

**John Nicholas Schweitzer**

Supreme Court Referee

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September 30, 2013

Julie Anne Rich, Supreme Court Commissioner  
Wisconsin Supreme Court  
110 East Main Street, Room 440  
P.O. Box 1688  
Madison, WI 53701

Re: Rule Petition 13-04  
Petition to amend rules relating to referees in the Lawyer Regulation System

Dear Commissioner Rich:

I am not privy to the backside (or frontside, depending on point of view) of the referee system, and I can respond to this petition only from my personal experience as a referee for over 20 years. With that *caveat*, please accept the following comments.

I have no strong opinion on the petition's most important element, limiting the "permanent" panel of referees to four, with an "auxiliary" panel which would be very similar to the current list of referees. The number four seems low to me, especially given the need for disciplinary hearings to be held in the respondent's county, but the Supreme Court and the OLR are in a better position than I to estimate the need for referee services now and in the future.

I understand the petition's insistence that a referee have substantial judicial or litigation experience, though I prefer the suggestion made by Attorney Terry Johnson that the phrase "trial experience" be substituted for "litigation experience".

I do not see that the proposed change would have a beneficial fiscal impact and, as pointed out by Commissioners Kopp, Runke, and Neuser, additional mileage charges resulting from having just four referees might well have the opposite effect.

I assume that the impetus for the petition must be that some referees on the current panel are less efficient, produce lower quality work (whatever that may mean), and are less "uniform in their application of disciplinary standards and procedures" than others. I can appreciate an interest in "quality" and "efficiency", and having no direct information about other referees' performance in those areas, I can only say that I like to think that my proceedings have been

conducted well, and that my reports have been reasonably well-written and always delivered well within time limits. I can also appreciate an interest in the “uniform application of disciplinary standards and procedures”, but if the real concern is that referees differ in their recommendations, I would hesitate to attempt to enforce uniformity. I am not convinced that reducing the number to four would achieve those goals better than some other approach, such as a frank discussion between the OLR and the Court Commissioners about referees whose performance could be improved.

Sincerely,

John Nicholas Schweitzer, Referee

cc: Rod W. Rogahn, Chair  
Board of Administrative Oversight

Kevin G. Klein, President  
State Bar of Wisconsin