STATE BAR OF WISCONSIN
PINNACLE
Your Practice. Our Purpose.

WSSFC 2026

Quality of Life/Ethics Track – Session 2

Inside the Black Box: Demystifying the Grievance Process

Presented By:

John T. Payette
Wisconsin Office of Lawyer Regulation, Madison

Timothy C. Samuelson
Wisconsin Office of Lawyer Regulation, Madison

About the Presenters...

John T. Payette is an Assistant Litigation Counsel at the Office of Lawyer Regulation. He's previously held roles such as an associate a large firm from 1996-2008, owner of a small firm, 2008-2015, and has been with the OLR since 2016.

Timothy C. Samuelson is the Director of the Office of Lawyer Regulation. The Wisconsin Supreme Court appointed Samuelson to serve as OLR Director in August 2021. He was formerly the Civil Chief Assistant United States Attorney in the Western District of Wisconsin, an Assistant Attorney General with the Wisconsin Department of Justice, and a Dane County Circuit Court Judge. He graduated from Valparaiso University (B.A., 1995) and Indiana University McKinney School of Law (J.D., 1998).

Inside the Black Box:
Demystifying the OLR grievance process

State Bar of Wisconsin PINNACLE®
WSSFC 2026
Wisconsin Solo & Small Firm Conference
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Timothy C. Samuelson
John T. Payette
Office of Lawyer Regulation

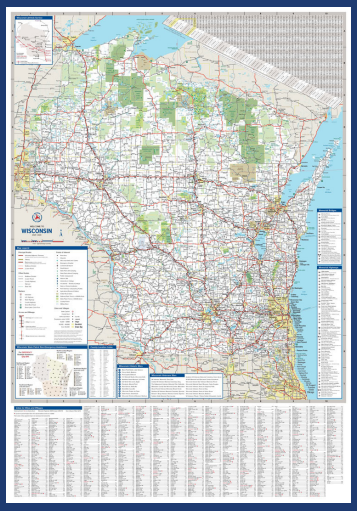
1

Grievance → ??? →

2

Learning Objectives

- The Office of Lawyer Regulation: the basics
- OLR evaluations, investigations, & prosecutions
- Supreme Court Rules of Professional Conduct
- Resources
- Questions & discussion



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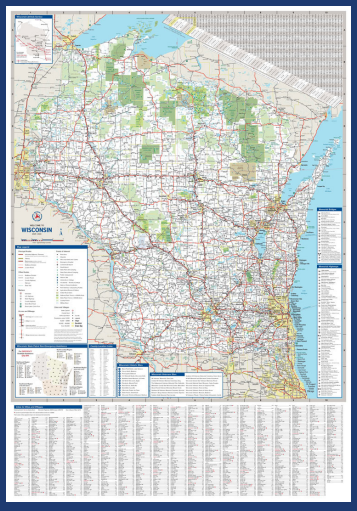

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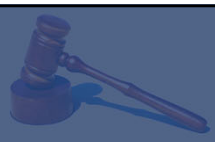
What's OLR



- Administrative agency of the Wisconsin Supreme Court
- A creation of the rules, SCR 21.02
- Part of a greater Lawyer Regulation System

Mission: protect the public & supervise the practice of law

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Who's Tim?

Timothy C. Samuelson
Director
Office of Lawyer Regulation

Former roles:

Civil Chief Assistant U.S. Attorney, W.D. Wis
Assistant Attorney General, Wisconsin DOJ
Circuit Court Judge, Dane County, Wisconsin
Private Practice, Chicago, Illinois, 1998-2012

6

Who's John?

John T. Payette
Assistant Litigation Counsel
Office of Lawyer Regulation

Former roles:

- Big firm associate & partner, 1996-2008
- Small firm owner, 2008-2015
- OLR superstar, 2016-present

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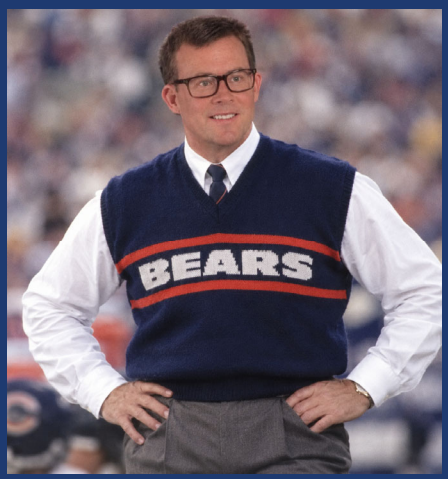
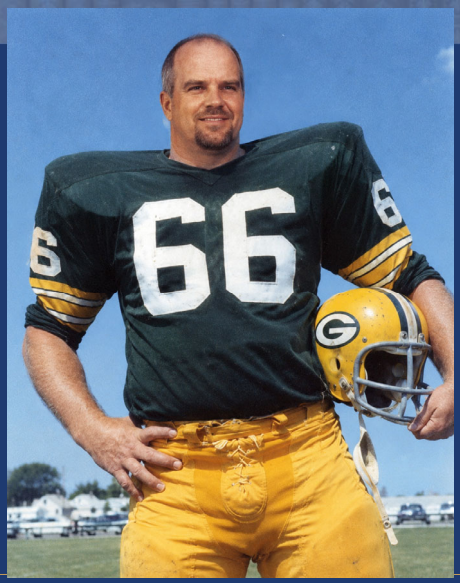
OLR: a great team





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How OLR sees itself

The good guys

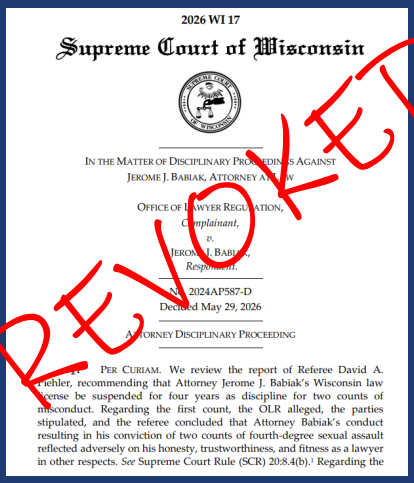
We protect the public and promote the integrity of the profession

9

How *some* lawyers see OLR

10

Why would lawyers ever think that way???



