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WISCONSIN SUPREME COURT ANNUAL STATISTICAL REPORT

2009-2010 TERM

This annual statistical report presents information about the work of the Wisconsin Supreme Court in its judicial and rulemaking functions from September 1, 2009 through August 31, 2010. Included are statistics on case filings, opinions, and dispositions issued by the Court and information about the creation or amendment of rules governing pleading, practice and procedure in judicial proceedings in all Wisconsin courts.

Opinions Issued by the Court

The Supreme Court issued opinions resolving 103 cases during the 2009-2010 term.

	<u>2009-10</u>	<u>2008-09</u>
Total number of cases resolved by opinion	<u>103</u>	<u>87</u>
Attorney discipline cases	39	23
Judicial discipline cases	1	0
Bar admission cases	0	0
Civil cases	40	43
Criminal cases	23	21

Petitions for Review

A total of 717 petitions for review were filed during the term. A petition for review asks the Supreme Court to review the decision of the Court of Appeals. The Supreme Court’s jurisdiction is discretionary, meaning that review is granted in selected cases only. During the 2009-2010 term, the Supreme Court disposed of 762 petitions for review, of which 51 petitions were granted. At the end of the term, the Court had 192 petitions for review pending.

	<u>2009-10</u>	<u>2008-09</u>
Petitions for Review filed	<u>717</u>	<u>777</u>
Civil cases	360	391
Criminal cases.....	357	386
 Petition for Review dispositions	 <u>762</u>	 <u>740</u>
Civil cases (petitions granted).....	382 (35)	372 (31)
Criminal cases (petitions granted)	380 (16)	368 (16)

Petitions for Bypass

This term, the Supreme Court received 15 petitions for bypass and disposed of 15 petitions for bypass, of which one was granted. In a petition for bypass, a party requests that the Supreme Court take jurisdiction of an appeal or other proceeding pending in the Court of Appeals. A matter appropriate for bypass is usually one which meets one or more of the criteria for review by the Supreme Court and one the Supreme Court concludes it will ultimately choose to consider regardless of how the Court of Appeals might decide the issues. A petition for bypass may also be granted where there is a clear need to hasten the ultimate appellate decision. At the end of the term, the Court had 4 petitions for bypass pending.

	<u>2009-10</u>	<u>2008-09</u>
Petitions for Bypass filed.....	<u>15</u>	<u>9</u>
Civil cases	12	6
Criminal cases.....	3	3
 Petition for Bypass dispositions.....	 <u>15</u>	 <u>11</u>
Civil cases (petitions granted).....	12 (1)	8 (0)
Criminal cases (petitions granted)	3 (0)	3 (1)

Requests for Certification

During the 2009-2010 term, the Supreme Court received 11 requests for certification and disposed of 10 requests for certification, of which 8 were granted. In a request for certification, the Court of Appeals asks the Supreme Court to exercise its appellate jurisdiction before the Court of Appeals hears the matter. A request for certification is decided on the basis of the same criteria as a petition to bypass. At the end of the term, the Court had 2 requests for certification pending.

	<u>2009-10</u>	<u>2008-09</u>
Requests for Certification filed.....	<u>11</u>	<u>10</u>
Civil cases	9	7
Criminal cases	2	3
Request for Certification dispositions.....	<u>10</u>	<u>11</u>
Civil cases (requests granted)	8 (8)	8 (6)
Criminal cases (requests granted)	2 (0)	3 (3)

Regulatory Matters, Supervisory Writs, and Original Actions

During the 2009-2010 term, a total of 38 matters within the regulatory jurisdiction of the Court (bar admission, lawyer discipline, and judicial discipline) were filed. The Supreme Court also received 66 petitions for supervisory writ, which ask the Supreme Court to order the Court of Appeals or a circuit court to take a certain action in a case. Nine original actions were filed. An original action is a petition asking the Supreme Court to take jurisdiction over a particular matter. In addition, one certified question was received from the U.S. Court of Appeals for the Seventh Circuit. Opinions disposing of cases in these categories are included in “Opinions Issued by the Court” above; statistics on dispositional orders are listed below. At the end of the term, the Court had 20 regulatory matters and 14 petitions for supervisory writ pending.

	<u>2009-10</u>	<u>2008-09</u>
<u>Filings</u>		
Attorney discipline.....	38	48
Judicial discipline.....	2	1
Bar admission.....	1	1
Petitions for Supervisory Writ	66	72
Other (including Original Actions).....	9	11

Dispositions by Order

Attorney discipline.....	18	22
Judicial discipline.....	1	0
Bar admission.....	0	0
Petitions for Supervisory Writ	74	56
Other (including Original Actions).....	12	13

Rules Petitions

Each term, the Court notices and holds public hearings on petitions for the creation or amendment of rules governing pleading, practice and procedure in judicial proceedings in all courts, provided that the Court deems the petition to have arguable merit. In the term just ended, the Court held 9 rules hearings and convened 14 open administrative conferences at which 20 petitions were considered. During the term, the Court adopted 13 amendments or new rules governing practice and procedure in Wisconsin.

