



April 26, 2019

Clerk of Supreme Court
Attention: Deputy Clerk-Rules
P.O. Box 1688
Madison, WI 53701-1688

Re: **Comments, Petitions 19-04 & 19-05**

Dear Clerk:

Thank you for the invitation and opportunity to comment upon the above-referenced, proposed rule changes. I submit my observations and thoughts as both a trial and office practitioner of three States and the federal courts over nearly 31 years. In addition to having a keen respect for and interest in lawyer ethics, I currently serve as an arbitrator for the State Bar of Wisconsin's fee dispute arbitration system.

Inasmuch as both proposed rule change petitions are so intertwined, I will comment upon both in this singular correspondence.

Generally, the recommendations for rule revisions (in 19-04) are sound and warranted. Overall, they seem to properly aim for a more efficient, cost-effective and streamlined approach to the most routine cases of lawyer misconduct, while reserving for more formal proceedings held by the Supreme Court upon appeal/review and in more egregious and contested cases.

Specifically, I might suggest some other considerations or changes, as follows:

- Concerning the proposed repeal and recreation to Section 11.SCR 22.17, to 22.17(3) it may perhaps be more efficient for the appeals process to be more akin to that of an administrative appeal, say first to the director, with ultimate leave to appeal for final review to the Supreme Court. Given the general push to delegate resolution of most matters to *referees*, it seems too costly and cumbersome for an appeal under this section to proceed in the first instance according to the usual rules governing appeals to the Supreme Court.
- Respecting the changes proposed to amend the next Section (12.SCR 22.21(4)), it would seem wise and appropriate to add a requirement for or institution of a monetary (or surety) bond be posted by the subject attorney if reinstatement be sought and granted, and especially in instances where the alleged disciplinary action concerns alleges of misappropriation of client funds or other financial malfeasance.
- Lastly, with respect to an attorney respondent's objection to assessed costs addressed in the proposed amendments for Section 17.SCR 22.24(2), it would seem appropriate for a factor for objection to include considerations of the respondent's ability to pay, which may have been either causal or affectual as relates to the underlying issues surrounding his or her alleged misconduct. Therefore, one of the specifically stated reasons for objection could be a well-

plead and supported existence of indigency or other substantial inability to pay the proposed costs of prosecution.

Generally, as with my view of the petition 19-04, the proposed changes in petition 19-05 are sound and appropriate; And thus, because most, if not all, the proposed amendments relate to the delegation of duties to levels of authority further from the Supreme Court and closer to the respondent attorney, these are desirable for the swifter, more efficient and more relevant administration of the disciplinary process. As a result, I have no specific suggestions to further improve upon or change the substance of petition 19-05.

Once again, I'm grateful for the opportunity to have had input in this important process and urge the clerk or committee to reach out if further advices be sought.

Cordially,

A handwritten signature in black ink, appearing to read 'David C. Rashid', written in a cursive style.

David C. Rashid
Attorney at Law
Menasha, WI