

SUPREME COURT OF WISCONSIN

NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 05-05

**In the matter of the Creation of Wis. Stat.
§ 802.12(5) relating to Memorializing
Settlements Reached by Way of Alternative
Dispute Resolution**

FILED**JAN 11, 2008****AMENDED**

David R. Schanker
Clerk of Supreme Court
Madison, WI

On February 16, 2005, Attorney Donald Leo Bach filed a petition seeking to amend Wis. Stat. § 807.05 and to create Wis. Stat. § 802.12(5), relating to memorializing settlements reached by way of alternative dispute resolution. A public hearing was conducted on this petition on October 25, 2005. At the court's request, an amended petition was filed on January 26, 2006. The court solicited public comment on the amended petition from a number of interested parties.

At the December 11, 2006, public hearing on the amended petition, Attorney Bach voluntarily dismissed the portion of the petition seeking to amend § 807.05, and spoke in support of the petition to amend § 802.12. The State Bar of Wisconsin Board of Governors did not take a position on the petition. The Alternative Dispute Resolution section and the Family Law section of the State Bar each appeared in opposition to the

petition. The Litigation section of the State Bar and the Litigation section of the Wisconsin Department of Justice generally favored the petition.

At the ensuing open administrative conference, the court ascertained that the concerns of all interested parties could be addressed by inclusion of comments to the relevant statutes, §§ 802.12 and 807.05, and directed the interested parties to propose language for the court's consideration. The court considered and approved proposed comments at its open administrative conference on March 21, 2007.

IT IS ORDERED that the following comment shall be published with Wis. Stat. § 802.12:

See s. 807.05, formal requirements to render binding agreements reached in an action or special proceeding. In some cases, such as family law cases, court approval is required for an agreement to be effective.

IT IS FURTHER ORDERED that the following comment shall be published with Wis. Stat. § 807.05:

This section also applies to agreements, stipulations, and consents reached as a result of alternative dispute methods outlined in s. 802.12. In some cases, such as family law cases, court approval is required for an agreement to be effective.

IT IS FURTHER ORDERED that the comments to Wis. Stat. §§ 807.05 and 802.12 are not adopted but will be published and may be consulted for guidance in interpreting and applying the statutes.

IT IS FURTHER ORDERED that notice of publishing the comments to Wis. Stat. §§ 807.05 and 802.12 be given by a single publication of a copy of this order in the official state

newspaper and in an official publication of the State Bar of Wisconsin.

ANNETTE KINGSLAND ZIEGLER, J., did not participate.

Dated at Madison, Wisconsin, this 11th day of January, 2008.

BY THE COURT:

David R. Schanker
Clerk of Supreme Court

