

# 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. 20-07

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**In re Petition for the Creation of Court Rules Governing Electronic Filing in the Court of Appeals and Supreme Court and Amendments to Circuit Court Electronic Filings**

**FILED**

**APR 23, 2021**

Sheila T. Reiff  
Clerk of Supreme Court  
Madison, WI

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On November 11, 2020, Sheila T. Reiff, Clerk of Supreme Court and Court of Appeals, on behalf of the Appellate eFiling Committee, filed a rule petition asking the court to approve the use of an expanded electronic filing system for the appellate courts and to amend the rules of appellate procedure in order to implement the system, along with certain amendments related to the circuit court electronic filing rule.

Consistent with standard practice, the court voted to solicit written comments and schedule a public hearing. Letters were sent to interested persons on November 25, 2020. Comments were received from Kathleen A. Brost, President, State Bar of Wisconsin, advising the court that the Board of Governors voted unanimously to support the petition, and from Attorney Christopher G. Wren, offering technical recommendations. The petitioner filed a response on February 19, 2021. The court conducted a public hearing on March 17, 2021, via videoconference. Attorney Marcia Vandercook; Attorney James

Goldschmidt; Sheila T. Reiff, Clerk of Supreme Court and Court of Appeals; Jean Bousquet, Chief Information Officer, Wisconsin Court System; and the Honorable Lisa Stark, Deputy Chief and Presiding Judge, Wisconsin Court of Appeals; presented the petition to the court on behalf of the Appellate eFiling Committee.

The court discussed the petition at a closed administrative conference and voted to grant the petition.

IT IS ORDERED that:

**SECTION 1.** 48.29 (1) of the statutes is amended to read:

**48.29 (1)** The child, the child's parent, guardian or legal custodian, the expectant mother, or the unborn child's guardian ad litem, either before or during the plea hearing, may file a written request with the clerk of the court or other person acting as the clerk for a substitution of the judge assigned to the proceeding. ~~Upon filing the written request, the filing party shall immediately mail or deliver a copy of the request to the judge named in the request.~~ When any person has the right to request a substitution of judge, that person's counsel or guardian ad litem may file the request. Not more than one such written request may be filed in any one proceeding, nor may any single request name more than one judge. This section does not apply to proceedings under s. 48.21 or 48.213.

**SECTION 2.** 767.36 of the statutes is amended to read:

**767.36 Copies of judgment to parties.** At the time of filing a judgment for an annulment, divorce, or legal separation, ~~the party who prepared the judgment shall furnish to the clerk of court 2 true copies of the judgment, including any attachments to the judgment referenced in the judgment, in addition to the original judgment. Until the copies~~

~~are presented, the clerk may refuse to accept the judgment for filing. After the judgment is filed,~~ the clerk shall mail a copy of the judgment promptly to each party to the action at the last-known address, and the mailing shall be shown in the court record.

**SECTION 3.** 799.12 (3) of the statutes is amended to read:

**799.12 (3)** If authorized by court rule under sub. (2), service may be made by mail by ~~leaving the original and necessary copies of~~ filing the summons with the clerk of court, together with a request for mail service and the fee prescribed in s. 814.62 (4). The court shall require the use of certified mail with return receipt requested for all eviction cases for which service by mail is authorized under sub. (2), and for all other cases may by rule require the use of certified mail with return receipt requested. Whenever the use of certified mail is required, the additional fee prescribed in s. 814.62 (4) shall be paid for each defendant. The clerk shall mail a copy to each defendant at the last-known address as specified in the summons. Service of the summons is considered completed when it is mailed, unless the envelope enclosing the summons has been returned unopened to the clerk prior to the return date. All mailing of summonses shall be done in envelopes upon which the clerk's return address appears, with a request to return to that address. Service by mail to obtain a personal judgment shall be limited to the county where the action is commenced.

**SECTION 4.** 801.18 (1) (a) of the statutes is amended to read:

**801.18 (1) (a)** "Clerk of court" or "clerk" means the official circuit court recordkeeper for the case in question, which may be the clerk of circuit court, juvenile clerk, or register in probate for that county.

**SECTION 5.** 801.18 (1) (d) of the statutes is amended to read:

**801.18 (1) (d)** "Document" means a pleading, notice of appeal, petition, writ, form, notice, motion, order, affidavit, paper exhibit, brief, judgment, opinion, writ of execution, or other filing in an action or proceeding.

**SECTION 6.** 801.18 (1) (e) of the statutes is amended to read:

**801.18 (1) (e)** "Electronic filing system" means an ~~internet-accessible~~ Internet-accessible system established by the director for the purpose of filing documents ~~with~~ in a circuit court, automatically integrating them into the court case management system, and electronically serving them on the parties.

**SECTION 7.** 801.18 (1) (f) of the statutes is amended to read:

**801.18 (1) (f)** "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the document. ~~For purposes of the electronic filing system, a document is electronically signed if it is submitted by or on behalf of a user or court official through the electronic filing system and bears the name of the user in the place where a signature would otherwise appear. To~~ be considered electronically signed, a document must be submitted by or on behalf of a user through the electronic filing system. An electronic signature shall state "Electronically signed by" followed by the name of the signatory, and shall be placed where the person's signature would otherwise appear. "Electronic signature" includes only those signature technologies specifically approved by the director.

**SECTION 8.** 801.18 (1) (h) of the statutes is amended to read:

**801.18 (1) (h)** "High-volume filing agent" means a person authorized under s. 799.06 (2) who appears on behalf of an entity filing 10 or more actions a per calendar year in the county where the action is being filed.

**SECTION 9.** 801.18 (1) (j) of the statutes is amended to read:

**801.18 (1) (j)** "Initiating document" means a summons and complaint, petition, application, citation, criminal complaint, notice of appeal, or any other document filed to commence a court action or proceeding.

**SECTION 10.** 801.18 (1) (kg) of the statutes is created to read:

**801.18 (1) (kg)** "Notice of activity" means a notice sent by the electronic filing system to alert the parties that there has been a new user, filing, or activity on the case.

**SECTION 11.** 801.18 (1) (km) of the statutes is created to read:

**801.18 (1) (km)** "Opt in" means to agree to receive electronic service and file electronic documents on a particular case, after first registering for access to the electronic filing system.

**SECTION 12.** 801.18 (1) (kr) of the statutes is created to read:

**801.18 (1) (kr)** "Opt out" means to cease participation as a voluntary user or to indicate withdrawal from the case as an attorney.

**SECTION 13.** 801.18 (1) (Lm) of the statutes is created to read:

**801.18 (1) (Lm)** "Registration" means entering into an agreement to access the electronic filing system prior to filing documents under sub. (3) (d) or s. 809.801 (3) (d).

**SECTION 14.** 801.18 (1) (mm) of the statutes is created to read:

**801.18 (1) (mm)** "Transmit" means to send or transfer documents and records from one court to another and may be completed by making the documents and records electronically available to the other court.

**SECTION 15.** 801.18 (1) (n) of the statutes is amended to read:

**801.18 (1) (n)** "User" means an individual who has registered to use the electronic filing system ~~under sub. (3)~~. Users of the electronic filing system shall be individuals, not law firms, agencies, corporations, or other groups.

**SECTION 16.** A Comment to 801.18 (1) of the statutes is created to read:

**Comment, 2021**

The definitions of sub. (1) now incorporate language consistent with the adoption of appellate eFiling and use current electronic filing terminology.

**SECTION 17.** 801.18 (2) (a) of the statutes is amended to read:

**801.18 (2) (a)** The director ~~of state courts~~ shall implement an electronic filing system for the Wisconsin circuit courts. The requirements of this section shall govern the electronic filing of documents in all types of actions and proceedings in circuit court.

**SECTION 18.** 801.18 (2) (b) of the statutes is amended to read:

**801.18 (2) (b)** Mandatory use of the electronic filing system shall be phased in according to a schedule set by the director until the system has been fully implemented. ~~The director shall make information about the transition schedule readily available to the public in advance of its application.~~

**SECTION 19.** 801.18 (2) (c) of the statutes is amended to read:

**801.18 (2) (c)** ~~Subject to the schedule set by the director under par. (b), mandatory~~ Mandatory users shall be required to use the electronic filing system for all new filings ~~covered by the schedule~~. Electronic filing shall be required for all new actions brought in circuit court and for all new documents submitted in previously filed cases, except as otherwise provided in this section.

**SECTION 20.** 801.18 (2) (d) of the statutes is repealed.

**SECTION 21.** 801.18 (2) (g) of the statutes is amended to read:

**801.18 (2) (g)** ~~The judges of the circuit court~~ All judicial officers, the clerk of court, and all court staff shall cooperate and assist with the implementation of electronic filing.

**SECTION 22.** 801.18 (2) (h) of the statutes is amended to read:

**801.18 (2) (h)** This section does not ~~address~~ apply to documents required by law to be filed with court officials that are not filed in an action before the court. These documents may be filed by traditional methods unless otherwise required by the director ~~of state courts~~.

**SECTION 23.** 801.18 (2) (j) of the statutes is repealed.

**SECTION 24.** 801.18 (2) (k) of the statutes is created to read:

**801.18 (2) (k)** The procedures under this section are intended to be consistent with the procedures governing electronic filing and service in the appellate courts under s. 809.801. The circuit and appellate court electronic filing and service rules shall be interpreted consistently to the extent practicable.

**SECTION 25.** A Comment to 801.18 (2) of the statutes is created to read:

**Comment, 2021**

Sub. (2) (k) is also included in the appellate eFiling rule, s. 809.801 (2) (k), to support consistent interpretation of the two rules.

**SECTION 26.** 801.18 (3) (a) (intro.) of the statutes is amended to read:

**801.18 (3) (a) (intro.)** ~~Subject to the schedule set by the director under sub. (2) (b), the~~ The following individuals shall register for access to the electronic filing system prior to filing documents in circuit court:

**SECTION 27.** 801.18 (3) (a) 1. of the statutes is amended to read:

**801.18 (3) (a) 1.** Licensed Wisconsin attorneys, ~~other than those who are representing only themselves.~~

**SECTION 28.** A Comment to 801.18 (3) (a) of the statutes is created to read:

**Comment, 2021**

Sub. (3) (a) mandates that three types of filers participate in the electronic filing system. An exception for attorneys representing themselves was previously included in this rule at the request of a single attorney who theorized that electronic filing might be difficult for an attorney not in private practice. Experience has shown that electronic filing is straightforward to use, with minimal technical impediments and expense, so this exception is deleted.

**SECTION 29.** 801.18 (3) (c) of the statutes is amended to read:

**801.18 (3) (c)** A Except as otherwise provided by law, a party not subject to par. (a) who does not choose to participate in the electronic filing system under par. (b) shall file, serve, and receive paper documents by traditional methods.

**SECTION 30.** 801.18 (3) (d) of the statutes is amended to read:



**801.18 (3) (d)** All users shall register through the electronic filing system by executing a user agreement governing the system's terms of use. To register, users must have the capability to produce, file, and receive electronic documents meeting the technical requirements of the electronic filing system. The electronic filing system shall make information on the technical requirements for filing readily available. By registering, users agree to electronically file all documents to the extent the electronic filing system can accept them. Users shall promptly provide notice through the electronic filing system of any change in the information provided for registration.

