

LAW OFFICES OF WILLIAM C. GLEISNER, III

300 COTTONWOOD AVE. STE 3
HARTLAND, WI 53029

WILLIAM C. GLEISNER, III
STATE BAR NO. 01014276

email: wgleisner@sbcglobal.net

PHONE (262) 367-1222

FAX (262) 367-1236

February 21, 2014

Hand Delivered

Honorable Justices
Wisconsin Supreme Court
16 E. State Capitol
Madison, Wisconsin 53702

RECEIVED

FEB 21 2014

CLERK OF SUPREME COURT
OF WISCONSIN

Re: Submission from Attorney William C. Gleisner, III with regard to State Bar Rule Petitions 13-7 and 13-13, which are scheduled for Administrative Conference Monday, February 24, 2014

Dear Justices:

I am writing to you as an officer of the Court regarding the above petitions. I have followed the recent filings concerning the above petitions and I availed myself of Wisconsin Eye to watch the January 21, 2014 hearing before the Court on those petitions. I have refrained from becoming involved in State Bar politics prior to this letter and it is with great reluctance that I find it necessary to write to you now.

In writing this letter, I want to make it clear that I do not seek any form of relief from the Supreme Court. However, I believe it is incumbent upon me to bring certain evidence to your attention which may be relevant to your deliberations concerning the pending petitions.

I note that those who object to the petitions have raised concerns that if adopted these petitions could result in the abridgement of First Amendment rights. I note further from the January 21, 2014 hearing that specific concerns were expressed that there were no rules or standards adopted or other safeguards provided to insure that such rights would not be violated. I offer the following evidence as to why those concerns have merit.

As you all know, I have served on the Wisconsin Judicial Council since 2008. Originally, I was appointed as an ad hoc member to the Evidence & Civil Procedure Committee of the Council during its deliberations on e-discovery because of my background in this area. I was thereafter appointed to a one year term on the Council in 2008 by then President-Elect Kammer.

I ran for the Council in 2010 and was defeated. I asked the State Bar nominating Committee to nominate me for the Council again in 2011, but they refused. I nevertheless availed myself of the State Bar bylaws provision which allows for "self-nomination" by a Bar member who submits a minimum of 100 signatures from State Bar members. In 2011, I submitted 207 signatures and was placed on the ballot. I won that election.

PROBLEMS WITH THE NOMINATION PROCESS

In 2013 I wrote to State Bar President Fiedler and the Chair of the nominating committee asking to be nominated again. I was not. A slate of candidates was announced on November 20, 2013 and published on Wisbar. The following Monday, November 24, 2013, I submitted nomination papers containing 114 signatures. These signatures were all clearly certified by identified members of the State Bar. Immediately, Executive Director Brown disqualified 50% of these signatures because they were allegedly "illegible."

What followed was an intensive effort to satisfy Mr. Brown as to the identity of the signatures on the papers and to gather more signatures. Letters and emails of protest were sent to Mr. Brown by a number of Bar members (See attached Appendix 1 containing letters from Attorneys James T. Murray, Jr., Ric Domnitz and Jeff Pitman, which clearly express the frustration and outrage at the actions of Mr. Brown). After two weeks and the filing of 310 signatures I was finally placed on the ballot.

As you can see from the letters in attached Appendix 1, the problem came down to the fact that the nomination forms furnished by the State Bar were confusing and ill prepared, and there were no clear rules or standards governing the nomination process.

PROBLEMS WITH THE BALLOT BIO

I was asked to furnish a bio for inclusion with the official ballots which are to be sent out in April of this year. In soliciting bios from the various candidates, the State Bar sent the following to all candidates:

Biographical information to be printed on reverse side of official ballot is due. Please submit a statement of 200 words or less. **The State Bar will not edit your biographical statement** and the biographical information sent to voting members will include a disclaimer. The disclaimer will read: "Biographical statements were prepared and submitted by each candidate. The State Bar does not guarantee the accuracy of the statement [Emphasis supplied]."

