



**STATE BAR OF WISCONSIN**

*Your Practice. Our Purpose.®*

February 27, 2014

Wisconsin Supreme Court  
110 East Main Street, Suite 215  
P.O. Box 1688  
Madison, WI 53701-1688

RE: Petition 13-10 (relating to Limited Scope Representation)

Dear Honorable Justices:

The State Bar of Wisconsin supports rule petition 13-10, submitted by the Director of State Courts on the recommendation of the Planning and Policy Advisory Committee.

At its meeting on December 6, 2013, the Board of Governors voted by a vote of greater than 60%, 35-5-1, to support petition 13-10 related to limited scope representation. However, the State Bar requests that the court consider concerns expressed by the Business Law Section. Attached for your consideration is a brief memorandum from the Business Law Section expressing their concerns.

Thank you for your consideration. If you have any additional questions, please do not hesitate to contact State Bar of Wisconsin Executive Director George Brown or Public Affairs Director Lisa Roys.

Sincerely,

Patrick J. Fiedler  
President, State Bar of Wisconsin  
5302 Eastpark Blvd.  
P.O. Box 7158  
Madison, WI 53707-7158

**Statement regarding Amendment of Supreme Court Rule Chapter 20 in Wisconsin Statute Chapters 800, 801, 802, and 809 relating to Limited Scope Representation**

SCR 20:1.2(c) currently provides that a lawyer may limit the scope of legal representation, provided that the limitation is reasonable under the circumstances and the client gives informed consent to the limitations. The Director of State Courts is petitioning the Wisconsin Supreme Court to make a change which would impose a significant limitation on the ability of business lawyers to provide limited scope representation to their clients.

1. The Requirement for a Writing.

Under the proposal, section SCR 20:1.2(c) would be amended to require that the client's consent to limitations on representation be in writing. This requirement would be a significant problem, because business lawyers are frequently asked by their clients to address only a limited aspect of a transaction or legal issue. The writing requirement is not necessary in the context of the advice given by business lawyers to their clients because the rule already requires that the limitation on the representation be reasonable under the circumstances and that the client gives informed consent. Moreover, the clients involved are often sophisticated business people or lawyers themselves (often inside counsel of a corporate client) who are imposing limitations on a lawyer's activities in order to reduce legal costs.

The writing requirement would impose an unnecessary administrative burden on business lawyers and their clients. It would also be a trap for the unwary, because even the most conscientious lawyers are bound to forget about this requirement sometimes, or fail to recognize that it is applicable, particularly when a client is demanding a prompt response.

The proposed rule contains an exception for situations where the representation of the client consists solely of telephone consultation. This exception is helpful, but will certainly not solve the problem.

The writing requirement should be rejected, or should be limited to the representation of an individual (natural person) in litigation.

2. Needed Clarification.

Proposed section 802.045(1) of the Wisconsin Statutes would provide that:

"An attorney may provide limited scope representation to a person involved in a court action."

This language should not be read to imply a negative pregnant for representation which does not involve a court action. Nevertheless, the language should be revised to make clear that it does not prohibit limited scope representation in other situations.



**STATE BAR OF WISCONSIN**