

**STATE OF WISCONSIN
IN THE SUPREME COURT**

**In re Creation of a Pilot Project for
Dedicated Trial Court Judicial Dockets for
Large Claim Business and Commercial Cases**

**16-05D
Petition**

Proposed Amendment
to the Pilot Project and
Interim Rule

The Business Court Advisory Committee ("Committee") requests the court approve an amendment to the existing commercial court docket pilot project for large claims business and commercial cases (commercial court docket or pilot project) and its Interim Rule, which would extend the pilot project for an additional two years.¹

On April 11, 2017, the court approved an administrative rule petition filed by Attorney John A. Rothstein, on behalf of the Committee, and authorized the commercial court docket, a three-year pilot project commencing on or about July 1, 2017 to develop dedicated trial court judicial dockets for large claim business and commercial cases in Waukesha County Circuit Court and in the circuit courts of the Eighth Judicial Administrative District. The petition also proposed an interim commercial court rule and guidelines applicable to the pilot project, which the court approved.

On February 12, 2020, the court approved an additional administrative rule petition that proposed to amend the Interim Rule. Most notably, in their Order the court:

- expanded the commercial court docket into the Second and Tenth Judicial Administrative Districts;

¹ The Interim Rule for Pilot Project for Dedicated Trial Court Judicial Dockets for Large Claim Business and Commercial Cases; Assignment and Management of Business and Commercial Cases (Interim Rule) is attached as Appendix A to the court's order creating the pilot project. See S. Ct. Order 16-05, 2017 WI 33 (issued Apr. 11, 2017, eff. July 1, 2017).

- granted the Chief Justice the ability to add additional counties and/or districts to the commercial docket upon the recommendation of the Director of State Courts;
- added three additional case types to the commercial court docket, namely cases involving receiverships in excess of \$250,000, cases involving confirmation of arbitration awards and involving compelling/enforcing arbitration awards, and cases involving commercial real estate construction disputes over \$250,000;
- created a process by which parties from counties that do not have a dedicated commercial court docket may petition to have their case administered within a commercial court docket; and
- extended the pilot project for an additional two years.²

Finally, on March 13, 2020, the court added Dane County as an additional county that would hear commercial court docket cases as part of the pilot project.³

The commercial court docket is active in all Judicial Administrative Districts and counties that are part of the pilot project. However, the Committee has determined that it is appropriate to again extend the pilot project to gather additional data in order to determine if state-wide trial court judicial dockets for large claim business and commercial cases should be established.

Additionally, the Committee would like to clarify that local input is considered before judges are appointed to the commercial court docket, and request that the rule be modified to reflect that on-going practice. Accordingly, the Committee now requests that the court: (1) extend the commercial court docket for two additional years, until July 1, 2024; (2) extend the court's scheduled review of the operation of this commercial court

² S. Ct. Order 16-05A, (issued February 12, 2020)

³ S. Ct. Order 16-05C, (issued March 13, 2020)

docket to accommodate the two-year extension of the project; (3) clarify that the Chief Justice considers the input of the chief judge of the Judicial Administrative District in which an appointment to the commercial court docket will be made, prior to making the appointment; and (4) that the Interim Rule be amended accordingly. If it is determined that state-wide trial court judicial dockets for large claim business and commercial cases would be beneficial to the court system in Wisconsin, the Committee intends to file an administrative rule petition seeking the establishment of a statewide commercial docket, with proposed rules that will be developed based on information acquired during the pilot project.

The proposed amendments to the Interim Rule are as follows:

Section 1. Amend Section 2 b) of the Interim Rule to read:

2 b) The pilot project will begin and end as authorized by order of the Supreme Court. See S. Ct. Order 16-05, 2017 WI 33 (issued Apr. 11, 2017, eff. July 1, 2017). The approximate duration of the project will be from July 2017 to July ~~2022~~ 2024.

Section 2. Amend Section 2 e) of the Interim Rule to read:

2 e) The Chief Justice, after considering the recommendation of the chief judge of the Judicial Administrative District, shall select the circuit court judges in the counties and judicial administrative districts participating in the pilot plan who will be assigned to the Commercial Court docket. Selection of a judge for the Commercial Court docket shall not preclude the judge from continuing work on any other assigned docket. The Chief Justice shall select no fewer than: three circuit court judges in Waukesha County; no fewer than three circuit court judges in Dane County; no fewer than four circuit court judges within the Eighth Judicial Administrative District; no fewer than four circuit court judges within

the Second Judicial Administrative District; and no fewer than three circuit court judges within the Tenth Judicial Administrative District. The Chief Justice may also add additional counties and/or districts to the Commercial Court docket upon the recommendation of the Director of State Courts.

Respectfully submitted this ____day of February, 2022.

Laura A. Brenner, Chair, Business
Court Advisory Committee