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Dear Justices of the Supreme Court

RE: *Petition to Amend SCR 81.02*

Thank you for inviting public comment on this important petition. I am the President of the Wisconsin Association of Criminal Defense Lawyers (WACDL). There are currently 450 members in our organization, many of whom have submitted their own thoughts. I urge the Court to grant this petition so that we might avoid this impending constitutional crisis.

I have been a lawyer for thirteen years and I have practiced criminal defense that entire time. I have devoted my entire professional life to criminal defense – I have been on the Board of Directors of WACDL for over ten years and I was twice elected to the Board of Directors of the National Association of Criminal Defense Lawyers (NACDL).

Like many defense attorneys, I began my career by taking appointed cases. I found these cases to be intellectually stimulating and rewarding. Unfortunately, I soon found that the \$40 per hour rate was too low to cover even my basic overhead. As this Court has heard elsewhere, Wisconsin's hourly rate is the lowest in the country. It is also roughly three times less than the federal rate. If the rate continues to remain unchanged, fewer and fewer lawyers will take appointed cases. The consequences to the criminal justice system will be catastrophic – people who are presumed innocent will remain in jail without representation for months, judicial calendars will become nightmarish, and victims will not have any resolution.

Nearly all of our members are solo practitioners. We cannot sustain our practices at the this low hourly rate. Consequently, every year there are fewer lawyers willing to take appointed cases. On the ground level the system is imploding. Our State is failing to fulfill its constitutional mandate to ensure that the poor have adequate representation. There are so few lawyers willing to take cases at the \$40 per hour rate, that the public defender's office is forced to recruit lawyers in counties that are literally hundreds of miles away. Just last week, the appointment secretary in Vilas County asked if I could take one of eight available cases. Vilas County is nearly 300 miles from my Waukesha office. On a weekly basis I receive calls from counties such as Brown, Kenosha, Racine, and Outagamie. The reason our members are being flooded with requests to take cases in remote counties is because the public defender's office is unable to find local counsel at the \$40 per hour rate.

This petition is a sensible step in the right direction. The hourly rate cannot remain unchanged indefinitely. We have tried to get the Legislature to act (I testified at an Assembly

hearing a few months ago), but they tend to see this issue purely in budgetary terms. This Court has a different obligation, however. I urge the Court to declare the current hourly rate unreasonable, raise the appointed counsel rate to \$100 per hour, and index future increases to inflation. I will be available at the hearing to speak publicly and answer any further questions.

Very truly yours,



Anthony D. Cotton