

## SUPREME COURT AGENDA

**Open Rules Conference**  
**Tuesday, June 11, 2013**  
**9:00 a.m.**  
**Supreme Court Hearing Room**

### Open Rules Conference Matters

- I. Rule Petition 10-09: In the Matter of the Petition for Amendment of various Rules in Chapter SCR 20 filed 10/21/10 by John Nicholas Schweitzer. Returned to Mr. Schweitzer. **Attorney Schweitzer filed amended petition 4/23/13; Preliminary Memo (with copy of amended petition) distributed 6/3/13.**
- II. Rule Petition 12-01: Report on Court's Rule Making Function (Report and Recommendation of the Wisconsin Supreme Court Advisory Committee on Rule Procedures submitted to the Supreme Court in May 2011 regarding the court's rule making function). Public hearing held: 3/5/12; held by PDR, April 2012; PDR filed draft rule proposal 11/28/12; Court discussed at rules conf. on 1/22/13; PDR filed red-lined (track changes) copy of draft rule proposal on 1/23/13; SSA draft letter to interested parties circulated to court 2/5/13. Court discussed at rules conf. on 2/28/13; on vote of 4 to 3 court approved "calendar cycle" model proposed by PDR; letter to interested parties to be re-drafted. **JR revised and circulated letter to interested parties on 4/3/13. PDR submitted revised version of letter to court at open conf. Court discussed at 4/12/13 open conf.: SSA holds letter.**
- III. Rule Petition 13-01: Petition to amend SCR 31.05(6) to grant attorney members of Preliminary Review Committee and Special Preliminary Review Panel CLE credit, filed 1/8/13 by OLR, Preliminary Review Committee, Special Preliminary Review Panel, and Board of Administrative Oversight. Preliminary memo circulated 2/21/13. Court discussed at 2/28/13 rules conf.: Court voted unanimously to solicit public comment and schedule for further discussion at future rules conf. Public input letter sent 3/19/13; responses due 4/15/13; JR circulated draft order 4/3/13. **Court discussed at 4/12/13 open conf.: Court is amenable to petition but agreed to wait for comment period to close. State Bar Board of Governors' response received 4/23/13. JR confirmed J. Rothstein will not oppose petition. JR to submit to court (by e-mail) a memo, draft order and the responses received.**
- IV. Rule Petition 13-03: Petition to amend SCRs 10.03(3) and (7) Relating to Inactive Members Requesting Active Status and Readmission After Resignation From the State Bar, filed 5/22/13 by State Bar, Board of Administrative Oversight, BBE, and the OLR. **Preliminary Memo to be distributed.**
- V. Rule Petition 13-04: Petition to amend rules relating to Referees in the Lawyer Regulation System filed 5/22/13 by State Bar, Board of Administrative Oversight, and the OLR. **Preliminary Memo to be distributed.**

- VI. Rule Petition 13-05: Petition to Create a Procedure for Enforcement of Supreme Court Disciplinary Orders filed 5/29/13 by State Bar, Board of Administrative Oversight, and the OLR. **Preliminary Memo to be distributed.**