**SECTION 31.** 801.18 (3) (e) of the statutes is amended to read:

**801.18 (3) (e)** Upon completion of a properly executed user agreement under par. (d), the electronic filing system shall provide the user with a confidential, secure authentication procedure for access to the electronic filing system. This authentication procedure shall be used only by that user and by any agents or employees that the user authorizes. The same authentication procedure shall be used for all cases on which the user is an attorney or a party. The electronic filing system may reset authentication procedures as needed for administrative and security purposes. Upon learning that the confidentiality of the authentication procedure has been inadvertently or improperly disclosed, the user shall immediately report that fact through the electronic filing system.

**SECTION 32.** 801.18 (3) (f) of the statutes is repealed and recreated to read:

**801.18 (3) (f)** After registering to use the electronic filing system, a user shall also opt in as an attorney or party on any case in

which the user intends to participate. Users shall promptly opt in or out on each case upon beginning or ending appearance as an attorney or as a party. Filing agents appearing under par. (a) or (b) shall promptly opt in or out upon any change in the identity of a filing agent. Mandatory users who do not opt in on a case will not receive notices of activity or service of documents.

**SECTION 33.** 801.18 (3) (g) of the statutes is amended to read:

**801.18 (3) (g)** ~~Nonresident attorneys~~ Attorneys appearing under SCR 10.03 (4) shall register following court approval of a motion to appear *pro hac vice* ~~under SCR 10.03 (4)~~.

**SECTION 34.** 801.18 (3) (h) of the statutes is repealed.

**SECTION 35.** 801.18 (3) (i) of the statutes is amended to read:

**801.18 (3) (i)** Voluntary users who wish to ~~stop using the electronic filing system in~~ opt out of a particular case ~~must~~ shall notify the electronic filing system or the clerk of court. The electronic filing system shall indicate that traditional methods must be used for this party for future filings and service.

**SECTION 36.** 801.18 (4) (a) of the statutes is amended to read:

**801.18 (4) (a)** The electronic filing system is an agent of the circuit courts for purposes of filing, receipt, service, and retrieval of electronic documents. The electronic filing system shall receive electronic filings 24 hours per day except when undergoing maintenance or repair.

**SECTION 37.** 801.18 (4) (am) of the statutes is created to read:

**801.18 (4) (am)** A document is considered filed on a particular day if the submission is completed by 11:59 p.m. central time, as recorded by the electronic filing system, so long as it is subsequently

accepted by the clerk of court upon review. Documents filed after 11:59 p.m. are considered filed the next day the clerk's office is open. The expanded availability of time to file shall not affect the calculation of time under other statutes, rules, and court orders. The electronic filing system shall issue a confirmation that submission to the electronic filing system is complete.

**SECTION 38.** 801.18 (4) (b) of the statutes is amended to read:

**801.18 (4) (b)** When a document is submitted by a user to the electronic filing system, the electronic filing system shall transmit it to the appropriate clerk of court in the county where the case is filed. ~~The electronic filing system shall issue a confirmation that submission to the electronic filing system is complete.~~

**SECTION 39.** 801.18 (4) (c) of the statutes is amended to read:

**801.18 (4) (c)** If the clerk of court accepts a document for filing, it shall be considered filed with the court at the date and time of the original submission, as recorded by the electronic filing system. ~~Upon acceptance, the~~ The electronic filing system shall issue a ~~confirmation~~ notice of activity to serve as proof of filing. When personal service is not required, the ~~confirmation~~ notice of activity shall ~~also serve as~~ constitute proof of service on the other users in the case.

**SECTION 40.** 801.18 (4) (cm) of the statutes is created to read:

**801.18 (4) (cm)** If the clerk rejects the document, the user shall receive notification of the rejection. The user may be required to resubmit the document.

**SECTION 41.** 801.18 (4) (d) and (e) of the statutes are repealed.

**SECTION 42.** 801.18 (4) (f) of the statutes is created to read:

**801.18 (4) (f)** The clerk of the circuit court may not refuse to accept a notice of appeal for failure to pay the appellate court filing fee required by s. 809.25 (2) (a) or the transmittal fee required by s. 814.61 (9).

**SECTION 43.** A Comment to 801.18 (4) (f) of the statutes is created to read:

**Comment, 2021**

Sub. (4) (f) adds a provision codifying *Douglas v. Dewey*, 147 Wis. 2d 328, 338, 433 N.W.2d 243 (1989) and *Rome v. Betz*, 120 Wis.2d 528, 355 N.W.2d 844 (Ct. App. 1984), holding that payment of the appellate filing fee and circuit court transmittal fee are not prerequisites to filing a notice of appeal.

**SECTION 44.** 801.18 (5) (title) of the statutes is amended to read:

**801.18 (5)** (title) COMMENCEMENT OF ACTION OR PROCEEDING; FILING OF INITIATING DOCUMENTS.

**SECTION 45.** 801.18 (5) (e) of the statutes is amended to read:

**801.18 (5) (e)** A mandatory user who represents a responding party shall register to use the electronic filing system as provided ~~by~~ under this section. After registering to use the electronic filing system, the user shall also ~~register~~ opt in as a user on the particular case. The electronic filing system will note the new user on the case.

**SECTION 46.** 801.18 (6) (b) of the statutes is amended to read:

**801.18 (6) (b)** If a document ~~other than an initiating document~~ requires personal service, it shall be served by traditional methods unless the responding party has consented in writing to accept electronic service or service by some other method.

**SECTION 47.** 801.18 (6) (d) of the statutes is amended to read

**801.18 (6) (d)** Paper parties shall file documents with the court by traditional methods. The clerk of court shall image the documents and enter the imaged documents into the electronic filing system promptly. The notice of activity generated by the entry shall constitute service on the users in the case. Paper parties ~~must~~ shall serve other paper parties by traditional methods.

**SECTION 48.** 801.18 (6) (e) of the statutes is amended to read

801.18 (6) (e) ~~If a notice sent to a user is returned undeliverable, the electronic filing system shall automatically notify the user who filed the document. The filing user shall then serve the document on that party by traditional methods. That party~~ An electronic notification that cannot be successfully delivered shall be returned to the clerk of court. If the clerk cannot contact the user to update the information, the user shall be treated as a paper party until the party corrects the problem and ~~reregisters with the electronic filing system.~~

**SECTION 49.** 801.18 (6) (f) (intro.), 1. and 2. of the statutes are repealed.

**SECTION 50.** 801.18 (6) (f) 3. of the statutes is renumbered 801.18 (6) (f), and 801.18 (6) (f) (intro.), 1. and 2., as renumbered, are amended to read:

**801.18 (6) (f)** For all cases that ~~are~~ were in closed status prior to the time electronic filing ~~is~~ was mandated, no action is required until there is a subsequent filing or the court initiates further activity on the case, subject to all of the following:

1. A mandatory user who ~~initiates electronic activity~~ wishes to file on a closed case shall ~~register as a user~~ opt in on the case and shall serve any paper parties by traditional methods. Any mandatory

user so served shall promptly ~~register as a user in~~ opt in on the case or shall notify the court that the user is no longer appearing on behalf of the party.

2. A voluntary user who ~~chooses to initiate electronic activity~~ wishes to file electronically on a closed case shall ~~register as a user~~ opt in on the case and shall serve any paper parties by traditional methods. Any mandatory user so served shall promptly ~~register as a user in~~ opt in on the case or shall notify the court that the user is no longer appearing on behalf of the party.

**SECTION 51.** 801.18 (7) (b) of the statutes is amended to read:

**801.18 (7) (b)** A document that requires payment of a fee is not considered filed until the fee is paid, a waiver of the fee is granted, or other arrangements for payment are made. The user may submit a petition or motion for waiver of costs and fees, including the electronic filing fee, under s. 814.29 (1) or (1m), using a form provided by the court for that purpose. If a document is submitted with a petition or motion for waiver, it shall be considered filed with the court on the date and time of the original submission if the waiver is subsequently granted by the court or other arrangements for payment are made.

**SECTION 52.** 801.18 (7) (c) of the statutes is amended to read:

**801.18 (7) (c)** Users shall be charged a fee for use of the electronic filing system, as provided under s. 758.19 (4m) and established by the director ~~of state courts~~. The fee is a recoverable cost under ss. 799.25 (13) and 814.04 (2). The electronic filing fee shall not be charged to Wisconsin state ~~and~~ or local government units.

**SECTION 53.** 801.18 (8) (b) of the statutes is amended to read:

**801.18 (8) (b)** Users shall provide any case management information needed to ~~transmit and~~ file documents. The electronic filing system shall reject a document for failure to include information in any one of the mandatory fields identified by the system.

**SECTION 54.** 801.18 (8) (d) of the statutes is amended to read:

**801.18 (8) (d)** The electronic filing system may set limits on the length or number of documents. ~~Documents rejected by the system for this reason shall be filed and served by traditional methods.~~ Leave of court may be granted for traditional filing and service in appropriate cases. If a document cannot be electronically filed due to the size limitations of the system, the user shall contact the clerk of court for assistance.

**SECTION 55.** 801.18 (9) (k) of the statutes is amended to read:

**801.18 (9) (k)** ~~Pleadings~~ Documents may be submitted during a court proceeding by traditional methods. ~~Pleadings~~ Documents submitted in court shall be imaged and the imaged copy entered into the court record by the clerk of court.

**SECTION 56.** 801.18 (12) (a) of the statutes is amended to read:

**801.18 (12) (a)** To be considered electronically signed, a document must be submitted by or on behalf of a user through the electronic filing system. A document requiring the signature of a user ~~is deemed to have been signed by the user when it is electronically filed through the court electronic filing system.~~ The shall bear either an electronic signature or a handwritten signature applied to a document before it is imaged. An electronic signature shall ~~use the format~~ state "Electronically signed by" followed by the name of the signatory, and shall be placed where the person's signature would otherwise appear.

~~This~~ Either form of signature shall be treated as the user's personal original signature for all purposes under the statutes and court rules.

**SECTION 57.** A Comment to 801.18 (12) (a) of the statutes is created to read:

**Comment, 2021**

Sub. (12) (a) tightens the definition of signature used by the current circuit court rule to provide a consistent signature format. Traditional handwritten signatures may also be used. Either form of signature provides the level of accountability to client and court called for by these rules.

**SECTION 58.** 801.18 (12) (c) of the statutes is amended to read:

**801.18 (12) (c)** Each electronically filed document shall bear that person's name, mailing address, electronic mail address, telephone number, and state bar number if applicable. Users shall notify the electronic filing system of any change in this information, consistent with sub. (3) (~~f~~) (d).

**SECTION 59.** 801.18 (12) (g) 2. of the statutes is amended to read:

**801.18 (12) (g) 2.** A stipulation will be considered signed by multiple persons if it bears the handwritten signatures of all signatories or if it bears the printed name of each signatory and contains a representation by the filing party that the filing party has consulted with the signatories and all have agreed to sign the document. This subdivision does not apply to the signature requirements of s. 809.107 (2) (bm) 6., (5) (a), or (6) (f), where a signature is required from the appellant or petitioner, other than the state, on whose behalf the document is filed.