2026 WI 17

Supreme Court of Wisconsin

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST
JEROME J. BABIAK, ATTORNEY AT LAW

OFFICE OF LAWYER REGULATION,
Complainant,
v.
JEROME J. BABIAK,
Respondent.

No. 2024AP587-D
Decided May 29, 2026

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM. We review the report of Referee David A. Riehler, recommending that Attorney Jerome J. Babiak's Wisconsin law license be suspended for four years as discipline for two counts of misconduct. Regarding the first count, the OLR alleged, the parties stipulated, and the referee concluded that Attorney Babiak's conduct resulting in his conviction of two counts of fourth-degree sexual assault reflected adversely on his honesty, trustworthiness, and fitness as a lawyer in other respects. *See* Supreme Court Rule (SCR) 20:8.4(b).[1] Regarding the

REVOKED

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How the public sees OLR

OLR intake closes about 75% of professional misconduct grievances

12

Unhappiness with the result of the representation doesn't imply misconduct

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OLR by the numbers

24 employees

- 14 investigative counsel
- 3 assistant litigation counsel

Budget ~ $3.6m

One office, located in Madison

Receive ~ 2300 grievances/yr

About 25 lawyers* are disciplined/yr

* a lawyer may be diverted or disciplined for conduct encompassed in multiple matters

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OLR's mission

The lawyer regulation system is established to carry out the Supreme Court's constitutional responsibility to supervise the practice of law and protect the public from misconduct by persons practicing law in Wisconsin.

SCR ch. 21 (preamble)

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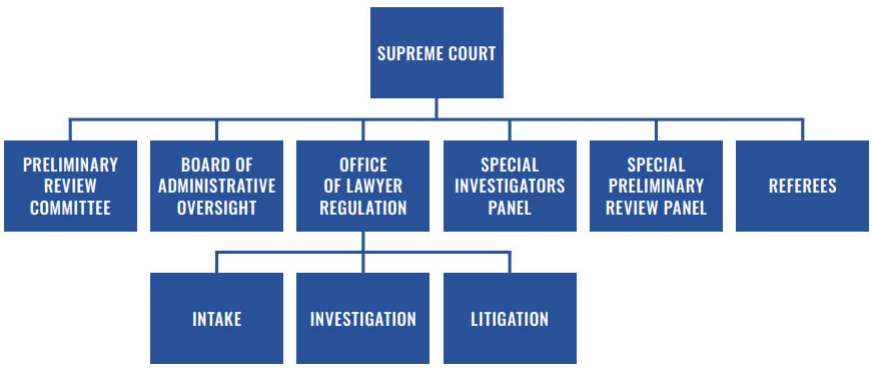
Who regulates Wisconsin lawyers?

Organization of Wisconsin's Lawyer Regulation System



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The Supreme Court regulates lawyers

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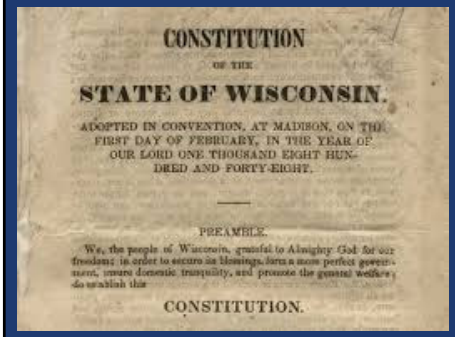
Why? How?



CONSTITUTION
OF THE
STATE OF WISCONSIN.

ADOPTED IN CONVENTION, AT MADISON, ON THE FIRST DAY OF FEBRUARY, IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND FORTY-EIGHT.

PREAMBLE.

We, the people of Wisconsin, grateful to Almighty God for our freedom; in order to secure its blessings, form a more perfect government, ensure domestic tranquility, and promote the general welfare, do ordain this

CONSTITUTION.

"The Supreme Court shall have superintending and administrative authority over all courts."

Wisconsin Constitution, Article VII, sec. 3(1)

"The power to discipline and disbar attorneys at law is an inherent power of courts."

In re Stolen, 193 Wis. 602, 610 (1927).

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Why self-regulation?

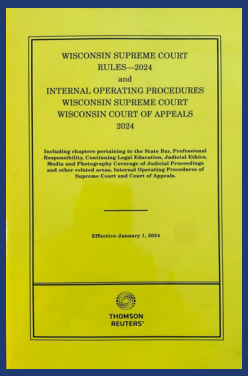
The legal profession largely sets, monitors, and enforces its own ethical standards, licensing requirements, and disciplinary rules.

"Self-regulation … helps maintain the legal profession's independence from government domination."

Wisconsin SCR, Ch. 20, preamble, comment 11

"The legal profession's relative autonomy carries with it special responsibilities of self-government."

