

September 12, 2011

Supreme Court of Wisconsin  
c/o Clerk of the Supreme Court  
Attention: Carrie Janto, Deputy Clerk  
P. O. Box 1688  
Madison WI 53701-1688

Re: Comment  
In the Matter of: Rule Petition 10-08  
The Petition of 1,320 Wisconsin residents for an amendment to Supreme Court Rule 11.02 requiring that Circuit Court judges appoint attorneys at public expense for indigent persons in certain civil cases pursuant to the criteria set forth in the rule.

Honorable Justices:

Wisconsin Judicare, Inc. (Judicare), a free legal services organization serving the northern and central 33 counties of Wisconsin, supports the petition requesting the Wisconsin Supreme Court to amend SCR 11.02 to require Circuit Court judges to appoint attorneys at public expense. The amendment would provide that indigent litigants receive assistance of counsel when necessary to protect their rights to basic human needs of sustenance, shelter, safety, and health and child custody. Judges would determine whether assistance is needed by considering the personal characteristics of the litigant and the complexity of the case.

Judicare has daily contact with individuals whose income is at 125%-200% of the Federal poverty guidelines. To us, the need for legal representation in court is apparent. With limited funding we are unable to provide in court representation for all who apply. We try to alleviate the problems of those individuals faced with appearing in court, by providing advice and brief

services, either by staff attorneys or private attorneys who represent indigent persons at a reduced rate. While many litigants are helped to better understand court proceedings through these services, few are sufficiently able to express themselves, determine rules of evidence or present legal arguments in a courtroom.

Applications for assistance far exceed the number that can be accepted. Although there are other pressing needs, two are the most evident. Review of the requests to Judicare for assistance in state court cases indicates that the greatest numbers of applications are for family law cases. Judicare only accepts family law cases where there is violence towards the spouse or the children. In 2010, due to funding, 673 persons were denied full representation by Judicare paid panel attorneys in family law cases and received only counsel and advice. One hundred fifty-three applicants received full court representation by Judicare paid private attorneys and staff attorneys. These applicants were the ones who had suffered the most egregious abuse. Staff attorneys were able to provide counsel and advice to 261 persons.

Continued deterioration of the job market and loss of homes through foreclosure has led to many more renters. There has been a corresponding increase in requests for assistance in remedying unsafe housing conditions and defending against unlawful evictions. In 2010, 53 clients, who were denied full representation due to lack of funds, received only counsel and advice by Judicare paid private attorneys in landlord/tenant cases. Full representation in court was provided to 46 individuals by staff and private attorneys. Staff attorneys were able to provide counsel and advice to 145 tenants.

In the first 8 months of 2011, 78 applicants were denied full representation and received only counsel and advice in family law cases through private panel attorneys, while 50 received

full in-court representation by staff. Two hundred twenty-six family law applicants received assistance by the staff hotline, and 4 received full in-court representation. In these 8 months, 12 landlord/tenant cases were denied and 22 approved for full representation by private attorneys. Staff attorneys provided advice for 240 tenants, and in-court representation for 7 tenants.

It is anticipated that the number of eligible persons who need in-court representation, already greater than the capacity of legal services organizations, will significantly increase. Loss of jobs in manufacturing has affected the entire state. In the Judicare service area work in the home construction industry, a former pillar of the economy, has been drastically reduced. Plants have closed, employees have been laid off or forced to work reduced hours.

Indicia of the poverty that now exists in Wisconsin, and specifically in our service area, are the unemployment rate and the number of children eligible for free or reduced school lunches. The average jobless rate in Wisconsin is now 7.8% with 239,000 persons unemployed. State of Wisconsin Department of Workforce Development Secretary's Office,

*July Jobs, Unemployment Numbers Announced for State*, Aug. 24, 2011,

[http://www.dwd.wisconsin.gov/dwd/newsreleases/2011/unemployment/110824\\_july\\_local.pdf](http://www.dwd.wisconsin.gov/dwd/newsreleases/2011/unemployment/110824_july_local.pdf).

Of the 33 counties we serve, 7 rank in the top 10 for unemployment rates in the state. In 6 counties the rate exceeds or meets the Milwaukee jobless rate of 9.6% with rates as high as 20.2% in Menominee County.

An increasing number of children are eligible for free or reduced school lunches. Families served by this program, who have income not more than 130% of the Federal poverty guidelines for free meals and 185% of guidelines for reduced meals, increased to 346,184 (41.4%) in the 2010-2011 school year. Wisconsin Department of Public Instruction, *News*

*Release*, Mar. 10, 2011, [http://dpi.wi.gov/eis/pdf/dpinr2011\\_25.pdf](http://dpi.wi.gov/eis/pdf/dpinr2011_25.pdf). In 95 Wisconsin school districts 50% or more of students qualified for this assistance. In 8 districts 70% or more students qualified. Milwaukee, at 82.6%, is one of these school districts. The other 7 districts are in the Judicare service area, with the highest rate in Lac du Flambeau where 90.3% of families are eligible for free or reduced lunches.

As economic conditions deteriorate, needs increase. As needs increase, already overburdened legal services organizations must deny in-court assistance to more needy applicants. Unemployed or marginally employed persons, those who need to protect themselves and their children from abusive spouses by divorce or domestic abuse injunctions, those who are tenants facing homelessness, those who are tenants in uninhabitable rentals, have fewer resources. A Supreme Court rule providing the means to obtain in-court assistance of counsel would allow these litigants the protection they need.

Respectfully submitted,

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Executive Director  
State Bar No. 1009069

cc: John F. Ebbott  
Thomas G. Cannon