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Cheryl A. Gemignani

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Mediator*

December 8, 2016

Clerk of the Wisconsin Supreme Court
P.O. Box 1688
Madison, WI 53701

In Re: The Amendment of Supreme Court Rule Chapter 20 relating to limited scope representation, specifically the amendment to Supreme Court Rule 20:2.4 to create a new subsection (c) to allow lawyer mediators to draft settlement documents in family cases.

Dear Madam,

I write to support the petition to amend Supreme Court Rule 20:2.4 to create a new subsection (c) to allow those of us who serve as lawyer/mediators to draft settlement documents which are then filed and approved by the Court.

I have been practicing family law for over 32 years. Increasingly, clients have chosen to represent themselves in the court system, or are seeking out limited scope representation. I mediate for both represented and unrepresented clients. I currently draft memorandums of understanding which outline the settlement the parties reach. In the event they are represented, their counsel is tasked with drafting the necessary Marital Settlement Agreement and the actual Divorce Decree to be filed with the court. In the event they are unrepresented, the task falls to the parties to try to complete same. Unfortunately, the level of expertise the parties have does not rise to the same level as mine and they are generally unable to correctly complete this task. It then becomes an issue for the presiding judge on their divorce case to try to understand what it is the parties have agreed to and/or navigate giving them some information to allow them to complete the Marital Settlement Agreement and the Divorce Decree. The pro-se check the box forms are not particularly user friendly and a majority of the information is not applicable and simply muddies up the form. This all takes up valuable court time and is often frustrating for the Judges involved and the parties because the judge is prohibited from providing legal advice to them. Allowing the lawyer/mediators to draft the Marital Settlement Agreement is a logical

extension of the services I provide as a mediator. The parties have paid me to do a job in helping them reach an agreement. Drafting that agreement in the legal format necessary to file it for approval with the Court provides them with the benefit of the costs they have incurred. It also allows the matter to proceed to an uncontested divorce hearing wherein the Judge is then in a posture to question the parties about the agreement and satisfy himself or herself that they understand it and are agreeing to be bound by it as a Court Order. It allows the Judge to then expedite his or her calendar in terms of these hearings. Given the reality of our current circumstances, which is that over 70% of family court litigants navigate the family court system without the assistance of a lawyer, this is simply a manner in which to address what is a very real issue for our court system and the Judges who serve in it.

Sincerely,

Cheryl A. Gemignani

CAG:jl