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April 27, 2018

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

Honorable Justices of the Wisconsin Supreme Court:

Along with my partner, Michael F. Hart, I operate a four-attorney firm in Milwaukee. The vast majority of the firm's practice is devoted to criminal defense work in State and Federal courts. I write on behalf of my firm in support of Petition 17.06 to amend SCR 81.02 and increase the compensation rate for appointed counsel in criminal cases.

While we are privately retained in the vast majority of our cases, we are staunch supporters of the promise of *Gideon v. Wainwright* that the accused be represented by competent counsel regardless of his or her ability to pay. We express our support by accepting appointments through the Criminal Justice Act to represent indigent individuals in federal criminal cases. We are able to do so because, although substantially below our normal rate, the hourly rate of \$140.00 is sufficient to cover the overhead costs of representation. Unfortunately, the compensation rate for appointed counsel in State court proceedings is woefully inadequate to do so. We will occasionally accept an appointment from the State Public Defender Appellate Division, typically where there has been a conviction after a jury trial and the accused has been condemned to many years in prison. We do so knowing our overhead will not be covered, but we will still take such cases out of a sense of purpose and duty, just like a great number of lawyers who practice criminal defense. We also have a duty to ourselves, our families, and our employees, however, and as a reality of business we simply cannot take on the representation of indigents in State court by appointment at the current rate as a general practice. That would change if the Court adopts the recommendations in the Petition.

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Based upon discussions with many colleagues in the defense bar, this is a common refrain. The result is that a large number of experienced, zealous advocates remain out of the pool of potential lawyers, slowing the judicial process, increasing the risk of constitutionally ineffective representation, and delaying justice for the accused and victim alike. We endorse Petition 17.06 in the strongest terms, and respectfully urge the Court to take action consistent therewith.

Sincerely,

Craig S. Powell
Kohler, Hart, Powell S.C.

CSP:vg