment.

The remaining eleven comments expressed unanimous support for the Commission's request that the court increase the pro hac vice fee as requested. Eight of these comments come from organizations that provide direct representation and other advocacy services to low-income and vulnerable residents on a broad range of civil legal problems. Some of these organizations provide services statewide (Disability Rights Wisconsin, ABC for Health, and End Domestic Abuse Wisconsin), while others cover large regions (Legal Action of Wisconsin, Wisconsin Judicare) or a single county (Legal Aid Society of Milwaukee, Centro Legal, and Portage County Legal Aid Society). Whether they rely primarily on staff attorneys or volunteers, federal funding or private donations, they represent the down and out in our state and they agree that the Access to Justice Commission has been a valuable ally in their work. We are also grateful for the support expressed by the State Bar of Wisconsin, the Wisconsin Trust Account Foundation, and Dean Margaret Raymond of the University of Wisconsin Law School. All three have significant stakes in the goal of expanding equal access to justice in Wisconsin, and all three support the increase in funding to the Commission that will result from approval of the petition.

2. The Commission supports the amendment requested by the tribal representatives.

The tribal representatives have requested a further amendment to SCR 10 to exempt a class of attorneys from paying pro hac vice fees altogether: attorneys who want to appear and participate pro hac vice in a Wisconsin case on behalf of an out of state tribe to deal with child custody matters under the Indian Child Welfare Act. The Commission believes this is a reasonable and fully supported request. Although, if granted, the amendment would reduce the total fee revenue made available to the

Commission, we do not believe it would be a significant amount and it would support an important state and federal public policy goal of ensuring that tribes have an opportunity to participate effectively in cases where the custody of Native American children is at issue.

3. The Commission's budget projections demonstrate a clear need for the additional revenue.

A copy of the Commission's December 31, 2017, finance report is filed with this response. This report comes halfway through its 2018 fiscal year running July 1, 2017 through June 30, 2018. To put this report in context:

- Our current budget anticipates revenue from three sources: a grant from the State Bar's Family Law Section (\$5,000), an in-kind contribution from the State Bar (\$20,000), and pro hac vice fees (\$30,000). Our expenses for a minimum amount of staff support and expenses is at least \$66,564, leaving a projected deficit of \$11,564.
- We do not yet have a firm commitment for \$5,000 from the Family Law Section but we did receive \$3,022 from the State Bar as the final distribution from the original State Bar reserve fund.
- The only revenue we can expect during the next six months is approximately \$15,000 in pro hac vice fees whereas monthly expenditures are running about \$4,500. Thus, we will likely run out of money to run the Commission in April, 2018.
- The current budget has been pared down significantly from past years, and many members of the Commission have forgone submitting expense reimbursement requests.

As the Court will see, our situation is precarious. If the Court grants the petition there will be adequate revenue to meet our necessary expenses. In addition, we will be able to restart outreach efforts to educate private foundations about opportunities to connect with their natural allies in legal aid, participate in coordinated efforts to develop expanded online resources for self-represented litigants and pro bono attorneys, and help implement a statewide messaging and media campaign to make sure that our message reaches more people.

The Court gave the Access to Justice Commission a major charge and challenge, which our members take very seriously. A favorable ruling on Petition 17-09 will greatly help us meet them.

Respectfully submitted this 5th day of February, 2018

James A. Gramling Jr., President
Wisconsin Access to Justice Commission
State Bar No. 1014072

Access to Justice Commission
Statement of Financial Position

As of

12/31/2017

12/31/2016

Assets

| | | | | |
|-----------------------------|---------------|-------------|---------------|-------------|
| Current Assets | | | | |
| Cash | 11,846 | 100% | 13,252 | 71% |
| Due From Affiliates | 0 | | 5,000 | 27% |
| Deposits & Prepaid Expenses | 0 | | 415 | 2% |
| Total Current Assets | 11,846 | 100% | 18,667 | 100% |
| Total Assets | 11,846 | 100% | 18,667 | 100% |

