

John Nicholas Schweitzer
Supreme Court Referee
4713 Regent Street
Madison, WI 53705
(608) 231-3941

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Clerk of Supreme Court
Attn: Julie Rich, Supreme Court Commissioner
P.O. Box 1688
Madison, WI 53701-1688

Response to Request for Public Input on Rule Petition 15-01

Dear Commissioner Rich:

I thank the Court for the opportunity to review the proposed rule change and to comment as a referee.

I would like to register my support for the petition's concept of conducting a review of the Rules of Professional Conduct for Attorneys and of the lawyer discipline system, with an emphasis on the latter.

As a referee, my contact with the lawyer discipline has been uniformly positive, but as evidenced by the "Consultation" report appended to the Rule Petition, there may well be room for improvement, and a formal review might be the best way to advance those ideas.

As for the Rules, I already have an opinion that there is room for improvement. As a result of teaching Professional Responsibility at the U.W. Law School, I've cataloged a number of rules that I think should be changed. In fact, I filed Rule Petition 10-09 in 2010 which proposed 17 (relatively minor) changes to the rules that were in effect at that time. However, it might be best to separate any review of the rules from a review of the lawyer discipline system, as those are two very different tasks and the latter should not get mixed up with and held up by the former.

As for the proposal in Rule Petition 15-01 that reviews be conducted at regular ten-year intervals and that SCR 21.23 be titled "Initial, etc.", I think a ten-year time period is somewhat arbitrary, though if no time period is specified and there is only the phrase "regular reviews", such reviews could well be ignored in favor of higher-priority tasks. I will suggest that it may be more important and useful to set up a single review of the lawyer discipline system than to work on setting up a rule for regular reviews.

Finally, I will suggest that, along with two lawyers who have represented OLR and two who have represented respondents, the membership of any Lawyer Regulation Review Committee might include a referee.

Thank you again for the opportunity to review and comment. As for the public hearing on September 21st, I will almost certainly attend but, unless something comes up during the hearing that I think I could contribute to, I am not requesting an opportunity to address the Court.

Sincerely,

Nick