I duly submitted a bio on January 31, 2014 (see attached Appendix 2). Mr. Brown rejected this bio and demanded that I edit it by eliminating two paragraphs. (also in attached Appendix 2). Wanting to avoid an unnecessary confrontation, I submitted a revised bio on February 4, 2014 (see attached Appendix 3). On February 19, 2014 Mr. Brown again rejected the bio and demanded that I had a choice of accepting an edit or removing objectionable language (also in attached Appendix 3). I wrote to Mr. Brown after his first rejection on February 4, 2014 stating that I thought that what he was doing amounted to censorship (see attached Appendix 4). He never responded.

On February 19, 2014 I submitted yet another revised bio under the cover of a February 19, 2014 email (see attached Appendix 5). I have not had a response to this as of the writing of this letter but it strikes me that I am being censored by Mr. Brown.

Neither Mr. Brown nor anyone else has provided me with any rule or standard as to what a bio is to contain. The only guideline concerning a bio is in the solicitation for same which includes the statement: "Please submit a statement of 200 words or less. The State Bar will not edit your biographical statement." I stated the following to Mr. Brown on the 19th of February (see attached Appendix 5): "According to Webster's and the OED, a 'bio' is a history of a person. It is clear that it can be a personal history, a professional history or a history of accomplishments in an organization. It is autobiographical, and thus it is up to me to select what part of my history I choose to emphasize. While you do not have a bio rule, your bio solicitation from the candidates is crystal clear." Mr. Brown has not responded.

CONCLUSION

This is not about the longstanding debate about the integrated bar. Frankly, I do not have a dog in that hunt. However, since we have an integrated bar it should behave in accordance with the spirit and letter of the SCRs and it should comport itself in a transparent manner according to clear rules and standards. In this case, as a forty year member of the State Bar I am trying to volunteer my time to improve the rules of evidence and civil procedure in Wisconsin. After serving for five years on the Council I should not have had to fight to get my name on the ballot, as long as I followed the rules. Moreover, as long as I follow the rules I should not have my efforts to speak my mind thwarted by arbitrary censorship. I am left with the impression that I am a self-nominating outsider and that I count less than a member of the "Bar Club."

Bringing this home to pending petitions 13-7 and 13-13, I heard Messrs. Brown, Fiedler and their counsel offer assurances to this Court on January 21, 2014 that they did not need to be specific about the grounds for removing a duly elected officer or a member of the Board of Governors. In effect, what I heard is "we can trust them to do the right thing." I very respectfully submit that it is time to remind the State Bar that it should behave in the highest traditions of our legal system, according to clearly defined and equitably enforced rules. After all, since we are all required to be members of an integrated State Bar, doesn't that Bar take on the role of a neutral arbiter which must take care to act transparently and fairly according to clearly defined and enunciated rules so as to serve the interests of all members of the Bar in an equitable manner?

Sincerely,


William C. Gleisner, III

cc: Patrick Fiedler, Esq. (by email)
Roberta Howell, Esq. (by email)
Steven A. Levine, Esq. (by email)
Douglas W. Kammer, Esq. (by email)
Executive Director George Brown (by email)

APPENDIX 1



James T. Murray, Jr.
jmurray@pjmlaw.com

November 27, 2013

Via E-Mail

Mr. George Brown
Wisconsin Bar Association
gbrown@wisbar.org

Re: Bill Gleisner/ Judicial Council

Dear Mr. Brown:

I learned today about the manner in which Bill Gleisner's nomination to the Judicial Council has been handled and I want to register my discontent.

