

# SUPREME COURT OF WISCONSIN

No. 16-05A

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**In re creation of a pilot project for dedicated  
trial court judicial dockets for large claim  
business and commercial cases**

**FILED**

**FEB 12, 2020**

Sheila T. Reiff  
Clerk of Supreme Court  
Madison, WI

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On January 17, 2020, Attorney John A. Rothstein, on behalf of the Business Court Advisory Committee ("Committee"), filed a rule petition asking the court to approve certain amendments to extend and expand the existing pilot project for commercial court dockets for large claims business and commercial cases (commercial court docket or pilot project) and amend its interim commercial court rule. See S. Ct. Order 16-05, 2017 WI 33 (issued Apr. 11, 2017, eff. July 1, 2017) (approving pilot project following receipt of public comment and public hearing).

The court discussed this petition at a closed administrative rules conference on February 11, 2020. As this petition pertains to an ongoing pilot project, no public hearing is required. The interim commercial court rule applies only to the pilot project. If the Committee ultimately recommends the court adopt a statewide commercial court docket, the Committee will file a subsequent rule petition that will require a public hearing. Therefore,

IT IS ORDERED that, effective the date of this order:

**SECTION 1.** Section 2 b) of the Interim Commercial Court Rule is amended 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 ~~2020~~ 2022.

**SECTION 2.** Section 2 d) of the Interim Commercial Court Rule is amended to read:

2. d) The circuit courts for Waukesha County and in the Eighth Judicial Administrative District are hereby designated as the initial locations for the Commercial Court dockets. The circuit courts of the Second Judicial Administrative District and the circuit courts of the Tenth Judicial Administrative District are hereby designated as additional locations for the Commercial Court dockets.

**SECTION 3.** Section 2 e) of the Interim Commercial Court Rule is amended to read:

2. e) The Chief Justice 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; ~~and~~ 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.

**SECTION 4.** Sections 4 h) to j) of the Interim Commercial Court Rule are created to read:

4. h) Cases involving receiverships in excess of \$250,000;

4. i) Cases involving confirmation of arbitration awards and compelling/enforcing arbitration awards;

4. j) Cases involving commercial real estate construction disputes over \$250,000;

**SECTION 5.** Section 7 b) of the Interim Commercial Court Rule is amended to read:

7. b) Clerk of court duties.

1. In Waukesha County, upon the filing of a case qualifying for the Commercial Court docket, the clerk of court shall assign the case to the Commercial Court docket and to one of the judges designed for the commercial court docket. In the event of a request for judicial substitution, the case shall be transferred to the next Waukesha County circuit court judge who is assigned to the Waukesha County Commercial Court docket.

2. In the Second Judicial Administrative District, Eighth Judicial Administrative District, and Tenth Judicial Administrative District, for cases filed in any county in which a circuit court judge in that county has already been assigned a Commercial Court docket, the same procedures shall apply. In counties of the Second, Eighth, or Tenth Judicial Administrative District in which no circuit judge has been assigned to the Commercial Court docket, upon the filing of a qualifying case, the clerk of court shall notify the chief judge of the ~~Eighth~~

Judicial Administrative District who shall assign one of the Commercial Court docket judges from the other counties in the ~~Eighth~~ Judicial Administrative District. The chief judge's selection shall be made pursuant to s.751.03(3), stats. In the event a request for substitution is filed against the judge chosen by the chief judge of the ~~Eighth~~ Judicial Administrative District, the chief judge shall then assign another judge from the ~~Eighth~~ Judicial Administrative District who has been appointed for Commercial Court cases.

**SECTION 6.** Section 10 of the Interim Commercial Court Rule is created to read:

**10. Transferring a Case to the Commercial Court Docket.** Parties from counties that do not have a dedicated Commercial Court docket may petition to have their cases administered within a Commercial Court docket.

10. a) Such parties may jointly petition for transfer of the case to a Commercial Court docket if all of the following are true:

1. The case is a type identified in Section 4 of the interim commercial court rule. The case is not ineligible for assignment to a Commercial Court docket under Section 6 of the interim commercial court rule.

2. The parties agree to use the forms and procedures developed for use in the Commercial Court docket pilot project.

3. The parties agree that all proceedings will be conducted in the county where the case is assigned under paragraph b) of this section, except that if the case proceeds to trial, the trial will be conducted in the county where the case was originally filed.

10. b) The procedure for a joint petition for transfer shall be as follows:

1. A joint petition for transfer of a case under this section shall be submitted to the District Court Administrator for the Eighth Judicial District. The District Eight Court Administrator shall refer the petition to the Chief Judges for the Second, Eighth, and Tenth Judicial Administrative Districts.

2. The Chief Judges shall consider the caseload of the judges designated for the Commercial Court docket, the nature of the case, and the work requirements for cases already pending in the Commercial Court docket when determining whether to allow the transfer of a case under this paragraph.

3. The Chief Judges shall, upon allowing a transfer, assign the cases to the Commercial Court docket and to one of the judges designated for the Commercial Court docket in Waukesha County or within the Second, Eighth, or Tenth Judicial Administrative District.

4. In the event of a request for judicial substitution, the procedure set forth in Section 7 b) of the interim commercial court rule applies.

10. c) No party may withdraw his or her request for transfer to the Commercial Court docket after a judicial assignment has been made under paragraph b) of this section.

IT IS FURTHER ORDERED that this order and the interim commercial court rule, as amended, shall be made available to the public on the court's website.

Dated at Madison, Wisconsin, this 12th day of February, 2020.

BY THE COURT:

Sheila T. Reiff  
Clerk of Supreme Court

