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Wisconsin Supreme Court
16 East State Capitol
P.O. Box 1688
Madison, WI 53701

Mesdames and Messrs. Justices:

Re: Petition 19-10

As a sequel to yesterday's hearing, I submit the following comments on my own behalf, not on behalf of the Board of Administrative Oversight or any other entity. Although you have already acted on Petition 19-10, you might find my observations interesting or even helpful in drafting opinions regarding the Petition.

A commentator yesterday cited his years of membership in the State Bar while introducing his opposition to the permanent license revocation proposed by Petition 19-10. Following his lead, I will do the same in support of the change proposed by the Petition.

I have belonged to the State Bar of Wisconsin for 53 years. Lawyer jokes notwithstanding, I have done so with pride and with the understanding that my role as an officer of the court--of the Wisconsin Supreme Court--and as a servant to the administration of justice imposed upon me duties and responsibilities extending beyond those required of the public in general. I and every other member of the State Bar must conduct himself or herself accordingly.

As a result, though we as a society may grant leniency to members of the general public and acknowledge rehabilitation by those who violated society's laws, standards of conduct applied to attorneys and the need to maintain public trust in the legal profession do not always allow such leniency or flexibility when dealing with lawyers.

Permanent revocation would sit atop a hierarchy of disciplinary sanctions just as a life sentence or 99-year sentence sits atop the hierarchy of criminal penalties. The Court would likely use permanent revocations sparingly and for only the most grievous of violations. Such might include defalcations similar to the one described by Ms. Rothstein yesterday, which also likely incurred a criminal penalty, and may include even more subtle violations such as a violation of client confidentiality or a conflict of interest seriously compromising a party's rights

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or financial position, which actions might not be punishable criminally but were so grave as to disqualify the perpetrators from ever practicing law again.

An example: many years ago, my first duty as a member of BAPR's District 2 Committee required me to preside over the reinstatement hearing of John Balestrieri, son of Milwaukee's reputed Mafia godfather. Mr. Balestrieri suffered the loss of his license to practice upon conviction for extortion and other crimes. He completed his prison term and applied for reinstatement in the Bar.

My panel and the District 2 Committee decided that the privilege to practice and responsibilities it bore required satisfaction of standards higher than those demanded for members of the public in general. Though acknowledging that, by many measures, Mr. Balestrieri had paid his debt to society and earned re-integration into the community, we determined he had not met the requirements for a return to practice and recommended against his reinstatement.

The Court agreed and did not readmit him to practice. To my knowledge, Mr. Balestrieri never again applied for reinstatement. That result should likely have been pre-ordained; a permanent revocation would have done so.

Permanent revocation would also demonstrate the Court's seriousness in dealing with heinous violations. Revocations currently have often evoked a reaction in conversations or even newspaper articles to the effect that "Well, he can resume practice in five years." When appropriate, a permanent revocation would prevent such cynicism.

Yesterday's discussion revealed that inclusion of permanent revocation in the sanctions available for imposition by the Court requires procedural safeguards--among them demanding that, if OLR seeks such a sanction, it explicitly state so in its pleadings. I submit that the Court could satisfy the need for such safeguards by including them in the version of the revised Rule it adopts or by reciting them in commentary addressing the revised Rule.

Defining permanent revocation as a sanction for lawyer misconduct will enhance the public's confidence in the disciplinary system and protect against the impression and allegations (published, or at least implied publicly, a while back) that lawyers, and even the judiciary, regulating lawyers resulted in favoritism and the compromise of responsibilities owed the community.

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Thus, permanent revocation would not be an attempt at retributive justice but a necessary sanction for heinous violations of the public trust, a trust one swears to uphold when becoming a lawyer.

Thank you for entertaining these comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Christl', written in a cursive style.

Donald J. Christl

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cc: Hon. Gerald P. Ptacek
Ms. Jacquelynn B. Rothstein
Mr. Joseph M. Russell
Mr. Keith Sellen