Wisconsin SCR, Ch. 20, preamble, comment 12



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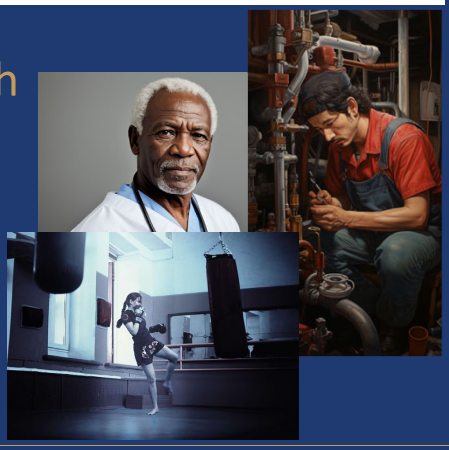
Who regulates most other professions?

The executive branch of government regulates most professions

State of Wisconsin
Department of Safety and Professional Services



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Who pays for the Lawyer Regulation System?

Name:	Atty. Timothy C. Samuelson
Member ID:	1089968
Member Class:	Active
License Status:	Good Standing
SUMMARY	
Supreme Court Assessments	
Office of Lawyer Regulation:	$180.00
Board of Bar Examiners:	$20.00
Fund for Client Protection:	$25.00
Public Interest Legal Srvcs:	$75.00
State Bar Membership Dues	
Annual Membership Dues:	$309.00
Optional Fees	
Sections and Divisions:	$0.00
Wisconsin Law Foundation:	$0.00
Keller Dues Reduction:	$0.00
TOTAL Fees	
Amount Due :	$609.00

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How you can participate?

Apply to serve in the Wisconsin Lawyer Regulation System

Clerk of the Supreme Court
P.O. Box 1688
Madison, WI 53701-1688
Fax: (608) 267-0640
Email: clerk@wicourts.gov

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Learning Objectives

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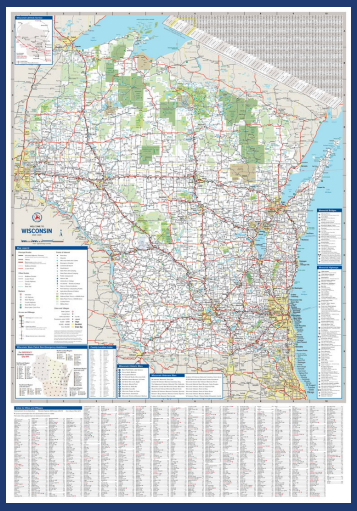

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Who can make a grievance?

"Any Person"

"Any person may make an inquiry or a grievance to the office of lawyer regulation concerning the conduct of an attorney."

SCR 22.01

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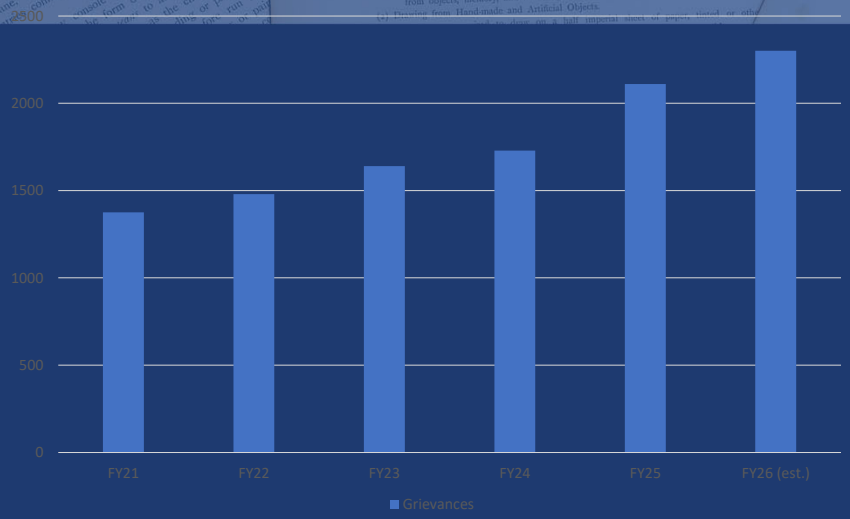
OLR's increasing volume



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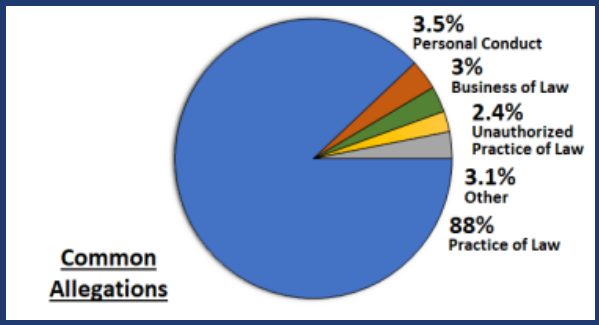
Common allegations (FY 2025-26)

Practice of law includes:

- Competence (20:1.1)
- Diligence (20:1.3)
- Communication (20:1.4)
- Fees (20:1.5)
- Conflicts (20:1.7)
- Trust accounts (20:1.15)



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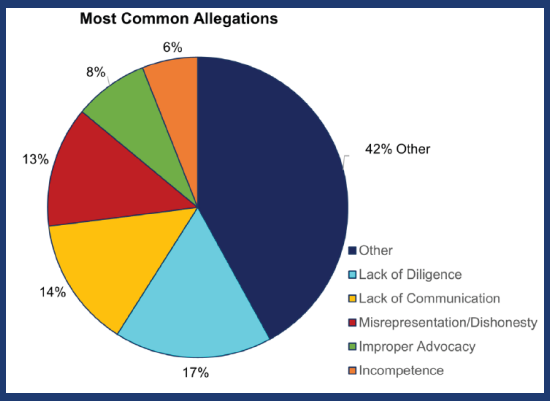
Common allegations (FY 2024-25)

FY 2024-25:

- Diligence (20:1.3) 17%
- Communication (20:1.4) 14%
- Misrepresentation 13%



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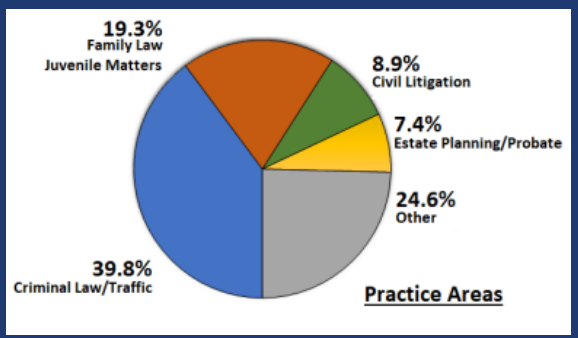
Practice areas (FY 2025-26)



Criminal law / traffic 40%
Family law / juvenile 19%
Civil litigation 9%
Estate planning / probate 7%
Everything else 25%

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Grievance

???

