

In the Matter of the Petition for
Amendment to Supreme Court
Rule 10.03(4)(b)2 Relating to
Pro Hac Vice Applications

SUPPORTING MEMORANDUM

Petition 17- 09

The Wisconsin Access to Justice Commission (WATJC) is seeking a rule change to increase the fee for admission pro hac vice under SCR 10.03(4)(b)2 from \$250 to \$300, and to allocate the \$50 increase to the WATJC.

The Wisconsin Supreme Court last amended this rule three years ago. See S. Ct. Order 13-11, 2014 WI 42 (issued Jun. 20, 2014, eff. Jul 1, 2014). At that time, the pro hac vice fee was increased from \$50 to \$250 with the increased fee being distributed to three parties: the Office of Lawyer Regulation (\$100), the Wisconsin Trust Account Foundation (\$100), and the WATJC (\$50). The WATJC has consulted with the Wisconsin Trust Account Foundation and the Office of Lawyer Regulation prior to filing this petition and neither organization has raised an objection to it.

The WATJC was created by SCR 14 in 2009 in response to a petition from the State Bar of Wisconsin and began operations in 2010. It was charged by SCR 14.02(2) with an important mission: “to develop and encourage means of expanding access to the civil justice system for unrepresented low income Wisconsin residents.” Over the years, the Commission has done just that, as shown in the list of accomplishments set forth in Appendix A. It has done so with a volunteer board of 17 appointed members and the time of a .25 FTE staff member as well as other support services from the State Bar. The initial source of funding for operations was a

\$300,000 access to justice reserve fund that was created by the State Bar. These funds proved adequate for a number of years with annual operating expenditures of approximately \$70,000. However, as the State Bar reserve fund diminished, WATJC and the Court recognized that an additional funding source was needed. The Court helped to meet this need with the 2014 pro hac vice fee increase ordered in connection with Petition 13-11. The \$50 WATJC receives from that fee has resulted in a consistent revenue stream of approximately \$30,000 per year.

As the Commission reported to the Court at its annual joint meeting on April 18, 2017, the original State Bar reserve fund that sustained our operations is expected to run out by June 30, 2017. As a sign of its continued commitment to the work of WATJC, the State Bar has approved an annual grant of \$20,000 per year for the next five years (FY17 - FY21). In addition, the Family Law Section of the State Bar has provided a grant of \$5,000 per year for the last two years to help fund WATJC's operations. Funds provided through the State Bar, when combined with the revenue from the current pro hac vice fee, provide a total of approximately \$55,000/year for the WATJC.

Through significant cost-cutting and a reduction in most programs, WATJC was able to reduce its expenses in FY2017 and end the year with a balanced budget. A balanced budget will not be possible in FY2018 without additional revenue. WATJC has a projected budget deficit of between \$11,000 and \$20,000 for FY2018, which began on July 1, 2017. The actual deficit depends on the level of activity and programming that the WATJC has the resources to undertake in FY2018.

The Commission has done its best to fulfill the Court's mandate and is intent upon continuing the mission. However, this cannot and will not happen without sufficient funding to

meet its modest operating needs. The pro hac vice fee has proven to be a reliable source of funds for all three recipients (OLR, WisTAF and WATJC). We do not anticipate that a further increase of \$50 will have a significant impact the decision to file a pro hac vice application. When considered in conjunction with the other fees that must be paid to file, answer or appear in a civil case in other Midwestern states, the proposed increase in Wisconsin's pro hac vice fee would not be unreasonable. For purposes of comparison, the corresponding pro hac vice and other fees for large claim civil cases in other Midwestern states are shown in Appendix B.

Therefore, the WATJC respectfully requests that the Supreme Court grant its request to increase the pro hac vice fee in SCR 10.03(4)(b)2 from \$250 to \$300, and to allocate the \$50 increase to the WATJC.

Respectfully submitted this 28th day of September, 2017.

