

Memorandum

STATE OF WISCONSIN
SUPREME COURT



DATE: October 2, 2013
TO: Diane M. Fremgen, Clerk of the Supreme Court
FROM: Chief Justice Shirley S. Abrahamson
SUBJECT: To be filed in Rule Petition 12-01

Comment 2: How Justice Roggensack's Third Proposed Calendar (August 2, 2013) Would Have Worked in the Last 10 Completed Rules Petitions.

To evaluate Justice Roggensack's third proposed calendar filed August 2, 2013, it is helpful to examine how the last ten rules in which final orders were issued by the court would have fared under the proposed calendar. The first column below shows the date on which an event occurred. The second column shows the date on which an event would have occurred had the proposed calendar been in effect at that time.

In every instance, a rules petition under Justice Roggensack's August 2 proposal takes more time to complete than under the present system. The additional time ranges from 203 to 670 days.

Rule 13-01 – PRC members may apply for CLE credit for their service			
CURRENT PROCEDURE		ROGGENSACK PROPOSAL 8/2/13	
Filed 1/8/13		Filed 1/8/13; posted on website	
Discussed 2/28/13 Vote to get public comment and schedule hearing		Public comment period from posting on website, 60 days (3/8/13)	
Comment letter sent 3/19/13		Petitioner response due w/in 60 days of close of comment period (5/8/13)	
Discussed 4/12/13 Adopted w/o hearing		Staff memo 45 days after close of comment period (6/22/13)	
Order dated 6/14/13 Effective immediately		Since it was not filed by 12/31/12, it will not be considered until 9/1/14-9/12/14	
		Discussed 9/1/14 (earliest) Adopted w/o hearing	
		Order dated 63 days after consideration – 11/3/14	
Total Days	157	Total Days	664
Additional time until final order under Roggensack's proposal: 507 Days			

Rule 13-02 – Waiver of BBE Fees for Veterans			
CURRENT PROCEDURE		ROGGENSACK PROPOSAL 8/2/13	
Filed 1/30/13		Filed 1/30/13; posted on website	
Discussed 2/28/13 Approved at open conference		Public comment period from posting on website, 60 days (3/30/13)	
Order dated 4/19/13 Effective immediately		Petitioner response due w/in 60 days of close of comment period (5/30/13)	
		Staff memo 45 days after close of comment period (7/14/13)	
		Since it was not filed by 12/31/12, it will not be considered until 9/1/14-9/12/14	
		Discussed 9/1/14 (earliest) Approved at open conference	
		Order dated 50 days after consideration – 10/21/14	
Total Days	79	Total Days	629
Additional time until final order under Roggensack's proposal: 550 Days			

Rule 12-10 – Timing of OLR filing supplemental statement of costs in appeals			
CURRENT PROCEDURE		ROGGENSACK PROPOSAL 8/2/13	
Filed 9/11/12		Filed 9/11/12; posted on website	
Discussed 9/27/12 Request comment and schedule for hearing		Public comment period from posting on website, 60 days (12/11/12)	
Comment received 11/6/12		Petitioner response due w/in 60 days of close of comment period (2/11/13)	
Discussed 11/30/12 Adopted at open conference		Staff memo 45 days after close of comment period (3/28/13)	
Order dated 1/23/13 Effective immediately		Consideration by the Court 9/2/13-9/13/13	
		Discussed 9/2/13 (earliest) Adopted at open conference	
		Order dated 54 days after consideration – 10/26/13 Effective immediately	
Total Days	134	Total Days	410
Additional time until final order under Roggensack's proposal: 276 Days			

Rule 12-03 – Inadvertent disclosure of privileged information			
CURRENT PROCEDURE		ROGGENSACK PROPOSAL 8/2/13	
Filed 2/20/12		Filed 2/20/12; posted on website	
Discussed 4/25/12 Request comment & schedule for public hearing		Public comment period from posting on website, 60 days (4/20/12)	
Public Hearing 9/19/12 Adopted with revisions		Petitioner response due w/in 60 days of close of comment period (6/20/12)	
Amended Petition filed 10/21/12		Staff memo 45 days after close of comment period (8/4/12)	
Discussed 10/31/12 Adopted as amended		Since it was not filed by 12/31/11, it will not be considered until 9/2/13-9/13/13	
Order dated 11/1/12		Public hearing 11/14/13-1/15/14 Adopted with revisions	
Effective Date 1/1/13		Amended Petition filed 32 days after hearing – earliest 12/16/13	
		Considered again 9/1/14-9/12/14 Adopted as amended	
		Order dated 1 day after consideration – earliest 9/2/14	
		Effective Date 1/1/15	
Total Days till Order	255	Total Days till Order	925
Total Days till Effective Date	316	Total Days till Effective Date	1046
Additional time until final order under Roggensack's proposal: 670 Days			

Rule 11-08 – Legal competence requirements of graduates of law schools of other nations			
CURRENT PROCEDURE		ROGGENSACK PROPOSAL 8/2/13	
Filed 11/18/11		Filed 11/18/11; posted on website	
Discussed 2/27/12 Request comment & schedule for public hearing		Public comment period from posting on website, 60 days (1/18/12)	
Public Hearing 5/16/12 Return to BBE for further development		Petitioner response due w/in 60 days of close of comment period (3/18/12)	
Amended Petition 8/15/12		Staff memo 45 days after close of comment period (5/2/12)	
Discussed 9/9/12 Adopted as amended		Consideration 9/3/12-9/14/12 Schedule for public hearing	
Order dated 11/1/12		Public Hearing 11/14/12-1/15/13 Return to BBE for further development	
Effective Date 12/1/12		Amended Petition filed 91 days after public hearing - earliest 2/13/13	
		Considered again 9/3/13-9/13/13 Adopted as amended	
		Order dated 53 days after consideration – earliest 10/25/13	
		Effective date 12/1/13	
Total Days till Order	349	Total Days till Order	707
Total Days till Effective Date	379	Total Days till Effective Date	744
Additional time until final order under Roggensack's proposal: 358 Days			