**SECTION 60.** 801.18 (13) (a) of the statutes is amended to read:



**801.18 (13) (a)** If the signature of a court official is required on a document, an electronic signature applied through the court case management system may be used. The electronic signature shall be treated as the court official's personal original signature for all purposes under Wisconsin statutes and court rules. Where a handwritten signature would be located on a particular order, form, letter, or other document, the official's printed name shall be inserted.

**SECTION 61.** 801.18 (14) (e) of the statutes is amended to read:

**801.18 (14) (e)** ~~The~~ If the clerk notes that a document has been identified as confidential or sealed, the electronic filing system shall place a visible mark on ~~documents identified as confidential~~ the document to identify it as confidential or sealed.

**SECTION 62.** 801.18 (15) (a) of the statutes is amended to read:

**801.18 (15) (a)** The original transcript of any proceeding produced under SCR 71.04 shall be electronically filed with the circuit court in accordance with procedures established by the director. This rule does not alter the requirements governing timelines, format or costs established by s. 814.69, SCR 71.04, or any other statutes, rules, and procedures. ~~This section does not alter the requirements for filing transcripts with the supreme court or court of appeals.~~

**SECTION 63.** 801.18 (15) (d) of the statutes is amended to read:

**801.18 (15) (d)** When notice to the clerk of the supreme court and court of appeals is required, the court reporter shall provide notice ~~by traditional methods until directed otherwise by the supreme court or court of appeals~~ as provided in s. 809.801 (15) (d).

**SECTION 64.** 801.18 (15) (e) of the statutes is amended to read:

**801.15 (15) (e)** A transcript, when filed under this section, becomes a part of the court file. The transcript shall be made available to the public in accordance with the statutes and rules governing court records and any court orders.

**SECTION 65.** 801.18 (16) (a) 1. of the statutes is amended to read:

**801.18 (16) (a) 1.** If the failure is caused by the court electronic filing system, the court may make a finding of fact that the user ~~submitted~~ attempted to file the document ~~to~~ with the court in a timely manner by ~~tendering~~ submitting it to the electronic filing system. The court may enter an order permitting the document to be deemed filed or served on the date and time the user first attempted to ~~transmit~~ submit the document electronically or may grant other relief as appropriate.

**SECTION 66.** 801.58 (1) of the statutes is amended to read:

**801.58 (1)** Any party to a civil action or proceeding may file a written request, signed personally or by his or her attorney, with the clerk of courts for a substitution of a new judge for the judge assigned to the case. The written request shall be filed preceding the hearing of any preliminary contested matters and, if by the plaintiff, not later than 60 days after the summons and complaint are filed or, if by any other party, not later than 60 days after service of a summons and complaint upon that party. If a new judge is assigned to the trial of a case, a request for substitution must be made within 10 days of receipt of notice of assignment, provided that if the notice of assignment is received less than 10 days prior to trial, the request for substitution must be made within 24 hours of receipt of the notice and provided that if notification is received less than 24 hours prior

to trial, the action shall proceed to trial only upon stipulation of the parties that the assigned judge may preside at the trial of the action. Upon filing the written request, the filing party shall forthwith ~~mail~~ serve a copy thereof ~~to~~ on all parties to the action and ~~to the named judge~~ in the manner provided in s. 801.18 (6) (a) or (c).

**SECTION 67.** 809.01 of the statutes is repealed and recreated to read:

**809.01 Rule (Definitions).** In this chapter:

(1) "Appeal" means a review in an appellate court by appeal or writ of error authorized by law of a judgment or order of a circuit court.

(2) "Appellant" means a person who files a notice of appeal.

(3) "Bookmark" means a hyperlink allowing the reader to quickly navigate to different sections of a document.

(4) "Clerk of court" or "clerk" means the clerk of the supreme court and court of appeals.

(5) "Co-appellant" means a person who files a notice of appeal in an action or proceeding in which a notice of appeal has previously been filed by another person and whose interests are not adverse to that person.

(6) "Converted" means that all documents in a paper case file have been imaged by the clerk of court and the case file is available to accept filings via the electronic filing system.

(7) "Court" means the court of appeals or, if the appeal or other proceeding is in the supreme court, the supreme court.

**(8)** "Cross-appellant" means a respondent who files a notice of cross-appeal or a respondent who files a statement of objections under s. 808.075 (8).

**(9)** "Director" means the director of state courts.

**(10)** "Docketing" means receiving a document and entering its receipt into the court record. A new matter is "docketed" when the clerk accepts an initiating document and creates a new case.

**(11)** "Document" means a pleading, notice of appeal, petition, writ, form, notice, motion, order, affidavit, exhibit, brief, judgment, opinion, or other filing in an action or proceeding.

**(12)** "Electronic filing system" means an Internet-accessible system established by the supreme court for the purpose of filing documents in an appellate court, automatically integrating them into the court case management system, and electronically serving them on the parties.

**(13)** "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the document. To be considered electronically signed, a document must be submitted by or on behalf of a user through the electronic filing system. An electronic signature shall state "Electronically signed by" followed by the name of the signatory, and shall be placed where the person's signature would otherwise appear. "Electronic signature" includes only those signature technologies specifically approved by the director.

**(14)** "Filing agent" means a person authorized under s. 799.06 (2) to appear on behalf of another.

**(15)** "High-volume filing agent" means a person authorized under s. 799.06 (2) who appears on behalf of an entity filing 10 or more actions per calendar year in the circuit courts of this state.

**(16)** "Hyperlink" means a link allowing the reader to quickly navigate to a location within or external to the document.

**(17)** "Imaged document" means an electronic copy of a document originally created or submitted on paper.

**(18)** "Initiating document" means a notice of appeal, petition, complaint, certification from the court of appeals, pre-appeal motion, or any other document filed to commence an action or proceeding in the appellate court.

**(19)** "Mandatory user" means a user who is subject to s. 809.801 (3) (a).

**(20)** "Monospaced font" means a font in which each character uses an equal amount of horizontal space.

**(21)** "Notice of activity" means a notice sent by the electronic filing system to alert the parties that there has been a new user, filing, or activity on the case.

**(22)** "Notice of docketing" means a notice sent by clerk after an appeal or other appellate court proceeding has been initiated that identifies the assigned appellate case number, caption, and court, and that includes relevant information and instructions about the case.

**(23)** "Opt in" means to agree to receive electronic service and file electronic documents on a particular case, after first registering for access to the electronic filing system.

**(24)** "Opt out" means to cease participation as a voluntary user or to indicate withdrawal from the case as an attorney.

**(25)** "Paper party" means a party not subject to s. 809.801 (3) (a) who chooses not to participate in the electronic filing system.

**(26)** "Portable document format" means a universal file format that preserves the fonts, formatting, pagination, and graphics of a source document.

**(27)** "Proportional font" means a font in which the horizontal space used by a character varies.

**(28)** "Registration" means entering into an agreement to access the electronic filing system prior to filing documents under s. 801.18 (3) (d) or 809.801 (3) (d).

**(29)** "Respondent" means a person adverse to the appellant or co-appellant.

**(30)** "Serif font" means a font that has short ornaments or bars at the upper and lower ends of the main strokes of the characters.

**(31)** "Traditional methods" means those methods of filing and serving documents, other than electronic filing, provided under statutes and local rules.

**(32)** "Transmit" means to send or transfer documents and records from one court to another and may be completed by making the documents and records electronically available to the other court.

**(33)** "User" means an individual who has registered to use the electronic filing system. Users of the electronic filing system shall be individuals, not law firms, agencies, corporations, or other groups.

**(34)** "Voluntary user" means a party not subject to s. 809.801 (3) (a) who voluntarily registers to use the electronic filing system under s. 809.801 (3) (b).

(35) "Word" means a group consisting of one or more letters, numbers or symbols with a space or punctuation mark preceding and succeeding the group.

**SECTION 68.** A Comment to 809.01 of the statutes is created to read:

**Comment, 2021**

The definitions of s. 809.01 have been broadened to incorporate electronic filing terminology.

**SECTION 69.** 809.10 (1) (a) of the statutes is amended to read:

**809.10 (1) (a) Filing.** A person shall initiate an appeal by filing a notice of appeal with the clerk of the circuit court in which the judgment or order appealed from was entered. The clerk of the circuit court may not refuse to accept a notice of appeal for failure to pay the appellate court filing fee required by s. 809.25 (2) (a).

**SECTION 70.** A Comment to 809.10 (1) (a) of the statutes is created to read:

**Comment, 2021**

Sub. (1) (a) adds a provision codifying *Douglas v. Dewey*, 147 Wis. 2d 328, 338, 433 N.W.2d 243 (1989), holding that payment of the appellate filing fee under s. 809.25 (2) (a) 1. is not a prerequisite to filing a notice of appeal.

To facilitate the adoption of electronic filing and service, three documents will be filed and served in the circuit court case either with the notice of appeal or shortly thereafter: docketing statement, statement on transcript, and optional motions under s. 809.41 (1) and (4). Circuit court electronic filing users are served when they receive these documents through the circuit court electronic filing system. When the attorney general is made a party by operation of s. 809.802

(1), the attorney general will be served through the appellate electronic filing system. Subsequent documents will be filed and served via the appellate electronic filing system.

**SECTION 71.** 809.10 (1) (b) 1. of the statutes is amended to read:

**809.10 (1) (b) 1.** The circuit court case name and number.

**SECTION 72.** 809.10 (1) (c) of the statutes is repealed.

**SECTION 73.** 809.10 (1) (d) of the statutes is amended to read:

**809.10 (1) (d)** *Docketing statement.* The person shall ~~send the court of appeals an original and one copy of~~ file in the circuit court a completed docketing statement on a form prescribed by the court of appeals. The docketing statement shall accompany ~~the court of appeals'~~ ~~copy of~~ the notice of appeal. ~~The person shall send a copy of the completed docketing statement to the other parties to the appeal.~~ Docketing statements need not be filed in appeals brought under s. 809.105, 809.107, 809.32, or 974.06 (7), in cases under ch. 980, or in cases in which a party represents himself or herself. Docketing statements need not be filed in appeals brought under s. 809.30 or 974.05, or by the state or defendant in permissive appeals in criminal cases pursuant to s. 809.50, except that docketing statements shall be filed in cases arising under ch. 48, 51, 55, or 938.

**SECTION 74.** 809.10 (1) (g) of the statutes is created to read:

**809.10 (1) (g)** *Motions under s. 809.41 (1) (a) or (4).* A motion for an order or other relief under s. 809.41 (1) (a) or (4), if any, shall be filed in the circuit court and shall accompany the notice of appeal.

**SECTION 75.** 809.10 (1) (h) of the statutes is created to read:



**809.10 (1) (h) Service.** For electronic filing users in the circuit court case, receipt of the notice of appeal, docketing statement, and motions filed under s. 809.41 (1) or (4) through the circuit court electronic filing system under s. 801.18 shall constitute service of the documents. Where service on the attorney general is required by s. 809.802 (1), service shall be made as provided in s. 809.802 (2). The appellant shall serve paper parties in the circuit court by traditional methods.