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Intake

Investigation

Litigation

30

OLR three-step process

Three steps: intake, investigation, litigation

Significant attrition at each step

~ 2,300 grievances filed

~ 50 diversions / reprimands at intake*

~ 125 investigations*

~ 25 filed disciplinary complaints*

* a lawyer may be diverted or disciplined for conduct encompassed in multiple matters

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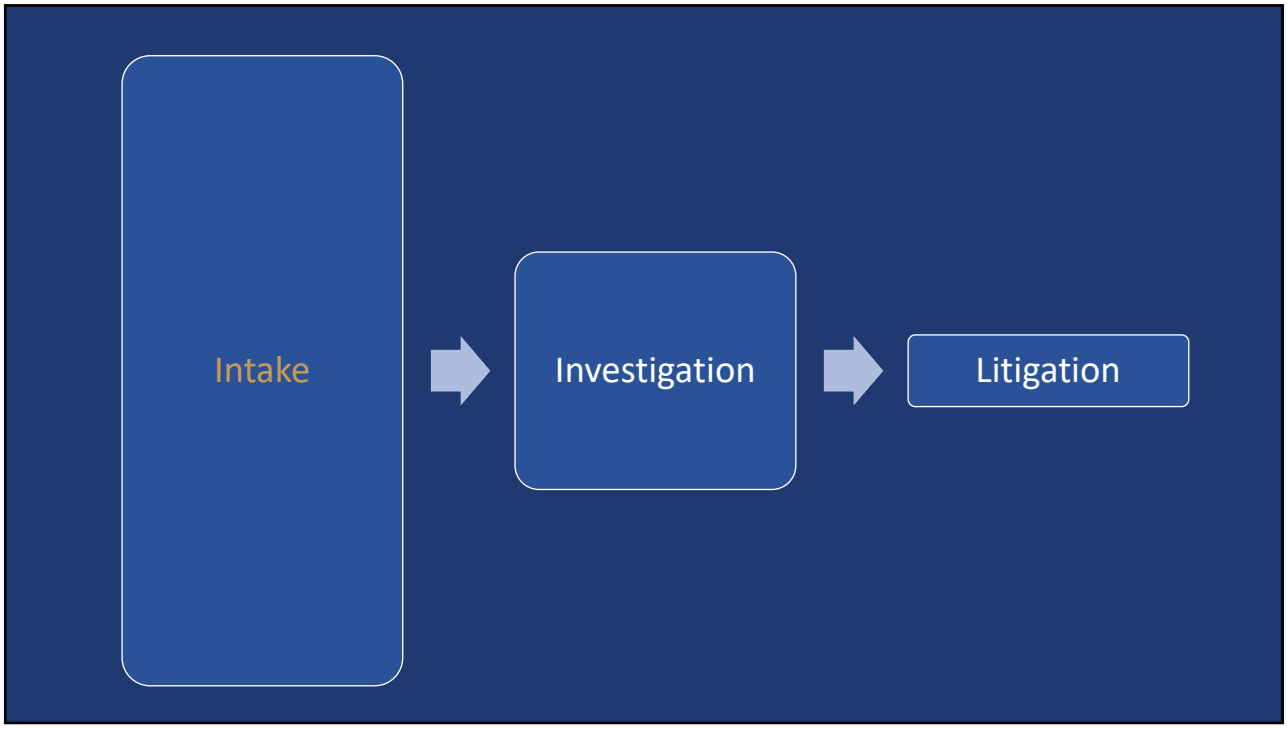

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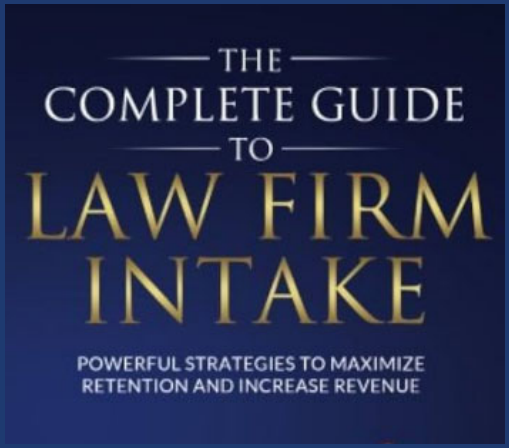
Step one: intake
SCR 22.02

- OLR receives grievances
  - Mail, email, telephone
  - Inmate grievances must be in writing
- Preliminary evaluation
- Disposition recommendation
  - ~ 90% closed at intake
  - Consent reprimand, SCR 22.09
  - Diversion, SCR 22.10