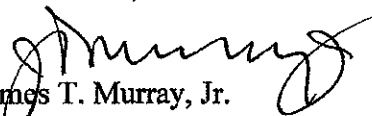
Let me first introduce myself. I am a member of Peterson, Johnson & Murray, S.C. with offices in Milwaukee, Madison, Kenosha and Manitowoc. I practice in the area of civil litigation, almost exclusively on the defense side, much of my work being product liability and bad faith litigation. I am past president of the Civil Trial Council of Wisconsin, past president of the Wisconsin Chapter of ABOTA, a regent in the American College of Trial Lawyers and a member of the International Association of Defense Counsel.

I am writing because I think the way Bill has been treated has been very unfair. I understand a great many of his nomination signatures have been disallowed because a number of the signatures were deemed "illegible". I circulated one of Bill's nomination forms, and it struck me that nowhere on the form were the signators asked to print or type their names. The form was further ambiguous in that it asked for signators' addresses, presumably residence address, but later in the form asked the circulator to attest that the signators had correctly identified the city in which they practice. I would have to say that whoever drafted the form engaged in shoddy workmanship.

I have known Bill for 40 years, both personally and professionally. He has a long history of public service and deserves to be treated better. It's hard to avoid the impression that politics are at play here and frankly, I'm very disappointed that such tactics have found their way into the State Bar.

Very truly yours,

PETERSON, JOHNSON & MURRAY, S.C.


James T. Murray, Jr.
JTM/mmf

cc: Patrick Fiedler, PFiedler@axley.com

PETERSON, JOHNSON & MURRAY, S.C.
Attorneys at Law

D&S
DOMNITZ & SKEMP, S.C.
PERSONAL INJURY ATTORNEYS

Merrick R. Domnitz *Board Certified Trial Lawyer* • Anthony J. Skemp *Attorney At Law* • Noah D. Domnitz *Attorney At Law*
Corinne R. Dulak *Paralegal* • Angie M. Verre *Paralegal*

November 27, 2013

VIA EMAIL

Mr. George Brown
State Bar of Wisconsin

Dear George:

As you know, I have previously provided a set of nomination in support of Bill Gleisner's nomination for the Judicial Council. I also provided an email with the names of the people who signed those papers because their validity was apparently the subject of some question. Due to the continuing drama surrounding Bill's nomination, I am motivated to write again, in order to express my serious concern about the manner in which this series of events has been handled.

Although you and I have known each other for many years, and worked together closely in your former role with the Bar, I want to provide some of my qualifications only to add some context to the protest I am lodging. I am a past president of the Wisconsin Association for Justice, past president of the Wisconsin chapter of ABOTA, a past chair of the State Bar's Litigation Section Board of Directors, a past governor of the American Association for Justice, a member of the American College of Trial Lawyers and the International Society of Barristers where I serve as the current president of the Society's Foundation.

In all my years of service in all those organizations I have never encountered a purportedly bipartisan process more apparently tainted by partisan considerations. I know many of the people involved in this process and I not only respect them, but consider them to be my friends. However, none of that can remove the stain of inequitable treatment to which Bill's nomination has been subjected. For the Bar to question the validity of signatures submitted and attested to by well-known and well-respected members of the Bar when printed designations are

not requested anywhere on the nomination papers; which follows the failure of the nominating committee to show Bill, a sitting member of the Council the professional courtesy of contacting him regarding running for re-election, creates a definite appearance of impropriety. I urge you to do everything within your authority to bring this unsightly series of events to an immediate end by accepting Bill's nomination papers and placing his name on the ballot at once.

Not only have I known Bill Gleisner, both personally and professionally for more than 35 years, I also know most of the circulators who have verified their efforts on Bill's behalf in separate correspondence once the nomination papers were challenged. George, you and the committee have all the verification anyone could reasonably ask for; it is past time to bring this fiasco to an immediate end because any series of events within the Bar which carry any sign of partisanship does harm to the entire institution and all its members.

Sincerely,

~~DOMNITZ &~~ SKEMP, S.C.



