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| **STATE OF WISCONSIN CIRCUIT COURT**  **BRANCH** | **COUNTY** | For Official Use |
| In the Matter of the Mental Condition of:  Case No.     ME  CLIENT  Alleged to be in need of an involuntary  mental commitment. | |
| **MOTION TO DISMISS THREE PARTY PETITION** | | |

The respondent, CLIENT, appearing specially by Atty.      , moves to moves to dismiss the petition for failing to comply with the requirements of Wis. Stat.   
§ 51.20(1)(b).

The petition, filed by the County on DATE, fails to comply with the requirements of Wis. Stat. § 51.20(1)(b), which requires that “Each petition for examination shall be signed by 3 adult persons, at least one of whom has personal knowledge of the conduct of the subject individual…..” The petition states in Section C that “The following petitioner(s) has personal knowledge of the conduct of the Subject: … DOCTOR 1 … DOCTOR 2 … DOCTOR 3 ….”

The petition includes a letter from DOCTOR 1 requesting commitment. DOCTOR 1 wrote that he evaluated CLIENT, who made comments to unidentified staff member(s). DOCTOR 1 was not present for these comments and does not have personal knowledge of the alleged threats. The petition does not include a letter from DOCTOR 2 or DOCTOR 3, despite the petition’s assertion that the doctors have personal knowledge of the conduct. Neither DOCTOR 2 nor DOCTOR 3 testified at the probable cause hearing. DOCTOR 1 testified at the probable cause hearing but could not establish whether DOCTOR 2 or DOCTOR 3 ever treated CLIENT or had any personal knowledge of him.

The petition asserts that all three petitioners have personal knowledge. However, none of the petitioners actually have personal knowledge of the conduct. Further, the petition does not include any petitioners in Section D that “The following petitioner(s) does not have personal knowledge of the conduct of the subject but bases his/her belief on the following.”

Commitment hearings “shall conform to the essentials of due process and fair treatment.” Wis. Stat. § 51.20(5)(a). This includes “the right to … cross-examine witnesses.” *Id*. Due process requires reasonable notice to apprise the parties of the action. *Mullane v. Central Hanover Bank & Trust, Co.*, 339 U.S. 306, 314 (1950). The court should not disregard this error in the pleading because it affects the substantial right of CLIENT to notice. Wis. Stat. § 51.20(10)(c). The petition should have included the actual staff member(s) who had personal knowledge of the alleged comments in Section C. The petition could have included DOCTOR 1 in Section D, but should not have included DOCTOR 2 or DOCTOR 3.

Dated at      , Wisconsin, this       day of      , 20     .

Respectfully submitted,

Electronically signed by Attorney

Attorney, Bar No.

Attorney for Respondent

State Public Defender's Office

Address

Address

Phone