

DIANE S. DIEL, S.C.

ATTORNEYS AT LAW

February 7, 2014

Via E-mail and U.S. Mail

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Clerk of Supreme Court
Attn: Deputy Clerk- -Rules
P.O. Box 1688
Madison, WI 53701-1688

Re: Petition 13-14 to Amend SCR 60.04 to Address Pro Se Litigants

Dear Supreme Court Justices:

I write to express my support of Petition 13-14, the petition by the Wisconsin Access to Justice Commission to amend Section 60.04 of the Judicial Code of Conduct. I practice almost exclusively in family court, and observe firsthand the challenges faced by trial courts dealing with unrepresented persons. Every year, the number of people who represent themselves in court increases. This increase is overwhelmingly due to financial reasons, but some of these self-represented litigants are dissatisfied with prior legal representation. I am not aware of studies on the experiences of self-represented litigants in the United States, but would direct the Court to the work of Dr. Julie McFarlane, who authored an extensive study of self-represented litigants in Canada. Her report is found at <http://www.representing-yourself.com/PDF/reportM15.pdf>. Dr. McFarlane's report clearly illustrates that self-represented litigants are overwhelmed by their experiences in court, and we know that they are overwhelming the legal system. The proposed new rule provides definition and clarity to trial courts as to the conduct of trials or other court proceedings with unrepresented clients. It is a step in the right direction of helping trial courts balance stark reality: the majority of family court litigants will not have lawyers. It is also a step in the right direction of helping to realize justice for those who cannot afford lawyers.

Courts and lawyers must respond to this reality. As a family lawyer, I have worked to structure my practice to include new dispute resolution processes, chiefly the

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collaborative process in which represented clients agree to limit the scope of their representation to out of court, interest based settlement negotiations, and mediation. Additionally, I provide limited scope representation to clients regarding the preparation of documents and agreements. These kinds of representation may result in appearances in court by unrepresented clients as well, as a way of creating affordable positive results. Lawyers and Judges alike should have tools to help people with legal problems manage, in a less overwhelming way, in the justice system.

I regret that I am not able to appear personally on February 24, 2014 to lend my support to this Rules Petition. As President of the State Bar, I was privileged to personally petition the Court to approve the Access to Justice Commission. This Rules Petition is the type of creative response to the unmet need for civil legal services existing in the State of Wisconsin I hoped that an Access to Justice Commission would provide, and I am pleased to support this Petition. Thank you for your consideration, and I respectfully urge the Court to approve the Petition.

Yours very truly,

Diane S. Diel

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DSD/jd

Cc: Margaret J. Vergeront, Access to Justice Commission