**SECTION 76.** 809.10 (1) (i) of the statutes is created to read:

**809.10 (1) (i) Filing in court of appeals.** Subject to s. 809.12, other than the notice of appeal, docketing statement, appellant's motion under s. 809.41 (1) or (4), if any, and statement on transcript under s. 809.11 (4) (b), which shall be filed in the circuit court, all subsequently filed documents in an appeal shall be filed in the court of appeals.

**SECTION 77.** 809.104 (2) (b) of the statutes is amended to read:

**809.104 (2) (b)** A party may initiate an appeal under this section by filing a notice of appeal with the clerk of the trial court in which the order or judgment appealed from was entered and shall specify in the notice of appeal the order or judgment appealed from. The docketing statement required under s. 809.10 (1) (d) shall be filed in the circuit court and shall accompany the notice of appeal. The appellant shall pay the filing fee with the notice of appeal. The clerk of the circuit court shall transmit to the court of appeals, within 3 days ~~of~~ after the filing of the notice of appeal, the docketing statement, a copy of the notice of appeal, ~~the filing fee~~, and a copy of the circuit court record of the case maintained under s. 59.40 (2) (b) or (c). ~~The clerk~~

~~of the court of appeals shall file the appeal upon receipt of the items referred to in this paragraph.~~

**SECTION 78.** 809.104 (2) (bm) of the statutes is created to read:

**809.104 (2) (bm)** The clerk of the court of appeals shall file the appeal upon receipt of the items referred to in par. (b). The clerk shall assign a case number, create a notice that the case has been docketed, and transmit the notice to the clerk of circuit court. The clerk shall serve the notice of docketing on paper parties by traditional methods.

**SECTION 79.** 809.104 (2) (d) of the statutes is amended to read:

**809.104 (2) (d)** ~~The~~ Within 5 days after filing of the notice of appeal in the circuit court, the appellant shall file a statement on transcript with the clerk of ~~the court of appeals, shall file a copy of the statement on transcript with the clerk of the circuit court, and shall serve a copy of the statement on transcript on the other parties to the appeal within 5 days after the filing of the notice of appeal in the circuit court under par. (b)~~ circuit court, who shall transmit the statement on transcript to the court of appeals within 3 days after its filing. The statement on transcript shall either designate the portions of the transcript that have been requested by the appellant or contain a statement by the appellant that a transcript is not necessary for prosecution of the appeal. If a transcript is necessary for prosecution of the appeal, the statement on transcript shall also contain a statement by the court reporter that the appellant has requested copies of the transcript or designated portions thereof for each of the other parties; that the appellant has made arrangements to pay for the original transcript and for all copies for the other parties; the date

on which the appellant requested the transcript and made arrangements to pay for it; and the date on which the transcript must be served on the parties.

**SECTION 80.** 809.104 (2) (dm) of the statutes is created to read:

**809.104 (2) (dm)** For electronic filing users in the circuit court case, receipt of the notice of appeal, docketing statement, and statement on transcript through the circuit court electronic filing system shall constitute service of the documents. The appellant shall serve the notice of appeal, docketing statement, and statement on transcript on paper parties by traditional methods.

**SECTION 81.** 809.105 (2) of the statutes is amended to read:

**809.105 (2)** INITIATING AN APPEAL. Only a minor may initiate an appeal under this section. The minor shall initiate the appeal by filing, or by a member of the clergy filing on the minor's behalf, a notice of appeal with the clerk of the trial court in which the order appealed from was entered and shall specify in the notice of appeal the order appealed from. ~~At the same time, the minor or member of the clergy shall notify the court of appeals of the filing of the appeal by sending a copy of the notice of appeal to the clerk of the court of appeals. The clerk of the trial court shall assist the minor or member of the clergy in sending a copy of the notice of appeal to the clerk of the court of appeals.~~ The minor may use the name "Jane Doe" instead of her name on the notice of appeal and all other papers filed with the court of appeals.

**SECTION 82.** 809.105 (3) (c) of the statutes is amended to read:

**809.105 (3) (c)** *Filing Docketing in court of appeals.* The clerk of the court of appeals shall ~~file~~ docket the appeal immediately upon

receipt of the items specified in par. (b). The clerk shall assign a case number, create a notice that the case has been docketed, and transmit the notice to the clerk of circuit court. The clerk shall serve the notice of docketing on paper parties by traditional methods.

**SECTION 83.** 809.107 (2) (bm) (intro.) of the statutes is amended to read:

**809.107 (2) (bm) (intro.)** *Notice of intent to pursue postdisposition or appellate relief.* A person shall initiate an appeal under this section by filing, within 30 days after the date of entry of the judgment or order appealed from, as specified in s. 808.04 (7m), a notice of intent to pursue postdisposition or appellate relief with the clerk of the circuit court in which the judgment or order appealed from was entered. Also within that time period, the appellant shall serve a copy of the notice of intent on the person representing the interests of the public, opposing counsel, the guardian ad litem appointed under s. 48.235 (1) (c) for the child who is the subject of the proceeding, the child's parent and any guardian and any custodian appointed under s. 48.427 (~~3~~) (3m). If the record discloses that final adjudication occurred after the notice of intent was filed, the notice shall be treated as filed after entry of the judgment or order appealed from on the day of the entry of the final judgment or order. The notice of intent shall include all of the following:

**SECTION 84.** 809.107 (5) (a) of the statutes is amended to read:

**809.107 (5) (a)** *Filing; and service of notice of appeal.* Within 30 days after the later of the service of the transcript or the circuit court case record, unless extended under s. 809.82, the appellant shall file a notice of appeal as provided in s. 809.10 and serve a copy of

the notice on the persons required to be served under sub. (2) (bm). For an appellant other than the state, the appellant on whose behalf the notice of appeal is filed shall sign the notice. Appellant's counsel, if any, shall also sign the notice of appeal, but may not sign in lieu of the appellant. Within 3 days after the filing of the notice of appeal, the clerk of circuit court shall transmit to the court of appeals the notice of appeal and a copy of the circuit court record of the case maintained pursuant to s. 59.40 (2) (b) or (c).

**SECTION 85.** 809.107 (5) (ag) of the statutes is created to read:

**809.107 (5) (ag)** *Docketing in court of appeals.* The clerk of the court of appeals shall docket the appeal upon receipt of the notice of appeal. The clerk shall assign a case number, create a notice that the case has been docketed, and transmit the notice to the clerk of circuit court. The clerk shall serve the notice of docketing on paper parties by traditional methods.

**SECTION 86.** 809.107 (5) (d) of the statutes is amended to read:

**809.107 (5) (d)** *Statement on transcript.* ~~The~~ Within 5 days after filing the notice of appeal in the circuit court, the appellant shall file a statement on transcript with the clerk of ~~the court of appeals,~~ shall file a copy of the statement on transcript with the clerk of circuit court, and shall serve a copy of the statement on transcript on the other parties to the appeal within 5 days after the filing of the notice of appeal in the circuit court circuit court, who shall transmit the statement on transcript to the clerk of the court of appeals within 3 days after its filing. The statement on transcript shall either designate the portions of the transcript that have been requested by the appellant or contain a statement by the appellant that a transcript

is not necessary for prosecution of the appeal. If a transcript is necessary for prosecution of the appeal, the statement on transcript shall also contain a statement by the court reporter that the appellant has requested copies of the transcript or designated portions thereof for each of the other parties; that the appellant has made arrangements to pay for the original transcript and for all copies for other parties; the date on which the appellant requested the transcript and made arrangements to pay for it; and the date on which the transcript must be served on the parties.

**SECTION 87.** 809.107 (5) (dm) of the statutes is created to read:

**809.107 (5) (dm)** For electronic filing users in the circuit court case, receipt of the notice of appeal and statement on transcript through the circuit court electronic filing system shall constitute service. The appellant shall serve the notice of appeal and statement on transcript on paper parties by traditional methods.

**SECTION 88.** 809.107 (5m) of the statutes is amended to read:

**809.107 (5m) NO-MERIT REPORTS.** A s. 809.32 no-merit report, response, and supplemental no-merit report may be filed in an appeal from an order or judgment terminating parental rights. The appointed attorney shall file in the court of appeals and serve on the client-parent the no-merit report and certification within 15 days after the filing of the record on appeal. The appointed attorney shall serve on the client-parent a copy of the transcript and the record on appeal at the same time that the no-merit report is served on the client-parent. The client-parent may file in the court of appeals a response to the no-merit report within 10 days after service of the no-merit report. ~~Within 5 days after the response to the no-merit report has been filed~~

~~in the clerk's office, the clerk shall send a copy of the response to the appointed attorney.~~ The attorney may file a supplemental no-merit report and affidavit within 10 days after receiving the response to the no-merit report.

**SECTION 89.** 809.11 (1) of the statutes is amended to read:

**809.11 (1) FEE.** The appellant shall pay the filing fee ~~with the notice of appeal~~ to the clerk of the court of appeals when the notice of appeal is filed. Payment may be made by check or through the court electronic payment system, unless arrangements are made with the clerk of court or otherwise ordered by the court. An appellant may file with the court of appeals a petition or motion for waiver of the filing fee under s. 814.29 (1) or (1m), using a form provided by the court for that purpose.

**SECTION 90.** 809.11 (2) of the statutes is amended to read:

**809.11 (2) TRANSMITTAL OF NOTICE OF APPEAL.** The clerk of the circuit court shall transmit to the court of appeals, within 3 days of the filing of the notice of appeal, ~~a copy of the notice of appeal, the appellant's docketing statement, the appellant's motion filed under s. 809.41 (1) or (4), if any, the filing fee,~~ and a copy of the circuit court record of the case maintained pursuant to s. 59.40 (2) (b) or (c).

**SECTION 91.** 809.11 (3) (title) of the statutes is amended to read:

**809.11 (3) (title) FILING DOCKETING IN COURT OF APPEALS.**

**SECTION 92.** 809.11 (3) of the statutes is renumbered 809.11 (3) (a) and amended to read:

**809.11 (3) (a)** The clerk of the court of appeals shall ~~file~~ docket the appeal upon receipt of the items referred to in sub. (2), create a

notice of docketing, and transmit the notice of docketing to the clerk of circuit court.

**SECTION 93.** 809.11 (3) (b) of the statutes is created to read:

**809.11 (3) (b)** For electronic filing users in the circuit court case, receipt of the notice of docketing through the circuit court electronic filing system shall constitute service of the notice of docketing and notification that the court of appeals proceeding has been commenced. Where service on the attorney general is required by s. 809.802 (1), service shall be made as provided in s. 809.802 (2). The clerk shall serve the notice of docketing on the paper parties by traditional methods.

**SECTION 94.** 809.11 (4) (b) of the statutes is amended to read:

**809.11 (4) (b)** The appellant shall file a statement on transcript with ~~the clerk of the court of appeals, shall file a copy of the statement on transcript with~~ the clerk of the circuit court, ~~and shall serve a copy of the statement on transcript on the other parties to the appeal~~ within 14 days after the filing of the notice of appeal in the circuit court. The statement on transcript shall either designate the portions of the transcript that have been requested by the appellant or contain a statement by the appellant that a transcript is not necessary for prosecution of the appeal. The clerk of circuit court shall transmit the statement on transcript to the court of appeals within 3 days after its filing. If a transcript that is not yet filed in the circuit court is necessary for prosecution of the appeal, the statement on transcript shall also contain a statement by the court reporter that the appellant has requested copies of the transcript or designated portions thereof for each of the other parties; that the appellant has



made arrangements to pay for the original transcript and for all copies for other parties; the date on which the appellant requested the transcript and made arrangements to pay for it; and the date on which the transcript must be served on the parties.

