



October 1, 2014

Clerk of the Wisconsin Supreme Court
P.O. Box 1688
Madison, WI 53701

Re: Petition 13-15 - Comment by Wisconsin Access to Justice Commission

Honorable Justices of the Wisconsin Supreme Court:

On behalf of the Wisconsin Access to Justice Commission, I am submitting the following comments with respect to Petition 13-15. The Commission's mission, as set forth in SCR Chapter 14, is to develop and encourage means of expanding access to the civil justice system for unrepresented low-income Wisconsin residents. Increasing the appointment of counsel for low income litigants who have civil legal issues that affect their access to basic human needs is one way that Wisconsin can help to close the justice gap.

The evidence gathered by the State Bar of Wisconsin's 2007 Wisconsin Civil Legal Needs Study and in the Access to Justice Commission's 2013 Access to Justice Hearings has established that there continues to be an urgent unmet need in Wisconsin for greater attorney representation for low-income residents in civil cases. See, "The State of Equal Justice in Wisconsin" published by the Commission in September, 2013. The evidence raises a serious concern about Wisconsin's commitment to ensure fairness for all in the justice system, regardless of how much money a person has.

The Wisconsin Access to Justice Commission continues to examine and develop additional means of meeting this need, including support for alternative funding sources for the state's civil legal aid providers, expansion of pro bono efforts, and the use of technology to bring information and guidance to citizens in all of the state's counties.

The Commission previously expressed its support for Petition 10-08, which sought the promulgation of a rule requiring the appointment of counsel in civil cases, at public expense, where counsel was needed to protect an indigent litigant's right to basic human needs. In the final order denying that petition, the Supreme Court stated that the "single point of opposition

[in the written comments and at the hearing] focused on the costs of appointing counsel, not the need for or value of providing legal services for the indigent in civil cases.” SCt. Order 10-08, issued February 24, 2012. The Court denied the petition because “the parameters of the proposal are difficult to discern and the effect on circuit courts and counties is largely unknown but may be substantial.” The order noted that the Commission was committed to developing an appointment of counsel pilot project and stated that “data compiled from the Pilot Project may assist the court in developing a future biennial budget request to provide additional state funding to assist in funding the appointment of counsel to indigents as required by law.”

As the Court is aware, the Commission did design a pilot project to take place in Jefferson County, but the State Bar of Wisconsin declined to provide the \$100,000 requested. (Details of this proposal and reasons for denial are contained in Petition 13-15, paragraphs 42-62).

Petition 13-15 requests the promulgation of a rule substantially similar to that proposed in Petition 10-08 and, in addition, asks the Supreme Court to allocate funds in its budget to plan and implement an appointment of counsel pilot project for indigent residents in one or more selected categories of civil cases involving basic human needs.

The Commission continues to endorse the right to legal counsel for low-income Wisconsin residents in civil cases when basic human needs are at stake. (See letter from Access to Justice Commission re Petition 10-08, dated June 22, 2011).

If the Supreme Court decides not to fund and implement a pilot project as requested in Petition 13-15, the Commission believes the most fruitful way to advance the important goal of the petition at this time is the creation of a legislative study committee. The Commission therefore urges the Supreme Court to request the creation of a legislative study committee with the assistance of the Legislative Council and the appropriate legislative committee chairs to examine the costs, benefits, scope, and revenue options with regard to the appointment of counsel for low-income individuals in civil cases involving basic human needs when a judge determines that is necessary to assure a fundamentally fair hearing.

Sincerely,

James A. Gramling , Jr.
President

Wisconsin Access to Justice Commission

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