
From: Clerk of the Supreme Court and Court of Appeals
Sent: Friday, December 11, 2020 9:00 AM
Subject: FW: rule petition 20-03 comment

-----Original Message-----

From: g.grass@sbcglobal.net <g.grass@sbcglobal.net>
Sent: Thursday, December 10, 2020 5:41 PM
To: Clerk of the Supreme Court and Court of Appeals <Clerk@Wlcourts.gov>
Subject: rule petition 20-03 comment

Message:

I wanted to know if there was a way to send my comment by email. The comment is as follows:

Re: Comment on Proposed Rule
Rule Petition 20-03
(to amend section 809.70)

Dear Court:

I have a lot of thoughts about this rule, but I'll keep my formal comments concise:

I don't see the need for the rule; it does not sound like what Jensen envisioned; so much is flexible or open-ended or obvious that there is little point to most of it.

I have a particular concern about paragraph 4 changing the rules of ripeness, and fear this could be used tactically by parties that have no justiciable case to file and stay an original action and thus trigger *Grove* deference by the federal courts.

I also do not see the need for a rule superseding the jurisprudence of intervention. As a colleague pointed out to me, it would seem easy for one to create a political party without any genuine political intentions merely in order to become an intervenor.

The rule that Wisconsin Supreme Court cannot take jurisdiction except by an original action appears badly drafted or ill considered. This would seem to mean that lower Wisconsin courts could take redistricting cases, but Court of Appeals decisions would not be reviewable, and the Court of Appeals could not certify cases upward. Federal courts could not remand or refer cases to the Wisconsin Supreme Court.

For these reasons, and many others that I consider less important, I oppose the petition.

Yours,

Atty. Gary Grass
No. 1035738