**SECTION 95.** 809.11 (4) (c) of the statutes is created to read:

**809.11 (4) (c)** For electronic filing users in the circuit court case, receipt of the statement on transcript through the circuit court electronic filing system shall constitute service. Where service on the attorney general is required by s. 809.802 (1), service shall be made as provided in s. 809.802 (2). The appellant shall serve the statement on transcript on paper parties by traditional methods.

**SECTION 96.** 809.11 (5) of the statutes is amended to read:

**809.11 (5)** ADDITIONAL PORTIONS OF TRANSCRIPT. Within 14 days after filing of a statement on transcript as required under sub. (4), any other party may file in the court of appeals a designation of additional portions to be included in the transcript and serve a copy of the designation on the appellant. Within 14 days after the filing of such a designation, the appellant shall file in the circuit court the statement required by sub. (4) (b) covering the other party's designation. If the appellant fails or refuses to request the designated portions, the other party, within 14 days of the appellant's failure or refusal, may request the portions by filing a statement on transcript in the circuit court or move the circuit court for an order requiring the appellant to request the designated portions.

**SECTION 97.** 809.11 (7) (a) of the statutes is amended to read:

**809.11 (7) (a)** *Service of transcript copies.* The reporter shall serve copies of the transcript on the parties to the appeal, file the

transcript with the circuit court, and notify the clerk of the court of appeals and the parties to the appeal that the transcript has been filed and served within 60 days after the date on which the transcript was requested and arrangements were made for payment under sub. (4). If additional portions of the transcript are requested under sub. (5), the reporter shall serve copies of the additional portions of the transcript on the parties to the appeal, file the additional portions of the transcript with the circuit court, and notify the clerk of the court of appeals and the parties to the appeal that the additional portions of the transcript have been filed and served within 60 days after the date on which the additional portions were requested and arrangements were made for payment. If supplementation or correction of the record is ordered under s. 809.14 (3) (b), the reporter shall serve copies of the supplemental or corrected transcript on the parties to the appeal, file the supplemental or corrected transcript with the circuit court, and notify the clerk of the court of appeals and the parties to the appeal that the supplemental or corrected transcript has been filed and served within 20 days after the order for supplementation or correction is entered or within the time limit set by order of the court. Where service of a transcript on the attorney general is required by s. 809.802 (1), access to an electronic copy of the transcript through the appellate electronic filing system shall constitute service of the transcript.

**SECTION 98.** A Comment to s. 809.11 (3) of the statutes is created to read:

**Comment, 2021**

Sub. (3) codifies the clerk's practice of sending a notice of docketing to inform the parties that the appeal has been filed and providing the case number. The appellate clerk serves the notice of docketing on the electronic parties in the circuit court case, advising them to opt in to the court of appeals case. The appellate clerk also serves the notice of docketing on the attorney general and opts in the attorney general as an attorney for the state.

**SECTION 99.** A Comment to s. 809.11 (4) of the statutes is created to read:

**Comment, 2021**

To facilitate the adoption of electronic filing and service, s. 809.11 (4) requires that the statement on transcript be filed and served in the circuit court case. The statement on transcript must be filed within 14 days of filing the notice of appeal, the docketing statement under s. 809.10 (1) (d), and motions made under s. 809.10 (1) (g), if any.

**SECTION 100.** 809.14 (1) of the statutes is amended to read:

**809.14 (1)** A party ~~seeking~~ moving the appellate court for an order or other relief in a case shall file a motion for the order or other relief. The motion must state the order or relief sought and the grounds on which the motion is based and may include a statement of the position of other parties as to the granting of the motion. A motion may be supported by a memorandum. Except as provided in sub. (1m), any other party may file a response to the motion within 11 days after service of the motion.

**SECTION 101.** 809.14 (3) (a) of the statutes is amended to read:

**809.14 (3) (a)** The filing of a motion seeking an order or other relief which may affect the disposition of an appeal or the content of a brief, ~~or~~ a motion seeking consolidation of appeals, a motion for extension of time to file a statement on transcript, or a motion relating to production of transcripts automatically tolls the time for performing an act required by these rules from the date the motion was filed until the date the motion is disposed of by order.

**SECTION 102.** 809.14 (3) (b) of the statutes is amended to read:

**809.14 (3) (b)** The filing of a motion to supplement or correct the record automatically tolls the time for performing an act required by these rules from the date the motion was filed until the date the motion is disposed of by order. If a motion to correct or supplement the record is granted, time limits for performing an act required by these rules shall be tolled from the date on which the motion was filed until the date on which the supplemental or corrected record return is ~~filed~~ transmitted to the clerk of the court of appeals, except that the time for preparation of supplemental or corrected transcripts is governed by s. 809.11 (7) (a).

**SECTION 103.** 809.14 (3) (c) of the statutes is amended to read:

**809.14 (3) (c)** The ~~moving party shall serve~~ clerk of the court of appeals shall transmit to the clerk of circuit court ~~with~~ a copy of any motion filed in the appellate court ~~of appeals~~ under this subsection.

**SECTION 104.** A Comment to 809.14 (3) of the statutes is created to read:

**Comment, 2021**

Sub. (3) identifies those motions needed by both the appellate and circuit court and provides for cross-copying to the other court without duplicate filing by the litigants.

**SECTION 105.** 809.14 (5) (a) of the statutes is created to read:

**809.14 (5) (a)** Any motion for an order or other relief made under sub. (1) before a notice of appeal is filed shall be made in the court of appeals. The clerk of the court of appeals shall assign a pre-appeal case number, create a notice that the case has been docketed, and transmit a copy of the notice of docketing and pre-appeal motion to the clerk of circuit court.

**SECTION 106.** 809.14 (5) (b) of the statutes is created to read:

**809.14 (5) (b)** For electronic filing users in the circuit court case, receipt of the notice of docketing and the pre-appeal motion through the circuit court electronic filing system provides access to the pre-appeal proceeding and constitutes service of the pre-appeal motion. Where service on the attorney general is required by s. 809.802 (1), service shall be made as provided in s. 809.802 (2). The clerk shall serve the notice of docketing on paper parties by traditional methods. The movant shall serve the pre-appeal motion on paper parties by traditional methods.

**SECTION 107.** 809.14 (5) (c) of the statutes is created to read:

**809.14 (5) (c)** Subsequent pre-appeal motions arising out of the same circuit court case shall be filed and docketed in the same pre-appeal proceeding. The clerk shall transmit a copy of the motions to the clerk of circuit court.

**SECTION 108.** A Comment to 809.14 (5) of the statutes is created to read:

**Comment, 2021**

Sub. (5) codifies the existing process for filing motions prior to appeal. The first motion prior to appeal is filed as a new action in the court of appeals and transmitted to the circuit court, providing service on the electronic parties. Subsequent motions are also transmitted to the circuit court.

**SECTION 109.** 809.15 (1) (d) of the statutes is created to read:

**809.15 (1) (d)** If the record includes the redacted version of any document, it shall also contain the unredacted version if submitted to the circuit court. The unredacted version shall be marked as confidential.

**SECTION 110.** 809.15 (1) (e) of the statutes is created to read:

**809.15 (1) (e)** If the record includes a sealed document, the document shall be marked as sealed.

**SECTION 111.** A Comment to 809.15 (1) of the statutes is created to read:

**Comment, 2021**

In 2016 the court adopted ss. 809.19 (2) (i) and 801.21 (9) relating to redaction and sealing of certain court documents. Sub. (1) addresses transmittal to the court of appeals of a record that contains redacted or sealed documents.

**SECTION 112.** 809.15 (2) of the statutes is amended to read:

**809.15 (2)** COMPILATION AND APPROVAL OF THE RECORD. The clerk of circuit court shall assemble the record in the order set forth in sub. (1) (a), identify each record item by its circuit court document number, date of filing, and title ~~each document~~, and prepare a list of the numbered documents. The clerk shall use the document number assigned in the

circuit court as the record number on appeal. ~~If the record is in an electronic format, the~~ The clerk shall also include in the list of numbered documents a list of exhibits not electronically maintained that are part of the record on appeal. At least 10 days before the due date for filing the record in the court, the clerk of the circuit court shall notify in writing each party appearing in the circuit court that the record has been assembled and is available for inspection. The clerk of the circuit court shall include with the notice the list of the documents constituting the record.

**SECTION 113.** A Comment to 809.15 (2) of the statutes is created to read:

**Comment, 2021**

In 2018 the circuit court case management software began assigning a document number to each item in the circuit court record as it is filed. Sub. (2) requires the record index to use the same numbering on appeal. This will facilitate identification of documents and minimize confusion that may arise when a document is stamped with two different numbers by the circuit and appellate courts. If a circuit court record item is not included in the record on appeal, this will appear as a numbering gap in the index to the record.

**SECTION 114.** 809.15 (4) (a) of the statutes is amended to read:

**809.15 (4) (a)** *Transmittal of the record.* The clerk of the circuit court shall electronically transmit the record to the court of appeals within 20 days after the date of the filing of the transcript designated in the statement on transcript or within 20 days after the date of the filing of a statement on transcript indicating that no transcript is necessary for prosecution of the appeal, unless the court

extends the time for transmittal of the record or unless the tolling provisions of s. 809.14 (3) extend the time for transmittal of the record. If additional portions of the transcript are requested under s. 809.11 (5), the clerk of the circuit court shall transmit the record to the court of appeals within 20 days after the date of the filing of the additional portions of the transcript. ~~If the record is transmitted electronically, the~~ The clerk of the circuit court shall transmit by traditional methods any original documents or exhibits not electronically maintained.

**SECTION 115.** 809.15 (4) (c) of the statutes is amended to read:

**809.15 (4) (c)** *Supplementation or correction of record.*

Notwithstanding pars. (a) and (b), if a motion to supplement or correct the record is filed in circuit court, the clerk of circuit court may not transmit the record until the motion is determined. ~~A~~ The clerk of the circuit court shall transmit to the clerk of the court of appeals a copy of any motion to supplement or correct the record that is filed in circuit court shall be sent to the clerk of the court of appeals. The circuit court shall determine, by order, the motion to supplement or correct the record within 14 days after the filing or the motion is considered to be denied and the clerk of circuit court shall immediately enter an order denying the motion and shall transmit the record to the court of appeals within 20 days after entry of the order. If the circuit court grants the motion, the clerk of circuit court shall transmit the supplemented or corrected record to the court of appeals within 20 days after entry of the order or filing of the supplemental or corrected record in the circuit court, whichever is later.

**SECTION 116.** 809.15 (4m) of the statutes is amended to read:



**809.15 (4m)** NOTICE OF FILING OF RECORD. The clerk of the court of appeals shall notify the clerk of circuit court and all parties appearing in the circuit court of the date on which the record was filed. When ~~the record is transmitted electronically~~ and the clerk of the circuit court must transmit original documents or exhibits not electronically maintained by traditional methods, the date on which the record was filed is the date the electronic transmission and index was received by the clerk of the court of appeals.

