

STENZEL LAW OFFICE LLC

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Clerk of Supreme Court
ATTN: Deputy Clerk-Rules
PO Box 1688
Madison, WI 53701-1688
VIA E-MAIL (clerk@wicourts.gov)
and U.S. MAIL

RE: Written Comment on Petition 16-04

Dear Supreme Court Justices:

I write to comment on Rule Petition 16-04 which seeks to amend SCR 20 to permit lawyer mediators to draft agreements they have worked on as mediators in family law matters. I am in support of the petition and believe the proposed change will benefit lawyers, the courts and the general public.

By way of background, I have worked for nearly four years as a part-time Deputy Family Court Commissioner in Racine County, Wisconsin. In that role I hear all types of family actions including temporary hearings, post-judgment motions and stipulated final divorces.

I also maintain a part-time private family practice (outside of Racine County) in Southeast Wisconsin. I have mediated scores, if not hundreds, of family law cases and served on the family mediator rosters for Washington and Milwaukee Counties in addition to being retained privately by couples.

I support the rule for the following reasons:

1. The substantial number of pro se litigants seems to be here to stay. That means that many parties are navigating the divorce process without a legal education and guidance. A legal guide can help a person make informed decisions, avoid costly mistakes and future returns to court and, at the same time, take advantage of opportunities that might have otherwise been missed. For a variety of reasons, many divorcing parties today are unwilling or unable to hire counsel. Permitting mediator drafting will create an opportunity for lawyers to innovate in how they provide services.
2. The current state of affairs penalizes rule followers. The challenges of enforcing the existing rule against drafting mean that some lawyers do so anyway with impunity; the

same applies to non-lawyer mediators. The proposed rule change will normalize the field and let rule followers behave accordingly.

3. Mediator drafting has the potential to ease the burden on the courts. Part of my job as a court commissioner is to review pro se final divorce documents. In Racine County we have well-established process where pro se parties submit all of their final divorce hearing paperwork about a month prior to the final hearing. When needed, they are sent a correction letter indicating deficiencies or problems with their final paperwork. While the system works, it is time consuming and essentially subsidizes pro se parties' lack of counsel. This is in addition to any time we spend with parties in court making corrections. Our comments and corrections are based on the filed paperwork, not background knowledge or personal communication.
4. The rule has the potential to improve the public image of lawyers as problem solvers. To the extent that the general public simply views judges, private attorneys and the court system as all lawyers, one view of the current pro se trend is simply a rejection of the status quo. To the extent that all lawyers have a responsibility to make the overall system of laws and courts work better, this rule is a step in that direction.

I support the adoption of the proposed rule changes. The rule has the potential to better serve public interest, promote lawyer innovation and ease the burden on courts.

Sincerely,



Paul Stenzel
Stenzel Law Office, LLC