

In the Matter of the Petition
For Amendment to Rules 22.11,
22.20, and 22.21, Supreme Court
Rules Relating to the Lawyer
Regulation System

PETITION

TO: Chief Justice Shirley S. Abrahamson
Justice Jon P. Wilcox
Justice Ann Walsh Bradley
Justice N. Patrick Crooks
Justice David T. Prosser, Jr.
Justice Diane S. Sykes
Justice Patience D. Roggensack

Filed with the Clerk of Court Cornelia G. Clark
Clerk of Supreme Court Office
110 E. Main Street
Suite 215
Madison, WI 53703

The Petitioner, Keith L. Sellen, Director of the Office of Lawyer Regulation, hereby petitions the Supreme Court of Wisconsin for an order that amends Rules 22.11, 22.20, and 22.21 of the Supreme Court Rules (SCR) relating to the Lawyer Regulation System as follows.

PROPOSED AMENDMENTS

SCR 22.11 Initiation of Proceeding.

Amend subparagraph (2) to read as follows:

The complaint shall set forth only those facts and misconduct allegations for which the preliminary review panel determined there was cause to proceed and may set forth the discipline or other disposition sought. Facts and misconduct allegations arising under SCR 22.20 and SCR 22.22 may be set forth in a complaint without a preliminary review panel finding of cause to proceed.

SCR 22.20 Summary license suspension on criminal conviction.

Create subparagraph (6) to read as follows:

Filing of Complaint. The director, or special investigator acting under SCR 22.25, shall file the complaint in the disciplinary proceeding within three months of the effective date of the summary suspension, or shall show cause why the summary suspension should continue. The respondent attorney may file a response with the supreme court within 10 days of service. Reinstatement pursuant to this section shall not terminate any misconduct investigation or disciplinary proceeding pending against the attorney.

Create subparagraph (7) to read as follows:

Filing of Referee Report. The referee appointed to conduct a hearing on the complaint shall conduct the hearing in a prompt manner and file the report required by SCR 22.16 no later than six months after the filing of the complaint. In the event the report is not filed within six months of the filing of the complaint, the respondent attorney may move the supreme court for reinstatement pending completion of the disciplinary proceeding. Reinstatement pursuant to this section shall not terminate any misconduct investigation or disciplinary proceeding pending against the attorney.

SCR 22.21 Temporary Suspension.

Create subparagraph (3) to read as follows:

Filing of Complaint. The director, or special investigator acting under SCR 22.25, shall file the complaint in the disciplinary proceeding within six months of the effective date of the temporary suspension imposed under this rule, or shall show cause why the temporary suspension should continue. The respondent attorney may file a response with the supreme court within 10 days of service. Reinstatement pursuant to this section shall not terminate any misconduct

investigation or disciplinary proceeding pending against the attorney.

Create subparagraph (4) to read as follows:

Filing of Referee Report. The referee appointed to conduct a hearing on the complaint shall conduct the hearing in a prompt manner and file the report required by SCR 22.16 no later than six months after the filing of the complaint. In the event the report is not filed within six months of the filing of the complaint, the respondent attorney may move the supreme court for reinstatement pending completion of the disciplinary proceeding. Reinstatement pursuant to this section shall not terminate any misconduct investigation or disciplinary proceeding pending against the attorney.

JUSTIFICATION

Interim suspensions protect the public, but must also respect due process rights of respondent attorneys for a prompt disposition of the pending matter. To that end, the petitioner proposes time limits for filing a formal complaint and for filing the referee's report in situations where an attorney's license is suspended summarily based upon a criminal conviction, or suspended temporarily in the

interests of the public and the administration of justice. The petitioner also proposes a procedure for the Supreme Court to reinstate the license when the complaint or report in the underlying matter is not filed within a prescribed time.

Finally, the petitioner proposes an amendment to SCR 22.11 to allow the director or special investigator to file a complaint based upon the conviction of a crime without review by a preliminary review panel, but only in cases where the Supreme Court has already reviewed the matter and ordered a summary suspension. Because the proof of guilt is clear, and because the Supreme Court has reviewed the matter before ordering a summary suspension, a panel review is not necessary to establish cause to proceed. The amendment would enable complaints in summary suspension cases to be filed more promptly, which serves the interests of the public and respondent attorney.

Respectfully submitted this ___ day of _____, 2004.

Keith L. Sellen
Director
Office of Lawyer Regulation
State Bar No. 1001088