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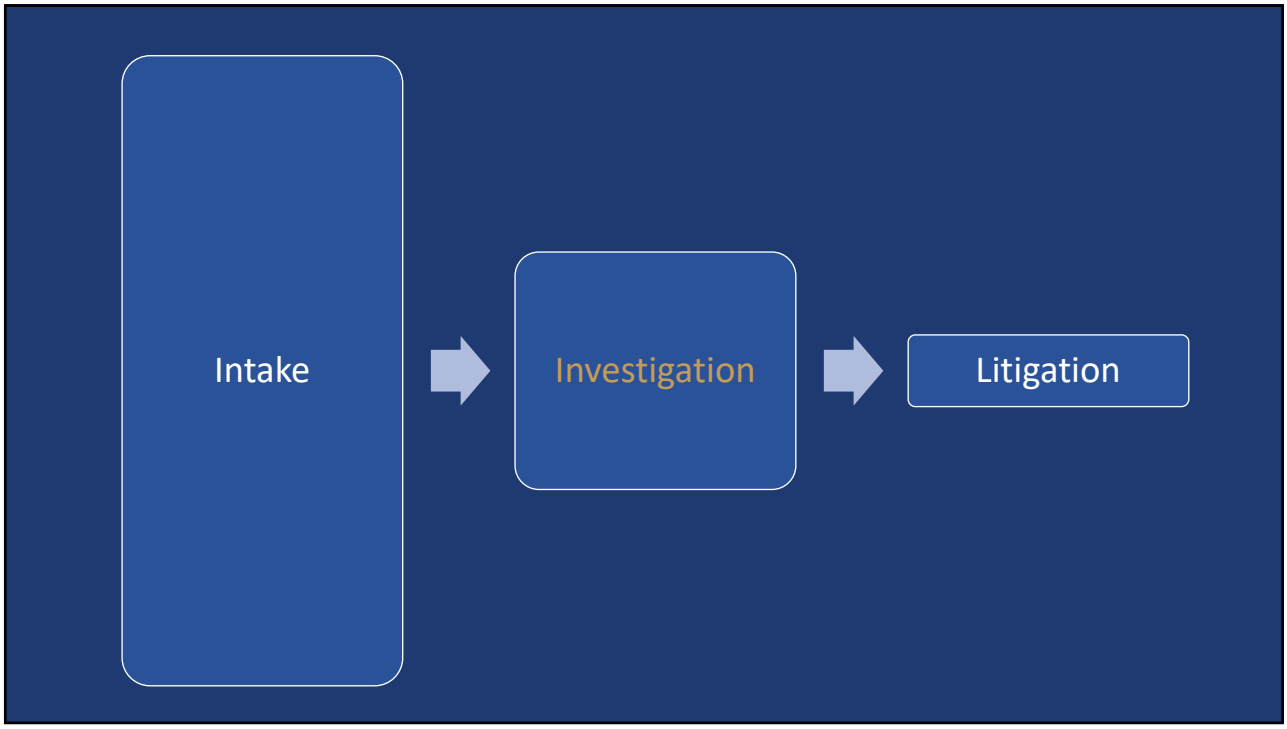

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Step two: investigation
SCR 22.03, 22.05

- Detailed & thorough investigation
  - Subpoena authority
  - Suspension for non-cooperation, SCR 22.03(4)
- Dispositions
  - Dismiss
  - Consent reprimand, SCR 22.09
  - Diversion, SCR 22.10
  - Present to Preliminary Review Committee, SCR 22.06

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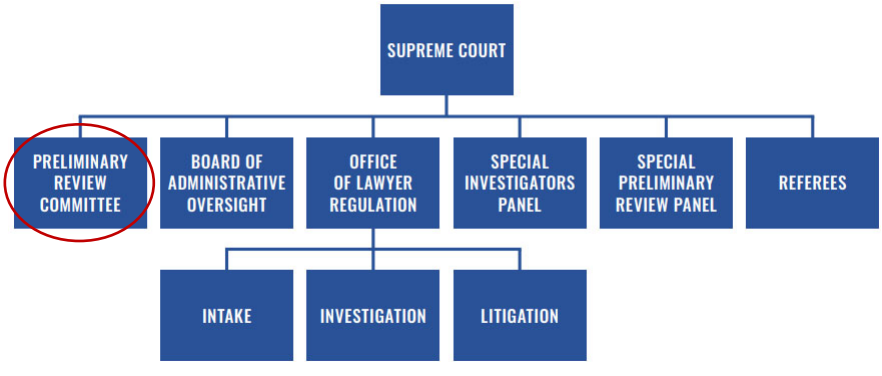
PRC determines probable cause to proceed

Organization of Wisconsin's Lawyer Regulation System



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How you can participate?

Apply to serve in the Wisconsin Lawyer Regulation System

Clerk of the Supreme Court
P.O. Box 1688
Madison, WI 53701-1688
Fax: (608) 267-0640
Email: clerk@wicourts.gov

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Intake → Investigation → Litigation

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Step three: litigation
SCR 22.11

Supreme Court-appointed referee presides
Rules of civil procedure apply
Clear, satisfactory, & convincing standard
Referee prepares a report & recommendation for the Supreme Court
Supreme Court decides

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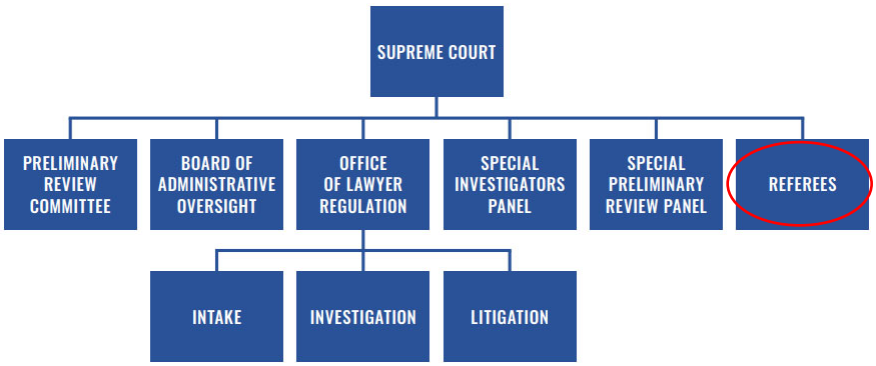
Referees preside over disciplinary hearings

