



Jim "Luigi" Schmitt

Milwaukee County Supervisor - 19th District

CHAIRMAN: Intergovernmental Relations

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September 29, 2011

Clerk of the Supreme Court and Court of Appeals

110 East Main Street, Suite 215

P.O. Box 1688

Madison, WI 53701-1688

Re: Supreme Court Rule 10-08

Dear Justices:

Today, the Milwaukee County Board of Supervisors adopted the attached resolution regarding the petition for Supreme Court Rule 10-08. The Board has been clear in its support for improving court access and representation for all individuals. However, the Board also has been clear that such modifications to Court rules are prohibitive unless accompanied by full funding from the State of Wisconsin.

The Milwaukee County Clerk of Circuit Court has estimated that indigent representation on civil cases could cost as much as \$11 million. Milwaukee County simply cannot and will not pass this exorbitant cost onto County property taxpayers. If we are forced to bear the costs of Rule 10-08, other areas of service – potentially social services for low-income families or other public services – will have to be cut. Milwaukee County supports unfettered court access for all petitioners, provided the State of Wisconsin foots the full bill.

Milwaukee County's commitment to court access and legal representation for all is beyond question. However, as the attached resolution clearly asserts, our strong support for Rule 10-08 is contingent the Court providing support to ameliorate our costs. We are willing to work with your office to address our concerns, and thank you for the opportunity to comment on this Rule.

Sincerely,

Supervisor Jim "Luigi" Schmitt, 19th District
Chairman, Intergovernmental Relations Committee

Attachment

Jim "Luigi" Schmitt



1 Supervisor James Schmitt, Chairperson
2 From the Committee on Intergovernmental Relations reporting on:

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4 File No. RES 11-610

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6 (ITEM) A resolution by Supervisor Schmitt,

7
8 **AN AMENDED RESOLUTION**

9 WHEREAS, Legal Action of Wisconsin has petitioned the Wisconsin State
10 Supreme Court to create a new rule to ensure that indigent persons have legal
11 counsel in certain civil matters; and

12 WHEREAS, the proposed rule, known as Supreme Court Rule Petition 10-08,
13 states in part:

14 Where a civil litigant is indigent (defined as below 200% of federal poverty
15 guidelines), the court shall provide counsel at public expense where the
16 assistance of counsel is needed to protect the litigant's right to basic human
17 needs, including sustenance, shelter, clothing, heat, medical care, safety and
18 child custody and placement (emphasis added)

19 ; and

20 WHEREAS, both the federal and state courts have stated repeatedly that the
21 constitutionally guaranteed right to counsel applies only to circumstances where an
22 individual's liberty is in jeopardy, namely criminal cases and certain involuntary
23 commitments, however, both federal and state courts have declined to recognize that
24 the right to counsel extends to civil cases; and

25 WHEREAS, Legal Action of Wisconsin -- the petitioner advancing the proposed
26 rule -- has estimated that expanding the right to counsel to indigent civil litigants will
27 cost \$56 million statewide on an annual basis; and

28 WHEREAS, Milwaukee County Circuit Court Administrative staff estimates that
29 the Milwaukee County share of the annual statewide costs could be twenty percent or
30 \$11.2 million; and

31

32 WHEREAS, because Milwaukee County taxpayers already fund the bulk of
33 circuit court costs, the track record of the state providing funding to cover courts-
34 related mandates is, at best, underwhelming, and a new, unfunded mandate of this
35 magnitude would likely force Milwaukee County policymakers to discontinue other vital
36 County services; and

37 WHEREAS, while it is a laudable goal to provide full access to civil courts for
38 indigent persons, there are alternate resources (e.g., Legal Aid Society and Legal
39 Action of Wisconsin) that currently serve that population and transferring the obligation
40 to fund that service to be borne by the taxpayers of Milwaukee County represents an
41 additional unfunded state mandate; now, therefore,

42 BE IT RESOLVED, that the Director of the Division of Intergovernmental
43 Relations is hereby authorized and directed to convey Milwaukee County's official
44 support of Supreme Court Rule Petition 10-8 currently under consideration by the
45 Wisconsin Supreme Court that will allow Circuit Court judges to appoint publicly-
46 funded legal counsel to indigent persons in civil cases provided that the State pays all
47 related costs.

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