

STATE OF WISCONSIN
IN SUPREME COURT

RECEIVED
APR 09 2007
CLERK OF SUPREME COURT
OF WISCONSIN

In the Matter of :

Petition 06-04

06-04

MEMORANDUM

Background

On April 3, 2006, petition 06-03 was filed asking, among other things, for an amendment to SCR 21.16 regarding restitution. On May 22, 2006, petition 06-04 was filed also asking, among other things, for an amendment to SCR 21.16 regarding restitution. The Wisconsin Lawyers' Fund for Client Protection withdrew petition 06-03 relating to the amendment to SCR 21.16 regarding restitution, in favor of the language in petition 06-04.

The purpose of this Memorandum is to bring the comment from petition 06-03 before the Court and to add additional comment.

Comment from Petition 06-03

Collection efforts by the Fund have been hampered by the inability to find collection counsel to take cases on a contingent fee basis. The vast majority of awards are made against disbarred or suspended attorneys. Collection counsel are concerned these attorneys would vigorously defend their cases. Allowing a restitution order to be

reduced to judgment will help the Fund collect restitution from dishonest attorneys against whom awards have been made.

The restitution orders which will be reduced to judgment are those which will have been processed under the current disciplinary procedure. Therefore, due process requirements will be met.

Additional Comment

This proposed rule is popular with members of the bar as it will tend to reduce the assessments issued by the Fund. The Fund believes that we are stewards of the assessments paid by bar members. In this regard, we need to attempt to collect the monies that we pay out. It is the current practice of the Court in disciplinary proceedings to order as a sanction that within 60 days of the date of the order that restitution be made to the Wisconsin Lawyers' Fund for Client Protection. However, there is no mechanism in place to enforce these orders. It is recognized that getting a judgment is only half the battle in collection cases, but this rule will greatly enhance the Fund's collection abilities.

Respectfully submitted this 9th day of April, 2007

By: David M. Reddy, Chair
Wisconsin Lawyers' Fund for Client Protection