

SUPREME COURT AGENDA

Open Rules Conference

Friday, April 12, 2013

9:30 a.m.

Supreme Court Hearing Room

(Closed opinion conference to follow if time allows)

Open Rules Conference Matters

- I. Rule Petition 12-01: Report on Court's Rule Making Function (Report and Recommendation of the Wisconsin Supreme Court Advisory Committee on Rule Procedures submitted to the Supreme Court in May 2011 regarding the court's rule making function). Public hearing held: 3/5/12; held by PDR, April 2012; PDR filed draft rule proposal 11/28/12; Court discussed at rules conf. on 1/22/13; PDR filed red-lined (track changes) copy of draft rule proposal on 1/23/13; SSA draft letter to interested parties circulated to court 2/5/13. Court discussed at rules conf. on 2/28/13; on vote of 4 to 3 court approved "calendar cycle" model; letter to interested parties to be re-drafted. **Re-drafted letter to interested parties to be circulated.**
- II. Rule Petition 12-11: Petition to create a Judicial Code Review Committee, filed 12/27/12 by Chief Justice Abrahamson. Preliminary memo circulated 1/10/13. Court started discussion at 1/22/13 rules conference. DOJ filed comment 2/7/13; Wis. Trial Judges Ass'n filed comment 2/15/13; Judicial Commission filed comment 2/22/13. Court discussed at 2/28/13 rules conf.: DTP wants side-by-side comparison of ABA Model Rule vs. Wisconsin rule. Commissioner Julie Rich to comment on court's 2/28/13 discussion. **E-mail to court 3/20/13.**
- III. Rule Petition 13-01: Petition to amend SCR 31.05(6) to grant attorney members of Preliminary Review Committee and Special Preliminary Review Panel CLE credit, filed 1/8/13 by OLR, Preliminary Review Committee, Special Preliminary Review Panel, and Board of Administrative Oversight. Preliminary memo circulated 2/21/13. Court discussed at 2/28/13 rules conf.: Court voted unanimously to solicit public comment and schedule for further discussion at future rules conf. **Draft order to be circulated by staff; Js to approve order. Public input letter sent 3/19/13; responses due 4/15/13.**
- IV. Rule Petition 13-02: Petition to create SCR 40.145 relating to waiver of fees for qualified veterans, filed 1/30/13 by BBE. Preliminary memo circulated 2/20/13. Court discussed at 2/28/13 rules conf.: Court voted unanimously to adopt petition/following amendments: include bar exam waiver per request of Steve Levine & Dep't of Veterans Affairs, and for the rule to be effective as early as possible to include as many qualified veterans as possible; and to solicit public comment on the rule. **Draft order and draft public input letter circulated 3/26/13.**

Information Items

- A) Rule Petition 08-01A (Juries): Rule petition 08-01 amended ch. 756, specifically changing the number of jurors for a misdemeanor case from 6 to 12 under 756.06(2)(am). Wis. Stat. § 972.02(2) references a misdemeanor jury of 6; needs clean-up amendment. Memo to court dated 9/4/12 with draft order circulated 9/5/12. Court discussed at 9/19/12 rules conf. Court agreed to refer this matter to the legislature to handle. **JR discussed transfer to Legislature with Nancy Rottier; Nancy sent e-mail inquiring if this can be handled as a correction bill by Law Revision Committee; draft bill (LRB-0493/P1) received from the LRB on 11/7/12; copy of draft bill sent to court 11/29/12; no court action required.**
- B) Rule Petition 09-07: In the Matter of: The Petition of the State Bar of Wisconsin to Modify Chapter 72 of the Supreme Court Rules filed 06/30/09 by Diane S. Diel, President, State Bar of Wisconsin. Amended petition filed 10/27/09 by Douglas W. Kammer, President, State Bar of Wisconsin. **Pending before Legislative Committee of Judicial Conference.**
- C) Rule Petition 10-09: In the Matter of the Petition for Amendment of various Rules in Chapter SCR 20 filed 10/21/10 by John Nicholas Schweitzer. **Returned to Mr. Schweitzer; no court action required.**
- D) Rule Petition 12-07: Petition to amend SCRs 70.03 and 70.12(1)(c)3. and create SCR 70.12(5), (6) and 70.16, relating to the Supreme Court Finance Committee, filed by Justice Patience Drake Roggensack on 7/6/12. Preliminary memo circulated 9/18/12. Court discussed at 9/19/12 rules conf.; Court voted 6 to 1 to solicit public comment and schedule for further discussion at an future open rules conference (AWB would have held public hearing). Public comment solicited on 10/18/12 to standard list of recipients, as well as additional persons/entities stated on record at the 9/19 rules conf. Scheduled for discussion at 1/15/13 rules conference; staff memo circulated 1/9/13; **PDR is holding to file comment to SSA's 12/13/12 filing.**
- E) Rule Petition 12-08: Petition to Create SCR 74.02, Appointment of the Judicial Commission Members, filed by Chief Justice Shirley S. Abrahamson on 7/31/12. Preliminary memo circulated 9/17/12. Court discussed at 9/19/12 and 9/25/12 rules confs. Court voted, 4 to 3, to not hold public hearing and to deny petition. **Draft denial order circulated 10/15/12; approvals received at 10/31/12 rules conf.; SSA to write dissent (AWB join?).**
- F) Rule Petition 12-09: Petition to create Rules under Supreme Court Rules Ch. 80 and amend Supreme Court Rule 98.07, Publication of Rules filed by Publication Committee on 9/7/12. Preliminary memo circulated 9/17/12. Court discussed at 9/25/12 rules conf. Court voted to schedule public hearing. Notice of public hearing issued 10/11/12; public input solicited 11/16/12; staff hearing memo circulated 1/10/13; public hearing held 1/15/13; petition granted (4 to 3); **draft order circulated 1/29/13 (rec'd approvals from SSA, AWB, NPC – PDR held order 2/4/13).**

G) DTP's memorandum on Justice on Wheels. Court agreed to place this item on rules administrative conference. Memo from Amanda Todd circulated 10/22/12 for discussion at 10/31/12 rules conference. SSA e-mail 12/7/12 to court and Amanda Todd re: further outreach proposals.