**SECTION 117.** 809.19 (1) (g) of the statutes is amended to read:

**809.19 (1) (g)** Reference to an individual by one or more initials or other appropriate pseudonym or designation rather than by his or her full name when the record is required by law to be confidential or as required under s. 809.86. In an appeal from a domestic abuse protective order or harassment injunction in which "petitioner" has been substituted for an individual's name in the caption, reference to that individual shall be made only as "petitioner".

**SECTION 118.** A Comment to 809.19 (1) (g) of the statutes is created to read:

**Comment, 2021**

Sub. (1) (g) addresses cases in which an individual seeks a restraining order or harassment injunction as protection against domestic abuse or violence. 18 U.S.C. 2265 (d) prohibits making public on the Internet any information that would reveal the identity or location of the party seeking protection. In Wisconsin, parties should designate the party seeking protection solely as "petitioner" in the case caption and the briefs. Adding this requirement to the rule is consistent with current practice and federal requirements. It is an

exception to par. (i), which otherwise requires reference to the parties by name and not by party designation. A similar change is made to s. 809.81 (9) regarding the caption.

**SECTION 119.** 809.19 (1) (i) of the statutes is amended to read:

**809.19 (1) (i)** Reference to the parties by name, rather than by party designation, throughout the argument section, unless "petitioner" must be substituted for the party's name under par. (g).

**SECTION 120.** 809.19 (2) (a) of the statutes is repealed and recreated to read:

**809.19 (2) (a)** *Contents.* The appellant's brief shall be filed with a short appendix containing, at a minimum, the findings or opinion of the circuit court, limited portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the circuit court's reasoning regarding those issues, and a copy of any unpublished opinion cited under s. 809.23 (3) (a) or (b). If the appeal is taken from a circuit court order or judgment entered in a judicial review of an administrative decision, the appendix shall also contain the findings of fact and conclusions of law, if any, and final decision of the administrative agency. The appendix shall include a table of contents indicating, for each record item included in the appendix, the title, page of the appendix on which the record item begins, and the circuit court document number. The table of contents shall also contain the citation of any unpublished opinion included in the appendix.

**SECTION 121.** A Comment to 809.19 (2) (a) of the statutes is created to read:

**Comment, 2021**

Since late 2018, the circuit court case management software has been assigning a document number to each item in the circuit court record as it is filed. Sub. (2) (a) provides that the same number will be used in the record index for the appeal. This will make it easier for parties to refer to documents and will prevent confusion from stamping a document with two different numbers.

**SECTION 122.** 809.19 (2) (ae) of the statutes is created to read:

**809.19 (2) (ae)** *Form.* The appendix shall be filed as a single document separate from the brief. Each document shall be imaged at a resolution sufficient to ensure legibility.

**SECTION 123.** A Comment to 809.19 (2) (ae) of the statutes is created to read:

**Comment, 2021**

Sub. (2) (ae) requires the appendix to be filed as a single document. In the event of a very large appendix that cannot be electronically filed as a single document due to the size limitations of the system, s. 809.801 (8) directs the user to contact the clerk of court for assistance.

**SECTION 124.** 809.19 (2) (am) of the statutes is created to read:

**809.19 (2) (am)** *Confidentiality.* If the record is required by law to be confidential, the portions of the record included in the appendix shall be reproduced using one or more initials or other appropriate pseudonym or designation instead of full names of persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

**SECTION 125.** 809.19 (2) (b) of the statutes is repealed.

**SECTION 126.** 809.19 (3) (a) 1. b. of the statutes is amended to read:

**809.19 (3) (a) 1. b.** Thirty days after the date on which ~~the court~~ accepts the appellant's brief ~~for filing~~ is filed.

**SECTION 127.** A Comment to 809.19 (3) (a) of the statutes is created to read:

**Comment, 2021**

Sub. (3) (a) provides that the events used for calculation of the time for a response brief are filing of the brief, service of the brief, and filing of the record. When the clerk accepts a filed document, the clerk's entry of the new document into the court record will trigger a notice of activity to the electronic parties, thereby serving them. Thus, for electronic parties the filing and service of the brief will often be the same day. For briefs submitted after the business hours of the clerk's office, the clerk will enter the document into the court record the next business day, so the filing date will be different than the date of electronic service. The calculation of time for parties served by paper remains as provided in s. 809.8 (4) (b) and 801.14 (2).

**SECTION 128.** 809.19 (3) (b) of the statutes is amended to read:

**809.19 (3) (b)** The respondent may file with ~~his or her~~ the respondent's brief a supplemental appendix as a separate document. If the record is required by law to be confidential, the supplemental appendix must comply with the confidentiality requirements under sub. (2) (a) ~~(am)~~. Any supplemental appendix shall include a table of contents, that conforms with sub. (2) (a) and a copy of any unpublished opinion cited under s. 809.23 (3) (a) or (b), ~~and a signed certification that the appendix complies with the confidentiality requirements under~~

~~sub. (2) (a) in a form substantially similar to the confidentiality provision under sub. (2) (b).~~ Each document to be included in the appendix shall be imaged at a resolution sufficient to ensure legibility.

**SECTION 129.** 809.19 (4) (a) 2. of the statutes is amended to read:

**809.19 (4) (a) 2.** Fifteen days after the date on which ~~the court accepts the respondent's brief for filing~~ is filed.

**SECTION 130.** 809.19 (6) (b) 1. b. of the statutes is amended to read:

**809.19 (6) (b) 1. b.** Thirty days after the date on which ~~the court accepts the appellant-cross-respondent's brief for filing~~ is filed.

**SECTION 131.** 809.19 (6) (b) 2. of the statutes is amended to read:

**809.19 (6) (b) 2.** ~~The front and back covers of the combined brief shall be red.~~ The respondent portion of the combined brief shall comply with the requirements of this section for a respondent's brief, including the length limitation for such a brief set forth in sub. (8) (c) 1. The cross-appellant portion of the combined brief shall comply with the requirements of subs. (1) and (2) for an appellant's main brief, including the length limitation for such a brief set forth in sub. (8) (c) 1., except that the requirements of sub. (1) (c) and (d) may be omitted, the cross-appellant portion of the combined brief shall be preceded by a ~~blank blue~~ white cover page titled "Cross-Appellant's Brief", and a signature shall be required only at the conclusion of the cross-appellant portion of the combined brief.

**SECTION 132.** 809.19 (6) (c) 1. b. of the statutes is amended to read:

**809.19 (6) (c) 1. b.** Thirty days after the date on which ~~the court accepts~~ the respondent-cross-appellant's brief ~~for filing~~ is filed.

**SECTION 133.** 809.19 (6) (c) 2. of the statutes is amended to read:

**809.19 (6) (c) 2.** ~~The front and back covers of the combined brief shall be gray.~~ The appellant portion of the combined brief shall comply with the requirements of sub. (4) for a reply brief, including the length limitation for such a brief set forth in sub. (8) (c) 2. The cross-respondent portion of the combined brief shall comply with the requirements of sub. (3) for a respondent's brief, including the length limitation for such a brief set forth in sub. (8) (c) 1., except that the requirement of sub. (1) (c) may be omitted, the cross-respondent portion of the combined brief shall be preceded by a ~~blank red~~ white cover page titled "Cross-Respondent's Brief", and a signature shall be required only at the conclusion of the cross-respondent portion of the combined brief.

**SECTION 134.** 809.19 (6) (d) 2. of the statutes is amended to read:

**809.19 (6) (d) 2.** Fifteen days after the date on which ~~the court accepts~~ the appellant-cross-respondent's brief ~~for filing~~ is filed.

**SECTION 135.** 809.19 (6) (e) of the statutes is amended to read:

**809.19 (6) (e)** Each part of a combined brief shall comply with the form and length certification requirements of sub. ~~(8) (d)~~ (8g).

**SECTION 136.** 809.19 (6) (f) of the statutes is amended to read:

**809.19 (6) (f)** A respondent-cross-appellant must comply with the same appendix rules as an appellant under subs. (2) (a) and ~~(b)~~ (am) and (8g), except that a respondent-cross-appellant shall not be required to include materials that are contained in the appellant's appendix.

**SECTION 137.** 809.19 (7) (d) of the statutes is created to read:

**809.19 (7) (d)** A nonparty brief shall comply with sub. (1) (e) and (f).

**SECTION 138.** 809.19 (8) (title) of the statutes is amended to read:

**809.19 (8) (title)** NUMBER, FORM, PAGINATION, AND LENGTH OF BRIEFS AND APPENDICES.

**SECTION 139.** 809.19 (8) (a) 1., 2., 3., and 4. are repealed and recreated as (8) (a) 1. and 2. to read:

**809.19 (8) (a) Number. 1.** For electronic filing users, each brief or appendix shall be filed and served using the electronic filing system as provided in s. 809.801 (6) (a). The filing party shall serve one copy of the brief and appendix on each paper party by traditional methods.

**809.19 (8) (a) 2.** A paper party shall file, serve, and receive paper documents by traditional methods as provided in s. 809.80. A paper party shall file one copy of each brief or appendix with the court and serve one copy on every other paper party by traditional methods.

**SECTION 140.** A Comment to 809.19 (8) (a) of the statutes is created to read:

**Comment, 2021**

Sub. (8) (a) provides that electronic filing users no longer need to file multiple paper copies of briefs with the court. A notice of activity to users is generated when the clerk enters the brief into the court record, allowing the other electronic parties to access the brief electronically. Paper parties file one paper copy of each brief and appendix with the court, which the clerk will scan and make part of the record.

**SECTION 141.** 809.19 (8) (b) (intro.) of the statutes is amended to read:

**809.19 (8) (b) (INTRO.) Form.** A brief ~~and~~ or appendix must conform to the following specifications:

**SECTION 142.** 809.19 (8) (b) 1. of the statutes is amended to read:

**809.19 (8) (b) 1.** ~~Produced~~ Created by a ~~duplicating or copying~~ process that produces a clear, black image ~~of the original~~ on a white paper background. Cover pages shall be white. ~~Briefs shall be produced by using either a monospaced font or a proportional serif font.~~ Carbon copies may not be filed.

**SECTION 143.** 809.19 (8) (b) 2. of the statutes is amended to read:

**809.19 (8) (b) 2.** ~~Produced on~~ Formatted to fit 8-1/2 8.5 by 11 inch paper.

**SECTION 144.** 809.19 (8) (b) 3. a. of the statutes is created to read:

**809.19 (8) (b) 3. a.** The use of word processors or typewriters is encouraged but not required.

**SECTION 145.** 809.19 (8) (b) 3. b. of the statutes is amended to read:

**809.19 (8) (b) 3. b.** If a monospaced font is used: 10 characters per inch; double-spaced; ~~a 1.5 inch margin on the left side and a one-inch margin on all other sides.~~

**SECTION 146.** 809.19 (8) (b) 3. c. of the statutes is amended to read:

**809.19 (8) (b) 3. c.** If a proportional serif font is used: ~~proportional serif font, minimum printing resolution of 200 dots per inch,~~ minimum 13 point body text, 11 point for block quotes and



~~footnotes, leading of minimum 2 points, maximum of 60 characters per full line of body text. Italics may not be used for normal body text but. Italics may be used only for citations, headings, emphasis and foreign words; bold may be used only for citations, headings, and emphasis. Line spacing in body text must be between 1.15 and 1.5 lines or an equivalent line spacing; additional space between paragraphs is permitted but not required. Block quotes and footnotes must be single-spaced.~~

**SECTION 147.** 809.19 (8) (b) 3. d. of the statutes is created to read:

**809.19 (8) (b) 3. d.** If handwriting is used: the text must be legibly printed and not include cursive writing, except the person's signature.