Merrick R. Domnitz

William C. Gleisner, III

Subject: FW: Judicial Council & Bill Gleisner

From: Jeffrey Pitman [<mailto:jeff@pkzd.com>]
Sent: Tuesday, November 26, 2013 8:28 AM
To: gbrown@wisbar.org
Subject: Judicial Council & Bill Gleisner

Mr. Brown,

I'm current president of WAJ. It has come to my attention that the petition for nomination of Bill Gleisner that I circulated amongst members of my firm may be disregarded. Sadly, most lawyers, including myself, have terrible handwriting and signatures. My mother continues to be disappointed with my handwriting. However, I take my responsibility as an officer of the Bar seriously, and personally verified the signatures. I watched them sign the darn petition. It does disappoint me if the petition I circulated would be disregarded as untrustworthy. If there is something else I can do to verify the signatures, please let me know so I can do so.

I don't know if Bill was excluded from consideration purposefully. You probably know how important membership on the council is to Bill and the plaintiffs' bar. Currently, there is no representative of the plaintiffs' bar on the council. That strikes me as unbalanced. Many of the issues that are dealt with on the council, especially evidentiary issues, impact the plaintiffs' bar daily. Right now we don't have a voice on the council yet those that defend against our cases do. That is neither fair nor right. We need a voice on this council.

In my humble opinion, the Bar should accept all signatures that are verified by members. Whether real or perceived, there should be no hurdles to Bill's getting on the ballot presently. Thank you for your time and consideration.

Jeffrey A Pitman
Pitman, Kyle, Sicula & Dentice, S.C.
1110 N. Old World 3rd St., Ste. 510
Milwaukee, WI 53203
(O) 414-212-0000
(M) 414-403-6020
(F) 414-212-0004
Jeff@PKSD.com

Licensed in WI, IL, IA & NM

Please visit our websites at
www.PKSD.com
www.WisconsinNursingHomeAbuse.com

This is a transmission from the law firm of PKSD, S.C. and may contain information which is privileged, confidential and protected by attorney-client or attorney work product privilege. If you are

APPENDIX 2

FIRST BIO STATEMENT SUBMITTED 1-30-14

I have served on the Judicial Council since 2008, and in 2011 I was elected by the State Bar membership to a three year term on the Council.

My background has prepared me to serve on the Council. I have been a trial lawyer since 1974 and I know firsthand how important the Council is to the administration of Justice.

The Council's work must address 21st Century issues. While on the Council, I was one of the principal drafters of Wisconsin's new e-discovery rules. My background has equipped me to provide guidance to the Council concerning the electronic practice of law, e-discovery and digital evidence. With Marquette Professor Jay Grenig I co-authored a 1400 page national treatise entitled *e-Discovery & Digital Evidence*.

The Council's work should be transparent. The Council is a public body and it impacts all aspects of the civil and criminal justice system. I have worked hard to insure that input is sought from members of the Bar Association who will be affected by recommendations of the Council

I respectfully ask that you vote to keep me on the Council as your representative. To learn more about me and my background, please visit my website at www.elect-gleisner.com.

William C. Gleisner, III

Subject: FW: Your Biographical Statement for 2014 election
Attachments: FW Officer Bios for BOG Election (142 KB); DOC020314-02032014112649.pdf

From: George Brown [<mailto:gbrown@wisbar.org>]
Sent: Monday, February 03, 2014 11:49 AM
To: William C. Gleisner, III (wgleisner@sbcglobal.net)
Cc: Jan Marks
Subject: Your Biographical Statement for 2014 election

Mr. Gleisner:

I write to you regarding your candidate's biographical statement that will be included with the ballots when they are mailed in early April. As sent to you and the other candidates on January 29 (see attached above) the statements are to include biographical information as demonstrated from the example included with the email message. Campaign statements are for the State Bar website or any outreach or advertising in which you wish to engage. After discussion with President Fiedler and his review of your submitted statement, your 2014 statement includes campaign language that will need to be removed. I have included a copy of your 2011 biographical statement for your reference and a copy of your 2014 statement (attached above). The language that will need to be removed is merely the last two paragraphs where you comment on the Council and ask for members to vote for you.