Organization of Wisconsin's Lawyer Regulation System



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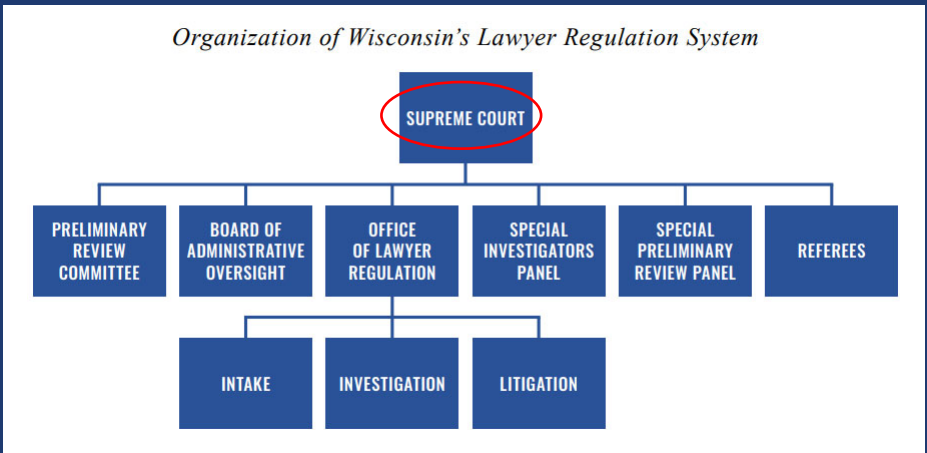
The Supreme Court decides (not OLR)



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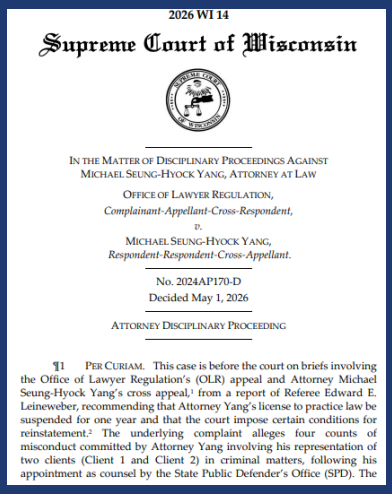
The Supreme Court imposes discipline (not OLR)



2026 WI 14

Supreme Court of Wisconsin

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST
MICHAEL SEUNG-HYOCK YANG, ATTORNEY AT LAW

OFFICE OF LAWYER REGULATION,
Complainant-Appellant-Cross-Respondent,
v.
MICHAEL SEUNG-HYOCK YANG,
Respondent-Respondent-Cross-Appellant.

No. 2024AP170-D
Decided May 1, 2026

ATTORNEY DISCIPLINARY PROCEEDING

¶1 PER CURIAM. This case is before the court on briefs involving the Office of Lawyer Regulation's (OLR) appeal and Attorney Michael Seung-Hyock Yang's cross appeal,[1] from a report of Referee Edward E. Leineweber, recommending that Attorney Yang's license to practice law be suspended for one year and that the court impose certain conditions for reinstatement.[2] The underlying complaint alleges four counts of misconduct committed by Attorney Yang involving his representation of two clients (Client 1 and Client 2) in criminal matters, following his appointment as counsel by the State Public Defender's Office (SPD). The

The Supreme Court imposes discipline

typically after litigation, an evidentiary hearing, a court-appointed referee's written recommendation, and an opportunity for appeal and oral argument

Wisconsin has *revocation* (not disbarment)

A lawyer may petition for reinstatement five years after revocation; the Supreme Court decides whether to readmit the lawyer

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How does the Supreme Court decide sanction?

It considers four factors:

1. "the seriousness, nature, and extent of the misconduct;
2. "the level of discipline needed to protect the public;
3. "the need to impress upon the attorney the seriousness of the misconduct; and
4. "the need to deter other attorneys from similar misconduct."

Disciplinary Proceedings Against DeLadurantey, 2023 WI 17, ¶ 52

See also ABA Standards for Imposing Lawyer Sanctions

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ABA aggravating / mitigating factors

ABA aggravating factors (ABA Std. 9.2)

- Prior offenses
- Dishonest motives
- Patterns of misconduct
- Vulnerability of victim

ABA mitigating factors (ABA Std. 9.3)

- Absence of selfish motives
- Personal or emotional problems
- Cooperation
- Remorse

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Learning Objectives

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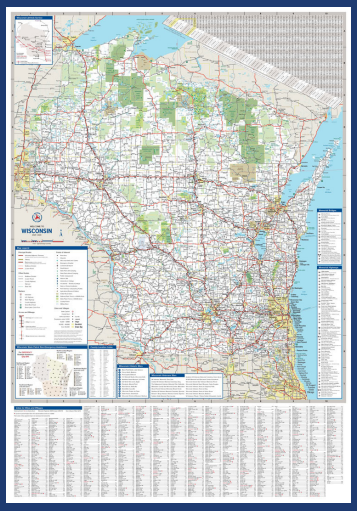

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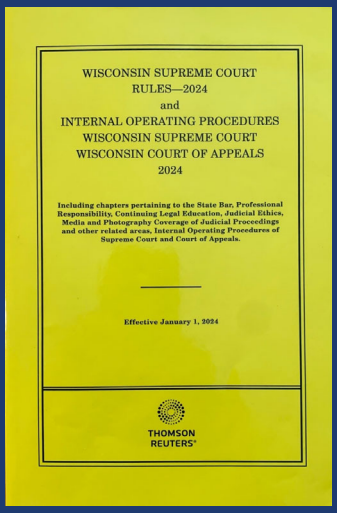
Rules of Professional Conduct

1/3 of OLR grievances allege diligence & communication



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A comment about diligence

"Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances … the client's legal position may be destroyed… [U]nreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness…."