**SECTION 148.** 809.19 (8) (b) 3. e. of the statutes is created to read:

**809.19 (8) (b) 3. e.** Margins must be a minimum of a 1.25-inch margin on the right and left sides and a minimum of a 1-inch margin on the top and bottom.

**SECTION 149.** A Comment to 809.19 (8) (b) of the statutes is created to read:

**Comment, 2021**

Sub. (8) (b) makes a number of changes to form, while maintaining the overall appearance of the documents. Standards for handwritten briefs have been added, along with a statement of the court's authority to review briefs for legibility. Margins are required so that scanned documents will include all the words.

**SECTION 150.** 809.19 (8) (4) of the statutes is repealed and recreated to read:

**809.19 (8) (4)** The pages of paper documents must be secured together at the top left corner.

**SECTION 151.** 809.19 (8) (bm) of the statutes is created to read:

**809.19 (8) (bm)** Pagination. A brief or appendix must have page numbers centered in the bottom margin using Arabic numerals with sequential numbering starting at "1" on the cover.

**SECTION 152.** A Comment to 809.19 (8) (bm) of the statutes is created to read:

**Comment, 2021**

Sub. (8) (bm) requires pagination using Arabic numerals beginning on the first page of each document. This will match the page number to the page header applied by the eFiling system, avoiding the confusion of having two different page numbers.

**SECTION 153.** 809.19 (8) (c) 1. of the statutes is amended to read:

**809.19 (8) (c) 1.** ~~These~~ For a brief filed by a party under sub. (1), (5), or (6) (a), (b), or (c), or by a guardian ad litem under sub. (6m), those portions of a party's or a guardian ad litem's the brief referred to in sub. (1) (d), (e) and (f) shall not exceed 50 pages if a monospaced font or handwriting is used, or 11,000 words if a proportional serif font is used.

**SECTION 154.** 809.19 (8) (c) 2. of the statutes is amended to read:

**809.19 (8) (c) 2.** ~~Appellant's~~ For a reply brief filed under sub. (4) or (6) (d), those portions referred to in sub. (1) (e) and (f) or ~~a brief filed under sub. (7)~~ shall not exceed 13 pages if a monospaced

font or handwriting is used, or 3,000 words if a proportional serif font is used.

**SECTION 155.** 809.19 (8) (c) 3. of the statutes is created to read:

**809.19 (8) (c) 3.** For a brief filed under sub. (7), those portions of the brief referred to in sub. (1) (e) and (f) shall not exceed 13 pages if a monospaced font or handwriting is used, or 3,000 words if a proportional serif font is used.

**SECTION 156.** A Comment to 809.19 (8) (c) of the statutes is created to read:

**Comment, 2021**

Sub. (8) (c) is reorganized to clarify allowable page counts and word limits for the various kinds of briefs. Page limits specific to handwritten briefs have been added, based on the average number of words per page found in handwritten briefs currently on file.

**SECTION 157.** 809.19 (8) (d) of the statutes is repealed.

**SECTION 158.** 809.19 (8g) of the statutes is created to read:

**809.19 (8g) CERTIFICATIONS.**

**(a) Briefs; certification regarding form and length.**

**1.** Counsel shall submit with the brief a signed certification that the brief meets the form and length requirements of sub. (8) (b), (bm), and (c) in the following form:

I hereby certify that this brief conforms to the rules contained in s. 809.19 (8) (b), (bm), and (c) for a brief. The length of this brief is .... [pages] [words].

Signed: ....

Signature

2. For purposes of the certification of length under this paragraph, counsel filing a brief may use the word count produced by a commercial word processor available to the general public. The word count shall include the words of any text included in the brief in the form of an image.

*(b) Appendices; certification regarding contents and confidentiality.*

1. An appellant's counsel shall submit with the appendix a signed certification that the appendix meets the content and confidentiality requirements of sub. (2) (a) and (am) in the following form:

CERTIFICATION BY ATTORNEY

I hereby certify that filed with this brief is an appendix that complies with s. 809.19 (2) (a) and that contains, at a minimum: (1) a table of contents; (2) the findings or opinion of the circuit court; (3) a copy of any unpublished opinion cited under s. 809.23 (3) (a) or (b); and (4) portions of the record essential to an understanding of the issues raised, including oral or written rulings or decisions showing the circuit court's reasoning regarding those issues.

I further certify that if this appeal is taken from a circuit court order or judgment entered in a judicial review of an administrative decision, the appendix contains the findings of fact and conclusions of law, if any, and final decision of the administrative agency.

I further certify that if the record is required by law to be confidential, the portions of the record included in the appendix are reproduced using one or more initials or other appropriate pseudonym or designation instead of full names of persons, specifically including juveniles and parents of juveniles, with a notation that the portions

of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

Signed: ....

Signature

**2.** Counsel filing a supplemental appendix shall submit it with a signed certification that the appendix complies with the confidentiality requirements under sub. (2) (am) in a form substantially similar to the confidentiality provision under subd. 1.

**(c)** *Combined certifications.* Certification of a brief under par. (a) and certification of an appendix or supplemental appendix under par. (b) may be combined in a single document for signature.

**(d)** *Electronic signature.* For electronic filing users, a certification may be electronically signed in accordance with s. 809.801 (12) (a).

**SECTION 159.** A Comment to 809.19 (8g) of the statutes is created to read:

**Comment, 2021**

Sub. (8g) addresses certification of the brief, appendix, and supplemental appendix in a single section. The language of the certifications for brief and appendix is largely unchanged. Certifications may be combined into a single document for signature. Electronic filing users may certify using their electronic signatures.

**SECTION 160.** 809.19 (8m) of the statutes is renumbered 809.19 (6m).

**SECTION 161.** 809.19 (9) of the statutes is amended to read:

**809.19 (9) BRIEF COVERS.** Each brief or appendix shall have a white front ~~and back~~ cover. The front cover shall contain the name of the court, the caption and number of the case, the court and judge appealed

from, the title of the document, and the name and address of counsel filing the document. Except as provided in s. 809.81 (8) and (9), the caption shall include the full name of each party in the circuit court and shall designate each party so as to identify each party's status in the circuit court and in the appellate court, if any. ~~The covers of the appellant's brief shall be blue; the respondent's, red; a combined respondent-cross-appellant's, red with a blue divider page; a combined reply-cross-respondent's, gray with a red divider page; a guardian ad litem's, yellow; a person other than a party, green; the reply brief, gray; and the appendix, if separately printed, white. In the event the supreme court grants a petition for review of a decision of the court of appeals, the covers of the briefs of each party shall be the same color as the cover of that party's briefs filed in the court of appeals.~~ In the supreme court, "petitioner" shall be added to the party designation of the petitioner, and the respondent's party designation shall remain the same as in the court of appeals.

**SECTION 162.** 809.19 (10) (intro.) of the statutes is amended to read:

**809.19 (10) (intro.)** CITATION OF SUPPLEMENTAL AUTHORITIES. If pertinent authorities decided after briefing come to the attention of a party or a nonparty under sub. (7) or a guardian ad litem under sub. ~~(8m)~~ (6m) after the party's or nonparty's or guardian ad litem's brief has been filed, or after oral argument but before decision, the party, nonparty, or guardian ad litem may promptly advise the clerk of the court, by letter, and serve a copy of that letter on all parties to the appeal. If the new authority is a decision of the Wisconsin court of appeals, the authority is considered decided for purposes of this subsection on

the date of an order for publication issued under s. 809.23 (2). The letter shall do the following:

**SECTION 163.** 809.19 (12) of the statutes is repealed.

**SECTION 164.** 809.19 (13) of the statutes is repealed.

**SECTION 165.** 809.23 (4) (d) of the statutes is amended to read:

**809.23 (4) (d)** A copy of any request made under this subsection shall be served ~~under s. 809.80~~ on the parties to the appeal or other proceeding in which the opinion was filed. A party to the appeal or proceeding may file a response to the request within 5 days after the request is filed.

**SECTION 166.** 809.24 (1) of the statutes is amended to read:

**809.24 (1)** Except as provided in sub. (4), a party may file a motion for reconsideration in the court of appeals within 20 days after the date of a decision issued pursuant to s. 752.41 (1). The motion must state with particularity the points of law or fact alleged to be erroneously decided in the decision and must include supporting argument. No separate memorandum in support of the motion is permitted unless subsequently ordered by the court. The court may order a response before issuing an amended decision. No response to the motion is permitted unless ordered by the court. The motion and any response shall not exceed 5 pages if a monospaced font or handwriting is used, or 1,100 words if a proportional serif font is used.

**SECTION 167.** 809.25 (1) (b) 1. of the statutes is amended to read:

**809.25 (1) (b) 1.** Cost of printing and assembling the number of copies ~~and~~ of briefs and appendices required by the rules to be served by traditional methods, not to exceed the rates generally charged in

Dane County, Wisconsin, for offset printing of camera-ready copy and assembling;

**SECTION 168.** 809.25 (2) (c) of the statutes is amended to read:

**809.25 (2) (c)** The clerk of the court of appeals may refuse to file, record, certify, or render any other service without prepayment or waiver of the fees established by this section.

**SECTION 169.** 809.30 (2) (h) of the statutes is amended to read:

**809.30 (2) (h)** *Notice of appeal, postconviction or postdisposition motion.* The person shall file in circuit court and serve on the prosecutor and any other party a notice of appeal or motion seeking postconviction or postdisposition relief within 60 days after the later of the service of the transcript or circuit court case record. The person shall file a motion for postconviction or postdisposition relief before a notice of appeal is filed unless the grounds for seeking relief are sufficiency of the evidence or issues previously raised. A postconviction or postdisposition motion under this section may not be accompanied by a notice of motion and is made when filed. A notice of appeal filed under this section shall conform to the requirements set forth in s. 809.10. The appeal shall be initiated and docketed in accordance with ss. 809.10 and 809.11.

**SECTION 170.** 809.30 (2) (j) of the statutes is amended to read:

**809.30 (2) (j)** *Appeal from judgment and order.* The person shall file in circuit court and serve on the prosecutor and any other party a notice of appeal from the judgment of conviction and sentence or final adjudication and, if necessary, from the order of the circuit court on the motion for postconviction or postdisposition relief within 20 days of the entry of the order on the postconviction or postdisposition



motion. A notice of appeal filed under this section shall conform to the requirements set forth in s. 809.10. The appeal shall be initiated and docketed in accordance with ss. 809.10 and 809.11. Appeals in cases under chs. 48, 51, 55, and 938 are subject to the docketing statement requirements of s. 809.10 (1) (d) and may be eligible for the expedited appeals program in the discretion of the court.

