



May 16, 2022

The Honorable Chief Justice Annette Ziegler and
Justices of the Wisconsin Supreme Court
c/o Clerk of the Supreme Court
Attention: Deputy Clerk-Rules
P.O. Box 1688
Madison, WI 53701-1688

RE: Rule Petition 16-05D, Proposed Amendment to the Pilot Project and Interim Rule

Dear Honorable Chief Justice Ziegler and Justices of the Supreme Court:

Wisconsin Manufacturers & Commerce (WMC) appreciates the opportunity to comment in support of Rule Petition 16-05D.

WMC is the state's chamber of commerce and largest general business association in Wisconsin, representing approximately 3,800 member companies of all sizes and from every sector of the economy. Since 1911, WMC's mission has been to make Wisconsin the most competitive state in the nation to do business. A specialized commercial docket is one such way that Wisconsin can remain competitive by having a forum that can handle complex commercial disputes with expertise and efficiency.

Wisconsin's Commercial Docket Pilot Project should be extended to remain competitive with neighboring jurisdictions. At least 25 other states, including our regional neighbors of Illinois, Michigan, Iowa, Indiana, and Ohio, have business court dockets statewide or in particular jurisdictions.¹ An additional four states, including Minnesota, have programs that specialize in complex cases including business and commercial litigation.² Litigation increases costs for businesses, small and large, which cannot be anticipated and can easily and quickly add up when defending or pursuing a claim. Having a dedicated docket or venue to resolve certain business disputes with expertise and expediency is a factor that contributes to a state's business climate and helps businesses focus on serving their customers by keeping costs low. Wisconsin becoming an outlier by ending the commercial docket pilot program would put Wisconsin at a competitive disadvantage; Wisconsin and more than half of the nation has shown that commercial dockets and business courts can be administered successfully and enhance and administration of justice.

Any business, small or large, utilizes the commercial docket if the case is eligible and the dispute falls in a pilot jurisdiction. As the state's chamber of commerce, WMC is interested in ensuring that Wisconsin's business climate is conducive for all businesses, regardless of size. Of the ten types of cases required to be assigned to the commercial docket, seven do not have a dollar threshold amount for eligibility and parties have the option to have a case reassigned to the

¹ American Bar Association, Business Law Section, Business and Corporate Litigation Committee, *Recent Developments in Business Courts 2022*, available at: <https://businesslawtoday.org/2022/02/recent-developments-in-business-courts-2022/> (last updated February 2, 2022).

² *Id.*

commercial docket so long as the case is not ineligible. Specialization can only serve to enhance justice by providing better outcomes through developing expertise. Handling small claims disputes under \$10,000 has not distorted justice, nor have the existence of veteran treatment courts, family law courts, or drug treatment courts, all of which have provided specialization to enhance the administration of justice and provide better outcomes for the parties involved. The ten types of cases assigned to the commercial docket do not discriminate based on business size or revenue, rather, the interests of all businesses are served by better outcomes through specialization.

Rule petition 16-05D seeks to extend the pilot for an additional two years. The commercial docket pilot has been operating since 2017; extending the pilot to collect more data about the program over the next two years can only better inform the Court in the future. Whether the parameters of the pilot need refinement, or the pilot made permanent, can benefit from additional data.

WMC supports Rule Petition 16-05D to extend the Commercial Docket Pilot Program for two additional years and clarify ongoing practice concerning input on the appointment of judges for the commercial docket. The Commercial Docket Pilot Program enhances the competitiveness of Wisconsin's business climate and improves the administration of justice by producing better outcomes due to specialization.

Respectfully submitted,



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cc: Attorney Laura A. Brenner, Chair, Business Court Advisory Committee