



May 1, 2018

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

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CLERK OF SUPREME COURT
OF WISCONSIN

Re: Rule Petition 17-06, *In re petition to amend SCR 81.02*

Dear Honorable Justices:

We manage a small law firm based in Milwaukee and Waukesha Counties, focused exclusively on representing people accused of crime. Our firm has represented clients on both a privately-retained and publically-appointed basis since 1999. We have always treated all clients equally, spending the necessary time and effort to give them the best of our abilities, whether paid by the client directly, by the county, or by the state. In recent years, we have been forced to focus more exclusively on private-pay clients in order to maintain a practice. The simple reality for most private criminal defense attorneys is that we are small businesses, and like other small businesses, we pay rent, insurance and overhead, we employ people, we pay taxes, and we plan ahead to budget for rising costs and demands. When a revenue source remains flat for more than three decades while all other costs rise, something inevitably has to give way, and unfortunately for our firm and many others, our ability to represent indigent people accused of crime has been severely curtailed by the lack of any increase in the State Public Defender (SPD) rate paid to attorneys representing the poor.

There is no doubt that SPD clients are entitled to and in need of quality, experienced legal representation, arguably now more than ever, as the same recent time period has seen growing penalties in the form of longer sentences and more numerous and punitive criminal statutes. The stakes for those accused of crime have risen, while the ability of experienced counsel to represent those clients has diminished.

We have a unique system in Wisconsin that incorporates both public and private attorneys into the representation scheme to assure representation for all. For many reasons, including conflict resolution and efficient administration of justice in our circuit courts, our system is desirable and should be maintained. However, for too many years, the SPD private bar rate has been ignored, with less experienced attorneys filling the void, and more experienced attorneys helping where possible, essentially motivated by a commitment to public service. This has reached a crisis point that now greatly affects the quality and viability of our system. It is time for the attorneys, judges, and courts involved in that system to lead the necessary change; existing constitutional mandates require no less.

Others who have written in support of this Petition have discussed the cost – both monetary and in human potential – of our failure as a state to provide adequate compensation to ensure poor people are well represented. We support those comments.

Your consideration is greatly appreciated.

Sincerely,

/s/Craig Mastantuono

/s/Rebecca Coffee

Attorneys at Law

CM/ab