New and Amended Rules

The Court adopted the following new and amended rules during the term:

Petition 06-04A In the matter of amendment of Supreme Court Rules 20:1.15(b)(4m) and 20:1.15(e)(4)h. Safekeeping Property. Issued May 27, 2010, the court reviewed the amendments adopted in 2007 and further amended the rules to clarify when a lawyer is obligated to submit a fee dispute to arbitration and that certain transfers of funds must be by check. Effective 01-01-11.

Petition 07-09 In the matter of the Definition of the Practice of Law and the Administration of a Rule Defining the Practice of Law. Issued July 27, 2010, the court adopted rules regulating the unauthorized practice of law. The rules are subject to review five years from the effective date. Effective 01-01-11.

Petitions 08-16, 08-25, 09-10, 09-11 In the matter of amendment of the Wisconsin Code of Judicial Conduct's rules on recusal. In the matter of amendment of Wis. Stat. § 757.19. Issued on July 7, 2010, the court adopted amendments to the Wisconsin Code of Judicial Conduct. Effective 07-07-10.

Petition 08-23 In the matter of the amendment of Supreme Court Rules 31.01 and 31.03 Relating to the Electronic Filing of Continuing Legal Education (CLE) Reports. Issued September 10, 2009, the court adopted rules allowing CLE reports to be electronically filed with the board of bar examiners. Effective 09-10-09.

Petitions 08-27, 06-09 In the matter of amendment of Supreme Court Rule 10.03(3) relating to classes of membership in the State Bar; In the matter of the petition of the United States Administrative Law Judges Appointed under 5 U.S.C. § 3105 to Amend SCR 10.03(3)(a). Issued November 24, 2009, this amendment expanded the class of judicial members. Effective 03-01-10.

Petition 08-28 In the matter of creation of procedures for lawyer support and monitoring and procedures for referrals from the Office of Lawyer Regulation. Issued May 14, 2010, the court adopted Supreme Court Rules governing the monitoring and referral procedures with the State Bar's Wisconsin Lawyers Assistance Program (WisLAP) and the Office of Lawyer Regulation (OLR). Effective 07-01-10.

Petition 09-01 In the matter of amendment of Wis. Stat. §§ 802.10, 804.01, 804.08, 804.09, 804.12, and 805.07 relating to discovery of electronically stored information. Issued on July 6, 2010, the court amended statutes to address the discovery of electronically stored information. Effective 01-01-11.

Petition 09-02 In the matter of amendment of Supreme Court Rule 72.01 regarding record retention. Issued April 1, 2010, these amendments make the language of the rule more uniform and/or conform to statutory changes that have occurred since the last major review of SCR 72.01 in 1997. Effective 07-01-10.

Petition 09-03 In the matter of creation of Wis. Stat. § 887.27 and Wis. Stat. § 901.09 and amendment of Supreme Court Rule 70.155, relating to the submission of evidence originating in a language other than English. Issued July 27, 2010, the court adopted a new statute governing the submission of evidence that originated in a language other than English. Effective 01-01-11.

Petition 09-05 In the matter of amendment of Supreme Court Rule 71.01 regarding required reporting of court proceedings. Issued December 11, 2009, this amendment provides that audio recordings that are played during the proceeding, marked as an exhibit, and offered into evidence do not be transcribed by a court reporter. Effective 01-01-10.

Petition 09-06 In the matter of amendment of Supreme Court Rule 10.04(1) to permit non-resident members to serve as certain officers of the State Bar of Wisconsin. Issued November 2, 2009, this amendment allows non-resident members of the State Bar to hold office as treasurer, secretary, and chairperson of the board of governors. Effective 04-01-10.

Petition 09-12 In the matter of amendment of Wis. Stat. § 904.085(4)(e) relating to communications in mediation as evidence. Issued April 29, 2010, this amendment clarifies that the hearing contemplated under Wis. Stat. § 904.085(4)(e), Communications in mediation, shall be held *in camera*. Effective 07-01-10.

Petitions 10-01 and 10-02 In the matter of amendment of Wis. Stat. s. (Rule) 809.19 relating to the content of appellate appendices. In the matter of the petition to amend Wis. Stat. § (Rule) 809.62 relating to content of Appendix to Petitions for Review. Issued May 27, 2010, the amendment specifies that a copy of a cited unpublished opinion shall be included in the appendix to the brief or the petition for review. Effective 01-01-11.

Other Rules Matters

In addition to adopting new and amended rules, the Court discussed whether to create a commission to review the Code of Judicial Conduct. A majority of the court voted against the creation and appointment of a commission.

The Court convened a Rules Procedures Committee to review the rule-making processes of the court. The committee continues to meet and will report back to the court.

In March of 2009 the Court considered a BBE petition to permit conditional admission (petition 08-13). The Court held this petition in abeyance pending consideration of petition to create procedures for lawyer support and monitoring (petition 08-28). The Court adopted petition 08-28 and has tentatively scheduled petition 08-13 for another public hearing for January 2011.