Liabilities and Fund Balance

| | | | | |
|---|---------------|-------------|---------------|-------------|
| Current Liabilities | | | | |
| Accounts Payable | 0 | 0% | 0 | 0% |
| Due to State Bar of Wisconsin | 1,619 | 14% | 0 | 0% |
| Total Current Liabilities | 1,619 | 14% | 0 | 0% |
| Fund Balances | | | | |
| General Fund Balance | 1,149 | 10% | 1,149 | 6% |
| Current Net Surplus (Deficit) | 9,078 | 77% | 17,518 | 94% |
| Total Fund Balances | 10,227 | 86% | 18,667 | 100% |
| Total Liabilities & Fund Balance | 11,846 | 100% | 18,667 | 100% |

Access to Justice Commission
Statement of Activities

For the Six Months Ending December 31, 2017

| | Current | Prior | Current |
|--------------------------------|-------------------|---------------------|-----------------------------------|
| | This Month | Year-To-Date | Year-To-Date Annual Budget |
| Revenues | | | |
| Grant Revenue | 0 | 3,022 | 13,293 |
| Gifts/Memorials | 0 | 0 | 5,100 |
| SBW Donated Personnel | 1,926 | 20,000 | 0 |
| Other Fee Revenue | 2,500 | 14,400 | 13,500 |
| Miscellaneous Revenue | 0 | 0 | 20,000 |
| Total Revenues | 4,426 | 37,422 | 51,893 |
| Expenses | | | |
| Audio Visual Expense | 0 | 0 | 35 |
| Catering Expense | 181 | 918 | 848 |
| Internet Access Expense | 48 | 48 | 517 |
| Miscellaneous Expense | 0 | 54 | 110 |
| Postage Expense | 4 | 18 | 51 |
| Printing Expense | 68 | 68 | 0 |
| Professional Services | 0 | 3,000 | 2,650 |
| Staff Travel & Education | 0 | 38 | 17 |
| Office Supplies | 0 | 0 | 13 |
| Telephone Expense | 0 | 2 | 143 |
| Volunteer Travel Reimbursement | 658 | 2,636 | 2,960 |
| Conference Attendance | 0 | 0 | 4 |
| Total Direct Expenses | 959 | 6,781 | 7,348 |
| Administrative Expenses to SBW | 3,489 | 21,563 | 27,026 |
| Total Expenses | 4,448 | 28,344 | 34,374 |
| Net Surplus (Deficit) | (22) | 9,078 | 17,518 |
| | (11,564) | | |

Access to Justice Commission
Statement of Cash Flows
For the Six Months Ending December 31, 2017

| | | |
|--|-----------------------------|--|
| Cash flows from Operating Activities | | |
| Excess of Revenues over Expenses | \$ | 9,078 |
| Adjustments to reconcile to cash provided by Operating Activities: | | |
| Depreciation Expense | \$ | - |
| (Gains) & Losses on Investments | | - |
| (Increase) Decrease in Accounts Receivable | | - |
| (Increase) Decrease in Pledges Receivables | | - |
| (Increase) Decrease in Prepaid Expenses | | - |
| Increase (Decrease) in Accounts Payable | | - |
| Increase (Decrease) in Amounts Due to State Bar of Wisconsin | | (10,216) |
| Increase (Decrease) in Grants Payable | | - |
| Increase (Decrease) in Revenue in Advance | | - |
| Net Cash provided by (used by) Operating Activities | <u> </u> | \$ (1,137) |
| Cash flows from Investing Activities | | |
| Additions to Property & Equipment | \$ | - |
| Proceeds from sale of Property & Equipment | | - |
| Purchases of Investments | | - |
| Proceeds from sale of Investments | | - |
| Net Cash provided by (used in) Investing Activities | <u> </u> | \$ - |
| Cash flows from Financing Activities | | |
| Proceeds from Borrowing | \$ | - |
| Payments of Debt | | - |
| Increase in Fund Balances | | - |
| Net cash provided by (used by) Financing Activities | <u> </u> | \$ - |
| Net Increase (Decrease) in Cash and Cash Equivalents | | \$ (1,137) |
| Cash & Cash Equivalents at beginning of period | | <u> </u> \$ 12,983 |
| Cash and Cash Equivalents at end of Period | | <u><u> </u></u> \$ 11,846 |