In order to have your biographical statement comport with all other statements for the 2014 election, I ask that you either resubmit your statement by February 7 or provide us permission via return email to remove the last two paragraphs.

Thank you for your attention to this matter.

Sincerely,

George C. Brown
Executive Director
State Bar of Wisconsin
5302 Eastpark Blvd.
Madison, WI 53718

www.wisbar.org
608/257-3838 (phone)
800/444-9404, ext. 6101
608/257-5502 (fax)

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APPENDIX 3

REVISED BIO SUBMITTED 2-4-14

BILL GLEISNER, Hartland, Wisconsin. Born September 19, 1946. Education: Marquette University Law School, J.D. (1974); Georgetown University Law Center, LL.M (1988). Practice: Trial Lawyer since 1974; formerly served as General Counsel of the National Federation of the Blind. Professional Activities: Served on the Wisconsin Judicial Council, 2008-2014, where he was one of the principal drafters of Wisconsin's new e-discovery rules. Publications: With Marquette University Law Professor Jay Grenig, co-authored a 1400 page treatise entitled *e-Discovery & Digital Evidence*; authored or co-authored numerous articles for *The Wisconsin Lawyer* including: *Social Networking's Impact on e-Discovery* (2011); *What you Need to Know about e-Discovery* (2010); *Electronic Evidence in the Twenty-First Century* (2004); *Carnivores, Cyber Spies & the Law* (2001); *Laptop Litigation* (1999); *Regulating Electronic Commerce* (1999); *Coping with Employee Email* (1999); *Search and Seizure of Computer Data* (1998); *Invasions of Computer Privacy* (1998) and *Document Destruction and Confidentiality* (1988). Honors: received State Bar's Charles Dunn Author Award for Writing Excellence in 2000; named Trial Lawyer of the Year for 2005 by the Wisconsin Academy of Trial Lawyers. **For the reasons set forth at www.elect-gleisner.com vote for Bill Gleisner in order to insure that your voice will be heard on the Judicial Council.**

William C. Gleisner, III

Subject: FW: SORRY ABOUT THAT!

From: George Brown [<mailto:gbrown@wisbar.org>]
Sent: Monday, February 17, 2014 1:01 PM
To: 'William C. Gleisner, III'
Cc: Jan Marks
Subject: RE: SORRY ABOUT THAT!

Bill,

This note is regarding your candidate biography that will be included with the ballots when they are mailed in April. After discussion with President Fiedler, and after his reading your most recent submission alongside his submission when he ran for president-elect, he and I agree that you have the choice of either editing your last sentence to language that directly reflects the language he used in his submission (such as “Learn more about Bill at www.elect-gleisner.com., which is reflective of his “Learn more about Pat at www.....”) or removing the language completely.

As candidates’ biographical information was originally due February 3, Jan will need your decision no later than Thursday, February 20, so that the ballots and statements can be printed and available in a timely matter for mailing in early April.

George

George C. Brown
Executive Director
State Bar of Wisconsin
5302 Eastpark Blvd.
Madison, WI 53718

www.wisbar.org
608/257-3838 (phone)
800/444-9404, ext. 6101
608/257-5502 (fax)

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APPENDIX 4

William C. Gleisner, III

Subject: FW: SORRY ABOUT THAT!
Attachments: REVISED BIO.docx

From: William C. Gleisner, III [<mailto:wgleisner@sbcglobal.net>]
Sent: Tuesday, February 04, 2014 4:31 PM
To: 'Jan Marks'
Cc: 'George Brown'
Subject: RESPONSE FROM GLEISNER

Good Afternoon Jan,

Since George is apparently out of town until the 10th of February, I will address this message to you. I do not find anything in the bylaws governing the content of a ballot "bio." Your own guidelines claim that you will not edit a ballot bio.