James A. Gramling Jr., President
Wisconsin Access to Justice Commission
State Bar No. 1014072

Appendix A

Wisconsin Access to Justice Commission

Accomplishments & Activities

2016-2017

Funding Civil Legal Aid

- Organized our second Just Breakfast outreach event in Wausau, to bring together local foundations, legal services agencies, public officials and community organizations around the need for more local financial support for civil legal aid. The event resulted in a tentative commitment from a private foundation to fund a legal aid staff attorney position in the area.
- Participated in the Legislative Council Study Committee on Access to Civil Legal Services. Three bills resulted: encouraging agencies to allocate a portion of federal block grant funds to civil legal aid (AB 115); creating an interagency coordinating council on the use of federal block grant funds for civil legal aid (AB 116); and authorizing district attorneys to participate in pro bono work where there is no conflict of interest (AB 117).
- Active involvement in grassroots efforts to protect Legal Services Corporation funding in Congress.
- Testimony at Joint Finance Committee public hearings and outreach efforts in support of adding civil legal services funding to the 2017-2019 state budget, leading to a unanimous committee vote to include \$1 million in the budget for legal services to domestic violence victims.
- Received unanimous Supreme Court support for the Commission's Petition 15-06, which changed Wisconsin's civil procedure rules to direct a portion of unclaimed settlement funds in state court class actions to WisTAF for civil legal aid.
- Assisted the Bureau of Aging and Disability Resources at the Wisconsin Department of Health Services with their effort to obtain a 3-year federal grant of \$100,000/year to study the legal needs of low income Wisconsin seniors and to improve service delivery.
- Supported funding by the Legal Services Corporation of an Eviction Defense Project in Milwaukee County Small Claims Court.

Encouraging Pro Bono Service

- Launched an upgraded version of the online legal clinic, Wisconsin Free Legal Answers, wi.freelegalanswers.org, the website that allows low income individuals to submit questions online for review by volunteer Wisconsin lawyers. Over 80 lawyers have signed up to volunteer and more than 1200 clients from 71 counties have submitted questions through this service.

- The 2016 Pro Bono Honor Society recognizes 405 Wisconsin lawyers from 38 counties who provided at least 50 hours of qualifying pro bono legal services in 2016.
- Supported successful efforts to advance the State Bar's Petition 15-05 to allow limited CLE credit for pro bono service and to permit in-house counsel to do pro bono work.
- Evaluating creation of a pro bono emeritus bar membership status that would allow more lawyers to engage in pro bono work in retirement
- Evaluating changes to the student practice rule that would allow law students to provide legal assistance to clients earlier in their training under the general supervision of an attorney.

Public Outreach

- Worked with Legal Action of Wisconsin to host the first strategic communications training program in Milwaukee for legal services attorneys with training provided by Voices for Civil Justice from Washington, D.C.
- Published *Just Wisconsin*, the Commission's quarterly electronic newsletter.

Courts & Self-help

- Worked with Court Operations staff, State Law Library staff, and clerks of court, to develop and promote a set of recommended resources for self-represented litigants information that should be included on county clerk of court websites.
- Monitoring and working with Court Operations to address concerns about e-filing and fee waivers as they affect low income litigants who are either self-represented or represented by pro bono counsel.
- Supporting efforts to limit the negative impact on housing opportunity caused by eviction records on CCAP, particularly when those actions were dismissed or the tenant prevailed.

Appendix B

	Pro Hac Vice Fees	Other Fees	Total
Indiana	\$180/year	\$159 filing \$2 jury	\$341
Michigan	\$105/case	\$175 filing \$85 jury Wayne County	\$365
Minnesota	none	\$299 filing \$102 jury Hennepin County	\$401
Iowa	\$250 every 5 yrs	\$185 filing \$100 jury Polk County	\$435
Ohio	\$300/case	\$225 filing Franklin County	\$525
Wisconsin	\$250/case	\$269 filing \$72 jury Milwaukee County	\$591
Illinois	\$250/case	\$368 filing \$237 appearance \$25 jury Cook County	\$880