



CHAMBERS OF  
PATIENCE DRAKE ROGGENSACK,  
JUSTICE

STATE OF WISCONSIN  
SUPREME COURT  
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CAH 10/19/10

PATTI GOTRIK  
JUDICIAL ASSISTANT

October 15, 2010

Representative Gary Hebl  
Wisconsin State Capitol  
Room 120 North  
P.O. Box 8952  
Madison, WI 53708

**HAND-DELIVERED**

RE: Special Committee on Judicial Discipline and Recusal

Dear Representative Hebl:

From the comments at the committee meeting of October 14<sup>th</sup>, it appeared that you favor option c in regard to addressing an equally divided supreme court when judicial discipline is the subject under consideration. It was suggested by staff that option c may require a constitutional amendment to effect its provisions.

However, in order to provide the statutory clarity that may be needed when a six-person court is sitting on a judicial discipline case, there is a much simpler solution that would not involve a constitutional amendment. Wisconsin Statute § 757.89 requires that the complaint or petition "must be proven to a reasonable certainty by evidence that is clear, satisfactory and convincing." I suggest adding the following sentence: "When the judicial commission does not meet its burden of proof in regard to the merits of the complaint or petition that it has filed, the supreme court shall dismiss the complaint or petition."

If you conclude that it is appropriate, perhaps my suggestion could be run by Ronald Sklansky, to see if it appears workable to him.

Thank you for your diligent efforts in this interesting and challenging area.

Sincerely,

Patience Drake Roggensack  
Justice, Wisconsin Supreme Court

PDR:skg