

SUPREME COURT OF WISCONSIN

NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 03-04

In the matter of Amendment of Supreme Court Rule 20:1.5(b) and Creation of Supreme Court Rule 20:1.5(f) regarding written communication on fees and the Amendment of Supreme Court Rule 31.02 regarding continuing legal education credits for ethics.

FILED

NOV 20, 2003

Cornelia G. Clark
Clerk of Supreme Court
Madison, WI

On October 22, 2003, the court held a public hearing on the petition filed on April 11, 2003, by the Wisconsin Courts Fee Arbitration Study Committee, seeking to amend Supreme Court Rule 20:1.5(b) and create Supreme Court Rule 20:1.5(f) regarding written communication on fees and to amend Supreme Court Rule 31.02 regarding continuing legal education credits for ethics.

A number of individuals and entities responded to the petition at the public hearing. In particular, the Wisconsin Ethics 2000 Committee asked the court to defer action on the petition pending completion of its related work, or, in the alternative, to adopt certain, more extensive amendments.

The participants demonstrated both consensus and disagreement on this matter. The Court saw a consensus among the participants at the hearing in three areas, as follows: 1) ordinarily lawyers should use written fee agreements with their clients, 2) government and corporation counsel lawyers should be

excluded from the proposed continuing legal education requirements, and 3) lawyers should promptly respond to inquiries from clients regarding fees. The most debated areas of the petition at the hearing were as follows: 1) the requirement that lawyers must provide written fee estimates to their clients and provide revised estimates, 2) the requirement that lawyers must advise clients of the availability of voluntary fee arbitration programs at the beginning of the representation, 3) the requirement that a lawyer's response to client fee inquiries always be in writing, 4) the threshold level of anticipated fees that should trigger the lawyer's increased duties, and 5) the continuing legal education requirement requiring one credit relating to fees.

The court recognizes the good work in a difficult area put into the report and the petition by the Wisconsin Courts Fee Arbitration Committee. However, after careful consideration, the court concludes that the matter should instead be addressed as part of a future rules petition expected from the Wisconsin Ethics 2000 Committee. The current petition is returned to the Wisconsin Courts Fee Arbitration Study Committee for further development in close collaboration with the Wisconsin Ethics 2000 Committee, the Board of Bar Examiners, other members of the bar, and the public. The Wisconsin Courts Fee Arbitration Study Committee may file supplemental materials reflecting its further consideration of this matter as it deems appropriate, which will be considered by the court when a rules petition from the Wisconsin Ethics 2000 Committee's petition is filed.

IT IS ORDERED that the petition is returned without action to the Wisconsin Courts Fee Arbitration Study Committee for further consideration.

IT IS FURTHER ORDERED that the court may hold further proceedings in this matter following its receipt of a rules petition from the Wisconsin Ethics 2000 Committee.

Dated at Madison, Wisconsin, this 20th day of November, 2003.

BY THE COURT:

Cornelia G. Clark
Clerk of Supreme Court