Rule 12-05 – Record retention of electronically stored documents			
CURRENT PROCEDURE		ROGGENSACK PROPOSAL 8/2/13	
Filed 5/3/12		Filed 5/3/12; posted on website	
Discussed 6/28/12 Request comment & schedule for public hearing		Public comment period from posting on website, 60 days (7/3/12)	
Amended Petition 9/12/12		Petitioner response due w/in 60 days of close of comment period (9/3/12)	
Public Hearing 9/19/12 Adopted at open conference		Staff memo 45 days after close of comment period (10/18/12)	
Order dated 11/1/12		Consideration 9/2/13-9/13/13	
Effective Date 1/1/13		Amended Petition filed 76 days after consideration - earliest 11/17/13	
		Public Hearing 7 days after amendment - 11/24/13 Adopted at open conference	
		Order dated 43 days after adoption – 1/6/14	
		Effective Date 60 days after order issued – 3/7/14	
Total Days till Order	182	Total Days till Order	613
Total Days till Effective Date	243	Total days till Effective Date	673
Additional time until final order under Roggensack’s proposal: 430 Days			

Rule 12-02 – BBE subject to open records law			
CURRENT PROCEDURE		ROGGENSACK PROPOSAL 8/2/13	
Filed 1/11/12		Filed 1/11/12; posted on website	
Discussed 2/27/12 Request comment & schedule for public hearing		Public comment period from posting on website, 60 days (3/11/12)	
Public Hearing 5/16/12 Denied		Petitioner response due w/in 60 days of close of comment period (5/11/12)	
Order dated 7/5/12		Staff memo 45 days after close of comment period (6/25/12)	
		Since it was not filed by 12/31/11, it will not be considered until 9/2/13-9/13/13	
		Public Hearing 11/14/13-1/15/14 Denied at open conference -earliest 11/14/13	
		Order dated 50 days after denial – earliest 1/3/14	
Total Days till Order		176	Total Days till Order
			723
Additional time until final order under Roggensack's proposal: 547 Days			

Rule 11-07 – Legal services following major disaster			
CURRENT PROCEDURE		ROGGENSACK PROPOSAL 8/2/13	
Filed 8/31/11		Filed 8/31/11; posted on website	
Request for comment from petitioner 10/14/11		Public comment period from posting on website, 60 days (10/31/11)	
Discussed 1/11/12 Request comment & schedule for public hearing		Petitioner response due w/in 60 days of close of comment period (12/31/11)	
Public Hearing 4/25/12 Adopted at open conference		Staff memo 45 days after close of comment period (2/14/12)	
Order dated 7/5/12 Effective immediately		Consideration 9/3/12-9/14/12	
		Public Hearing 11/14/12-1/15/13 Adopted at open conference earliest 11/14/12	
		Order dated 71 days after adoption – 1/24/13 Effective immediately	
Total Days till Order	309	Total Days till Order	512
Additional time until final order under Roggensack's proposal: 203 Days			

Rule 11-05 –Review change in State Bar Bylaws			
CURRENT PROCEDURE		ROGGENSACK PROPOSAL 8/2/13	
Filed 6/6/11		Filed 6/6/11; posted on website	
Discussed 9/15/11 Asked for additional briefing		Public comment period from posting on website, 60 days (8/6/11)	
Order for add'l briefing 10/7/11		Petitioner response due w/in 60 days of close of comment period (10/6/11)	
Add'l briefing completed 11/22/11		Staff memo 45 days after close of comment period (11/20/11)	
Discussed 2/27/12 Voted for public hearing		Consideration 9/3/12-9/14/12	
Public hearing 5/16/12 Petition granted in part; denied in part		Order for add'l briefing Earliest 9/3/12	
Final Order 7/5/12		Add'l briefing completed in 46 days - 10/19/12	
		Consideration 9/2/13-9/13/13	
		Public hearing 11/14/13-1/15/14 Petition granted in part; denied in part	
		Final Order 50 days after hearing Earliest - 1/3/2014	
Total Days till order	395	Total Days till order	937
Additional time until final order under Roggensack's proposal: 542 Days			

Rule 11-09-Ex parte communications in treatment courts			
CURRENT PROCEDURE		ROGGENSACK PROPOSAL 8/2/13	
Filed 12/12/11		Filed 12/12/11; posted on website	
Discussed 2/27/12		Public comment period from posting on website, 60 days 2/12/12	
Public hearing 4/25/12 Approve petition subject to revisions to be made		Petitioner response due w/in 60 days of close of comment period 4/12/12	
Revised version filed 5/2/12		Staff memo 45 days after close of comment period (5/27/12)	
Court voted on revision by email. Approved revision		Consideration 9/4/12-9/14/12	
Final Order 5/22/12		Public hearing between 11/14/12 and 1/15/13 Approve petition subject to revisions to be made	
		Revised version filed 7 days after hearing – earliest 11/21/12	
		Court votes on revision by email. Approves revision	
		Final Order 20 days after revision filed 12/11/12	
Total Days	162	Total Days	365
Additional time until final order under Roggensack's proposal: 203 Days			