

STATE OF WISCONSIN  
SUPREME COURT

---

**In the Matter of Amending the  
Code of Judicial Conduct**

**PETITION FOR SUPREME COURT RULE**

---

To: Justices of the Wisconsin Supreme Court

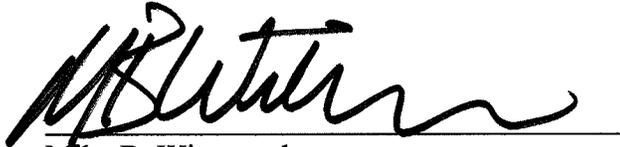
Wisconsin Manufacturers & Commerce (“WMC”) petitions this Court to amend the Code of Judicial Conduct (the “Code”) to provide that a judge shall not be required to recuse himself or herself in a proceeding where the recusal is based solely on the sponsorship by a party to the proceeding of an independent expenditure or issue advocacy communication (collectively, an “independent communication”) or by a party to the proceeding’s donation to another organization that, in turn, sponsors an independent communication. The grounds for this petition are set forth here and in the accompanying Memorandum of Law in Support of Amending the Code of Judicial Conduct.

WMC requests that this Court consolidate its consideration of this petition with Rule Petition No. 08-16, the amended version of which was filed on July 28, 2009, by the League of Women Voters of Wisconsin Education Fund (the “League’s Rule Petition”) and Rule Petition No. 08-25, filed on September 30, 2008 by the Wisconsin Realtors Association (the “Realtors’ Rule Petition”). The League’s Rule Petition and the Realtors’ Rule Petition address the Code’s rules on recusal based on contributions to a judicial campaign committee and endorsement of a judicial candidate. Similarly, WMC’s petition addresses the Code’s rules on recusal based on legal independent communications that may take place before, during or after judicial campaigns and elections. Considering the three petitions together will conserve the Court’s and party’s time and resources.

To avoid the effect of a *de facto* rule that leads to recusal based solely on independent communications, Supreme Court Rule 60.04 should be amended. Specifically, SCR 60.04 should be amended to add the following subsection, which would immediately follow the subsection (5) proposed in the Realtors' Rule Petition:

**(6) EFFECT OF INDEPENDENT COMMUNICATIONS.** A judge shall not be required to recuse himself or herself in a proceeding where such recusal would be based solely on a party to the proceeding's sponsorship of an independent expenditure or issue advocacy communication (collectively, an "independent communication") or by a party to the proceeding donating to an organization that sponsors an independent communication.

Dated: October 16, 2009.



Mike B. Wittenwyler  
State Bar No. 1025895  
GODFREY & KAHN, S.C.  
One East Main Street, Suite 500  
P.O. Box 2719  
Madison, WI 53701-2719  
(608) 257-3911

*Attorneys for Wisconsin Manufacturers &  
Commerce*