SCR 20:1.3, Cmt. 3

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What clients think about communication

According to Gallop, what percentage of clients think lawyers should do a better job of communicating with clients?

80%

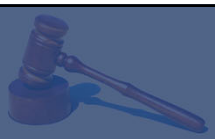
48

1/4 of malpractice claims arise from communication mistakes

- Failure to obtain consent/inform the client (8%)
- Procrastination or no follow-up (7%)
- Fee disputes or misunderstandings (6%)
- Failure to follow client instructions (5%)

Source: Wisconsin Lawyers Mutual Insurance Company

SCR 20:1.3 (diligence)



A lawyer shall act with reasonable diligence and promptness in representing a client.

Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions …. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

ABA Cmt. 3 to Model Rule 1.3

SCR 20:1.4 (communication)

(a) A lawyer shall:

(1) Promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in SCR 20:1.0(f), is required by these rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests by the client for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

51

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SCR 20:1.4 (communication)

(a) A lawyer shall:

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(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests by the client for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

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WISCONSIN COURT SYSTEM | OFFICE OF LAWYER REGULATION

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WISCONSIN COURT SYSTEM | OFFICE OF LAWYER REGULATION

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Communication matters because …

- Understand client's objectives (which may change)
- Recommend course of action
- Explain probable results
- Allocate decision-making authority

Restatement (Third) of the Law Governing Lawyers, § 20

Avoid client grievances

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Communicate with your client about

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What your malpractice carrier wants you to know

- ✓Communicate in your billing
- ✓Memorialize advice and use IAY letters.
- ✓"Maybe you should tell us."

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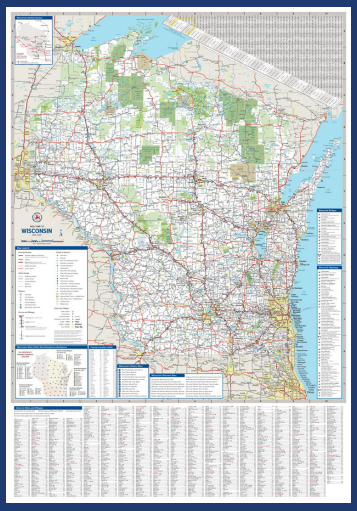
Learning Objectives

- The Office of Lawyer Regulation: the basics
- OLR evaluations, investigations, & prosecutions
- Supreme Court Rules of Professional Conduct
- Resources
- Questions & discussion



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Available resources protect the public

The lawyer regulation system is established to carry out the Supreme Court's constitutional responsibility to supervise the practice of law and protect the public from misconduct by persons practicing law in Wisconsin.

SCR ch. 21 (preamble)

But … how?

- Education
- Treatment
- Warning
- Punishment

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OLR educational programming

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State Bar educational programming

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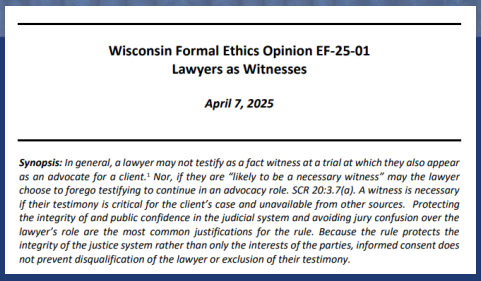
State Bar ethics counsel & ethics opinions

State Bar ethics counsel

- Tim Pierce & Sarah Peterson

State Bar ethics hotline

- 608-229-2017 or 800-254-9154



Wisconsin Formal Ethics Opinion EF-25-01
Lawyers as Witnesses

April 7, 2025

Synopsis: *In general, a lawyer may not testify as a fact witness at a trial at which they also appear as an advocate for a client.[1] Nor, if they are "likely to be a necessary witness" may the lawyer choose to forego testifying to continue in an advocacy role. SCR 20:3.7(a). A witness is necessary if their testimony is critical for the client's case and unavailable from other sources. Protecting the integrity of and public confidence in the judicial system and avoiding jury confusion over the lawyer's role are the most common justifications for the rule. Because the rule protects the integrity of the justice system rather than only the interests of the parties, informed consent does not prevent disqualification of the lawyer or exclusion of their testimony.*

October 05, 2026

Ethics Opinion

EF-26-01: The Duty to Report the Misconduct of Another Lawyer or Judge

On Sept. 3, 2026, the State Bar of Wisconsin Professional Ethics Committee issued Opinion EF-26-01, discussing the duty to report misconduct by lawyers and judges.

Comments (0) SHARE THIS:

Treatment

WisLAP
Wisconsin Lawyers Assistance Program
wisbar.org/WisLAP
(800) 543-2625

Initial evaluation

Referrals

Peer assistance

Consultation

State Bar & other associations

Ready.
Set.
Practice.