Your rejection of my preferred bio amounts to censorship. Notwithstanding the points that the Bar's counsel and Mr. Brown made to the Supreme Court at the January 21st hearing (which I have watched with great interest), we are not dealing here with the First Amendment rights of a member of the Board of Governors, but instead we are dealing with the First Amendment rights of a Bar member and a candidate for an election conducted by the State Bar.

I am interested in amicably resolving this matter. I am attaching a revised bio to which I have added a concluding sentence. It is my opinion that this is no different than the concluding sentence of President Fiedler in his bio that was included on the reverse of the 2012 ballot. If the attached is unsatisfactory, please advise before the deadline so that I can pursue this matter appropriately.

Bill Gleisner



APPENDIX 5

William C. Gleisner, III

Attachments: FINAL BIO.docx

From: William C. Gleisner, III [<mailto:wgleisner@sbcglobal.net>]
Sent: Wednesday, February 19, 2014 4:10 PM
To: 'George Brown'
Cc: 'Jan Marks'; Patrick J. Fiedler
Subject: GLEISNER'S RESPONSE TO SECOND REJECTION OF GLEISNER'S BALLOT BIO

Mr. Brown:

Because of your objections, I am formally withdrawing both my first and second bio statements. I am submitting a third bio which is to be included with the ballots when they are mailed in April.

Following your rejection of my second ballot bio on March 17, 2014, I conferred with past presidents of the Bar, members of the Judiciary, members of the Board of Governors and other prominent members of the Bar. They agree the attached is indeed a "bio" which is unobjectionable.

According to Webster's and the OED, a "bio" is a history of a person. It is clear that it can be a personal history, a professional history or a history of accomplishments in an organization. It is autobiographical, and thus it is up to me to select what part of my history I chose to emphasize. While you do not have a bio rule, your bio solicitation from the candidates is crystal clear. It reads:

Biographical information to be printed on reverse side of official ballot is due. Please submit a statement of 200 words or less. **The State Bar will not edit your biographical statement** and the biographical information sent to voting members will include a disclaimer. The disclaimer will read: "Biographical statements were prepared and submitted by each candidate. The State Bar does not guarantee the accuracy of the statement [Emphasis supplied]."

Despite the language in the foregoing solicitation, you have sought to edit my proposed bio on two separate occasions. In fact, you have censored my bio. The Supreme Court has held that the State Bar and the Judicial Council are public agencies. Lathrop v. Donohue, 10 Wis. 2d 230, 243, 102 N.W.2d 404 (1960). Your continuing efforts to edit or censor my bio is contrary to your own bio solicitation and constitutes an infringement of my First Amendment rights as a candidate.

Bill Gleisner

THIRD BIO SUBMITTED ON 2-19-14

BILL GLEISNER, Hartland, Wisconsin. Born September 19, 1946. Education: Marquette University Law School, J.D. (1974); Georgetown University Law Center, LL.M (1988). See www.elect-gleisner.com, which includes citations to some of the numerous cases in which I have appeared during my forty years as a trial lawyer, including cases before the Wisconsin Supreme Court and federal courts throughout country. Also at www.elect-gleisner.com are citations to some of the many articles authored or co-authored by me, including 15 articles in the Wisconsin Lawyer. With Professor Jay Grenig, I also co-authored a 1400 page treatise entitled *e-Discovery & Digital Evidence*. I have served on the Wisconsin Judicial Council from 2008 to 2014, where I was one of the principal drafters of Wisconsin's new e-discovery rules. While on the Council I have fought to increase the transparency of the Council and to insure that members of the State Bar have the opportunity to be heard on important issues under consideration by the Council. At www.elect-gleisner.com you can read and download some of the lengthy memoranda I have submitted during my tenure on the Council. At www.elect-gleisner.com is further information about why I seek the opportunity to continue with the important work of the Judicial Council.