**Information Items**

- A) Rule Petition 08-01A (Juries): Rule petition 08-01 amended ch. 756, specifically changing the number of jurors for a misdemeanor case from 6 to 12 under 756.06(2)(am). Wis. Stat. § 972.02(2) references a misdemeanor jury of 6; needs clean-up amendment. Memo to court dated 9/4/12 with draft order circulated 9/5/12. Court discussed at 9/19/12 rules conf. Court agreed to refer this matter to the legislature to handle. **JR discussed transfer to Legislature with Nancy Rottier; Nancy sent e-mail inquiring if this can be handled as a correction bill by Law Revision Committee; draft bill (LRB-0493/P1) received from the LRB on 11/7/12; copy of draft bill sent to court 11/29/12; no court action required.**
- B) Rule Petition 09-07: In the Matter of: The Petition of the State Bar of Wisconsin to Modify Chapter 72 of the Supreme Court Rules (“Expunction”) filed 06/30/09 by Diane S. Diel, President, State Bar of Wisconsin. Amended petition filed 10/27/09 by Douglas W. Kammer, President, State Bar of Wisconsin. **Pending before Legislative Committee of Judicial Conference.**
- C) Rule Petition 12-07: Petition to amend SCRs 70.03 and 70.12(1)(c)3. and create SCR 70.12(5), (6) and 70.16, relating to the Supreme Court Finance Committee, filed by Justice Patience Drake Roggensack on 7/6/12. Preliminary memo circulated 9/18/12. Court discussed at 9/19/12 rules conf.; Court voted 6 to 1 to solicit public comment and schedule for further discussion at an future open rules conference (AWB would have held public hearing). Public comment solicited on 10/18/12 to standard list of recipients, as well as additional persons/entities stated on record at the 9/19 rules conf. Scheduled for discussion at 1/15/13 rules conference; staff memo circulated 1/9/13; **PDR is holding as of 1/15/13 to file comment to SSA's 12/13/12 filing.**
- D) Rule Petition 12-08: Petition to Create SCR 74.02, Appointment of the Judicial Commission Members, filed by Chief Justice Shirley S. Abrahamson on 7/31/12. Preliminary memo circulated 9/17/12. Court discussed at 9/19/12 and 9/25/12 rules confs. Court voted, 4 to 3, to not hold public hearing and to deny petition. **Draft denial order circulated 10/15/12; approvals received at 10/31/12 rules conf.; SSA holding order to write dissent.**
- E) Rule Petition 12-09: Petition to create Rules under Supreme Court Rules Ch. 80 and amend Supreme Court Rule 98.07, Publication of Rules filed by Publication Committee on 9/7/12. Preliminary memo circulated 9/17/12. Court discussed at 9/25/12 rules conf. Court voted to schedule public hearing. Notice of public hearing issued 10/11/12; public input solicited 11/16/12; staff hearing memo circulated 1/10/13; public hearing held 1/15/13; petition granted (4 to 3); **draft order circulated 1/29/13 (rec'd approvals from SSA, AWB, NPC – PDR held order 2/4/13).**

- F)** Rule Petition 12-11: Petition to create a Judicial Code Review Committee, filed 12/27/12 by Chief Justice Abrahamson. Preliminary memo circulated 1/10/13. Court started discussion at 1/22/13 rules conference. DOJ filed comment 2/7/13; Wis. Trial Judges Ass'n filed comment 2/15/13; Judicial Comm'n filed comment 2/22/13. Court discussed at 2/28/13 rules conf.: DTP wants side-by-side comparison of ABA Model Rule vs. Wisconsin rule. Commissioner Julie Rich to comment on court's 2/28/13 discussion. JR e-mail to court 3/20/13. **Court discussed at 4/12/13 open conf. JR to compile side-by-side comparison of Wis. code vs. 2007 ABA code, as revised, with assistance of a summer intern.**
- G)** Rule Petition 13-02: Petition to create SCR 40.145 relating to waiver of fees for qualified veterans, filed 1/30/13 by BBE. Preliminary memo circulated 2/20/13. Court discussed at 2/28/13 rules conf.: Court voted unanimously to adopt petition/following amendments: include bar exam waiver per request of Steve Levine & Dep't of Veterans Affairs, and for the rule to be effective as early as possible to include as many qualified veterans as possible; and to solicit public comment on the rule. JR circulated draft order and letter soliciting public comment on 3/26/13. **Court discussed at 4/12/13 open conf.: court approved draft order and draft letter with minor revisions. FINAL ORDER issued 4/19/13. Letter soliciting public comment sent 4/19/13. Comment period ends 7/19/13; any comments received will be placed in public file and may be considered by court at future open conf.**
- H)** DTP's memorandum on Justice on Wheels. Court agreed to place this item on rules administrative conference. Memo from Amanda Todd circulated 10/22/12 for discussion at 10/31/12 rules conference. **SSA e-mail 12/7/12 to court and Amanda Todd re: further outreach proposals.**