Lawyer to Lawyer Mentoring Program

Wisconsin Association
WAAL
of
African-American
LAWYERS

PRACTICE 411™
Law Office Management Assistance Program

Brent Hoeft
800-957-4670
practicehelp@wisbar.org

Waukesha County Bar Association
Since 1899

Sections, Divisions, Committees

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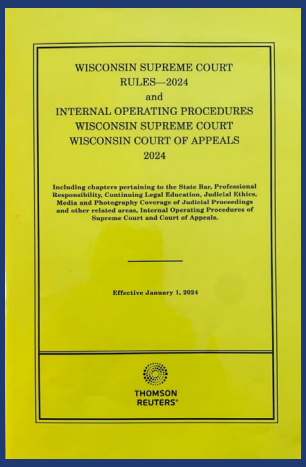
Warning

SCR 22.10 Diversion to alternatives to discipline program.

(1) *Offer of diversion.* At intake, during an investigation, or at the conclusion of an investigation, if the director determines that the matter should be diverted to an alternatives to discipline program, the director may offer the attorney the opportunity to participate in the program. If the attorney rejects the offer, the matter shall proceed as otherwise provided in this chapter. Diversion to an alternatives to discipline program does not constitute discipline under this chapter.

(2) *Alternatives to discipline program.* The alternatives to discipline program may include mediation, fee arbitration, law office management assistance, evaluation and treatment for alcohol and other substance abuse, psychological evaluation and treatment, medical evaluation and treatment, monitoring of the attorney's practice or trust account procedures, continuing legal education, ethics school, and the multistate professional responsibility examination, including those programs offered by the state bar of Wisconsin.

(3) *Eligibility for participation.* An attorney may participate in an alternatives to discipline program when there is little likelihood that the attorney will harm the public during the period of participation, when the director can adequately supervise the conditions of the program, and when participation in the program is likely to benefit the attorney and accomplish the goals of the program. Unless good cause is shown, an attorney may not participate in an alternatives to discipline program if any of the following circumstances is present:



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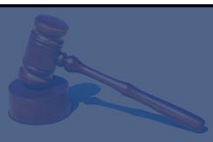
De Minimis dispositions



COMMENT

In exercising its discretion, the office of lawyer regulation considers factors such as the de minimus nature of a violation, whether the attorney acknowledges the violation, whether the violation caused harm, whether the attorney has remediated any harm, and whether the violation is part of a pattern of misconduct or is repeated misconduct.

SCR 22.001, Cmt.

Punishment

2026 WI 14

Supreme Court of Wisconsin

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST
MICHAEL SEUNG-HYOCK YANG, ATTORNEY AT LAW

OFFICE OF LAWYER REGULATION,
Complainant-Appellant-Cross-Respondent,
v.
MICHAEL SEUNG-HYOCK YANG,
Respondent-Respondent-Cross-Appellant.

No. 2024AP170-D
Decided May 1, 2026

ATTORNEY DISCIPLINARY PROCEEDING

¶1 PER CURIAM. This case is before the court on briefs involving the Office of Lawyer Regulation's (OLR) appeal and Attorney Michael Seung-Hyock Yang's cross appeal,[1] from a report of Referee Edward E. Leineweber, recommending that Attorney Yang's license to practice law be suspended for one year and that the court impose certain conditions for reinstatement.[2] The underlying complaint alleges four counts of misconduct committed by Attorney Yang involving his representation of two clients (Client 1 and Client 2) in criminal matters, following his appointment as counsel by the State Public Defender's Office (SPD). The

[1] *See* SCR 22.17 ("Review; appeal").

[2] *See* SCR 21.16(1m)(f) (conditions on seeking license reinstatement).

Learning Objectives

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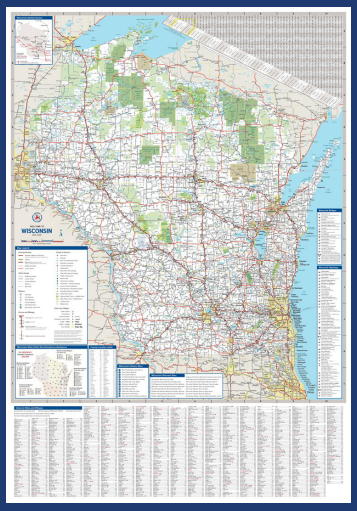

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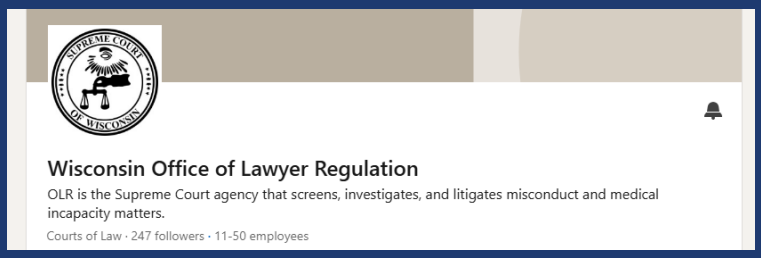
OLR LinkedIn



LinkedIn

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How you can participate in the System

Apply to serve in the Wisconsin Lawyer Regulation System

Clerk of the Supreme Court
P.O. Box 1688
Madison, WI 53701-1688
Fax: (608) 267-0640
Email: clerk@wicourts.gov

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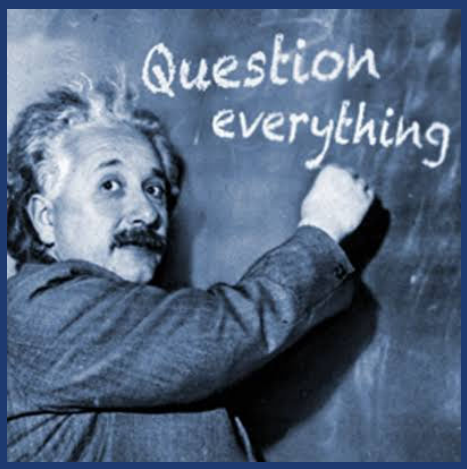
Questions



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Thank You

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