**SECTION 171.** 809.32 (1) (a) of the statutes is amended to read:

**809.32 (1) (a)** *No-merit report.* If an attorney appointed under s. 809.30 (2) (e) or ch. 977 concludes that a direct appeal on behalf of the person would be frivolous and without any arguable merit within the meaning of *Anders v. California*, 386 U.S. 738 (1967), and the person requests that a no-merit report be filed or declines to consent to have the attorney close the file without further representation by the attorney, the attorney shall file with the court of appeals ~~3 copies of~~ a no-merit report. The no-merit report shall identify anything in the record that might arguably support the appeal and discuss the reasons why each identified issue lacks merit. The no-merit report shall comply with the form requirements of s. 809.19 (8) (b) and (bm). The no-merit report shall not exceed 50 pages if a monospaced font or handwriting is used, or 13,000 words if a proportional serif font is used. The no-merit report shall be submitted with a signed certification setting forth the word count or page count of the report.

**SECTION 172.** 809.32 (1) (c) of the statutes is amended to read:

**809.32 (1) (c)** *Certification by attorney.* The attorney shall ~~append to~~ include with the no-merit report a signed certification that the attorney has complied with the length requirement of par. (a) and the client-counseling and client-notification requirements of par. (b).

Certification of a brief under par. (a) and certification of client counseling and client notification under par. (b) may be combined in a single document for signature. The certification may be electronically signed by the attorney in accordance with s. 809.801 (12) (a). The certification shall be in the following form:

CERTIFICATION BY ATTORNEY

I hereby certify that I have discussed with my client all potential issues identified by me and by my client and the merit of an appeal on these issues, and I have informed my client that ~~he/she~~ the client must choose one of the following 3 options: 1) to have me file a no-merit report; 2) to have me close the file without an appeal; or 3) to have me close the file and to proceed without an attorney or with another attorney retained at my client's expense. I have informed my client that a no-merit report will be filed if ~~he/she~~ the client either requests a no-merit report or does not consent to have me close the file without further representation. I have informed my client that the transcripts and circuit court case record will be forwarded at ~~his/her~~ the client's request. I have also informed my client that ~~he/she~~ the client may file a response to the no-merit report and that I may file a supplemental no-merit report and affidavit or affidavits containing matters outside the record, possibly including confidential information, to rebut allegations made in my client's response to the no-merit report.

I further certify that this no-merit report conforms to the length limit set out in s. 809.32 (1) (a). The length of this report is ...[pages] [words].

Signed:....

Signature

**SECTION 173.** 809.32 (1) (e) of the statutes is amended to read:

**809.32 (1) (e)** *Response to no-merit report.* The person may file a response to the no-merit report within 30 days after service of the no-merit report. The response shall not exceed 50 pages if a monospaced font or handwriting is used, or 13,000 words if a proportional serif font is used. If the response is handwritten, the text must be legibly printed and not include cursive writing or script, except for the person's signature. The response shall comply with the form requirements of s. 809.19 (8) (b) and (bm). If the person files a response, ~~the clerk shall, within 5 days after the filing of the response, send a copy of the response to~~ the attorney who filed the no-merit report shall receive a copy of the response through the electronic filing system.

**SECTION 174.** A Comment to 809.32 of the statutes is created to read:

**Comment, 2021**

Page limits are added for the no-merit report, the response to the no-merit report, and the supplemental no-merit petition for review. In sub. (1) (e), adding a page limit for the response to the no-merit report is intended to improve counsel's ability to file a supplemental no-merit report within the required 30-day time limit. The page limit is equal to the page limit for a brief in chief to allow full discussion of all potential issues.

**SECTION 175.** 809.32 (1) (f) of the statutes is amended to read:

**809.32 (1) (f)** *Supplemental no-merit report.* If the attorney is aware of facts outside the record that rebut allegations made in the

person's response, the attorney may file, within 30 days ~~after receipt~~ of the person's response, a supplemental no-merit report and an affidavit or affidavits, including matters outside the record. The supplemental report and affidavit or affidavits shall be served on the person, and the attorney shall file a statement in the court of appeals that service has been made upon the person.

**SECTION 176.** 809.32 (1) (fm) of the statutes is repealed.

**SECTION 177.** 809.32 (2) of the statutes is renumbered 809.32 (2) (a) and 809.32 (2) (a) (intro.), as renumbered, is amended to read:

**(2) (a) (intro.)** The attorney also shall file in circuit court a notice of appeal of the judgment of conviction or final adjudication and of any order denying a postconviction or postdisposition motion. The notice of appeal shall be identified as a no-merit notice of appeal and shall state the date on which the no-merit ~~report~~ notice of appeal is due and whether the due date is calculated under ~~par. (a) (b)~~ subd. 1. or 2. The clerk of circuit court shall transmit the record in the case to the court pursuant to s. 809.15. ~~The~~ With the no-merit notice of appeal, the attorney also shall file in the circuit court a statement on transcript complying with the requirements of s. 809.11 (4), except that copies of the transcript need not be provided to other parties. All ~~papers~~ documents filed with the court under this subsection, except the transcript, shall be served on the state in accordance with ~~s. 809.80 (2) (b)~~ 809.802 and on any other party. The no-merit ~~report~~, notice of appeal and statement on transcript must be filed within whichever of the following is later:

**SECTION 178.** 809.32 (2) (b) of the statutes is created to read:

**809.32 (2) (b)** The clerk of circuit court shall transmit the no-merit notice of appeal and the statement on transcript to the court of appeals within 3 days of filing. The clerk of the court of appeals shall docket the no-merit appeal upon receipt. The clerk shall assign a case number, create a notice that the case has been docketed, and transmit the notice to the clerk of circuit court.

**SECTION 179.** 809.32 (2) (c) of the statutes is created to read:

**809.32 (2) (c)** For electronic filing users in the circuit court case, receipt of the no-merit notice of appeal and statement on transcript through the circuit court electronic filing system shall constitute service of the documents. Receipt of the notice of docketing shall constitute service and notification that the no-merit appeal has been commenced in the court of appeals. Where service on the attorney general is required by s. 809.802 (1), service shall be made as provided in s. 809.802 (2). The clerk of the court of appeals shall serve the notice of docketing on paper parties by traditional means.

**SECTION 180.** A Comment to 809.32 (2) (b) and (c) of the statutes is created to read:

**Comment, 2021**

Sub. (2) (b) and (c) provide for electronic filing, transmission, and service of documents under this section consistent with ss. 809.10 and 809.11.

**SECTION 181.** 809.32 (2) (d) of the statutes is created to read:

**809.32 (2) (d)** The no-merit report shall be filed in the court of appeals within 14 days after the date on which the record is filed in the office of the clerk of the court of appeals. Service on electronic users shall be through the appellate electronic filing system. The

attorney shall serve the no-merit report on paper parties by traditional means.

**SECTION 182.** A Comment to 809.32 (2) (d) of the statutes is created to read:

**Comment, 2021**

Sub. (2) (d) separates the due date of the no-merit notice of appeal and statement on transcript from the due date for no-merit report. This will facilitate the use of proper record citations in the no-merit report and avoid the need for motions for extension.

**SECTION 183.** 809.32 (4) (a) of the statutes is amended to read:

**809.32 (4) (a)** *Petition and supplemental petition.* If a fully briefed appeal is taken to the court of appeals and the attorney is of the opinion that a petition for review in the supreme court under s. 809.62 would be frivolous and without any arguable merit, the attorney shall advise the person of the reasons for this opinion and that the person has the right to file a petition for review. If requested by the person, the attorney shall file a petition satisfying the requirements of s. 809.62 (2) (d) and (f), and the person shall file a supplemental petition satisfying the requirements of s. 809.62 (2) (a), (b), (c), and (e). The person's supplemental petition shall not exceed 35 pages if a monospaced font or handwriting is used, or 8,000 words if a proportional serif font is used.

**SECTION 184.** 809.40 (2) of the statutes is amended to read:

**809.40 (2)** An appeal to the court of appeals from a judgment or order in a ch. 799, traffic regulation or municipal ordinance violation case must be initiated within the time period specified in s. 808.04, and is governed by the procedures specified in ss. 809.01 to 809.26 and

809.50 to 809.85, unless a different procedure is expressly provided in ss. 809.41 to ~~809.43~~ 809.42.

**SECTION 185.** 809.41 (1) of the statutes is repealed and recreated to read:

**809.41 (1)** MOTION FOR 3-JUDGE PANEL.

**(a)** If an appellant desires the matter to be decided by a 3-judge panel, the appellant shall file a motion for a 3-judge panel with the notice of appeal required by s. 809.10 (1) (a). Service of the appellant's motion shall be as provided by s. 809.10 (1) (h).

**(b)** If a petitioner requesting the court of appeals to exercise its supervisory jurisdiction or its original jurisdiction to issue prerogative writs desires the matter to be decided by a 3-judge panel, the petitioner shall file a motion for a 3-judge panel in the court of appeals with the petition requesting the court to exercise its supervisory or original jurisdiction. Service of the petitioner's motion shall be provided by traditional methods.

**(c)** If a petitioner requesting the court of appeals to exercise its appellate jurisdiction to grant petitions for leave to appeal desires the matter to be decided by a 3-judge panel, the petitioner shall file a motion for a 3-judge panel in the court of appeals with the petition for leave to appeal. Service of the petitioner's motion shall be as provided in s. 809.50 (1).

**(d)** If any other party desires the matter to be decided by a 3-judge panel, the party must file in the court of appeals a motion under this rule for a 3-judge panel within 14 days after service of the notice of appeal or with the response to the petition.

(e) The failure to file a motion under this section waives the right to request the matter to be decided by a 3-judge panel.

(f) A motion for a 3-judge panel in a case in which the state is a party shall also be served upon the attorney general. If the motion is filed with a petition for leave to appeal, service on the attorney general shall be provided as in s. 809.50 (1m). The attorney general may file a response to the motion within 11 days after service.

**SECTION 186.** 809.41 (4) of the statutes is amended to read:

**809.41 (4)** MOTION FOR HEARING IN COUNTY OF ORIGIN. If an appellant desires that the appeal be heard in the county where the case or action originated under s. 752.31 (3), the appellant shall file in the circuit court, with ~~the copy of~~ the notice of appeal required by s. 809.10 (1) (a), a motion requesting a hearing in the county of origin. Service of the appellant's motion shall be as provided in s. 809.10 (1) (h). ~~Any~~ If any other party desires the matter to be heard ~~must file a motion requesting a hearing~~ in the county of origin, the party must file in the court of appeals a motion within 14 days after service of the notice of appeal. The failure to file a motion under this subsection waives the right to request the appeal be heard in the county where the case or action originated.

**SECTION 187.** A Comment to 809.41 of the statutes is created to read:

**Comment, 2021**

The motions addressed by this section may accompany direct appeals, petitions for leave to appeal, petitions for writs, or original jurisdiction matters. This section provides that motions in appeals and leave to appeal proceedings will be electronically served, while



supervisory writs and original jurisdiction proceedings will use traditional service. This section is reorganized to reflect the different modes of service.

**SECTION 188.** 809.43 of the statutes is repealed.

**SECTION 189.** 809.50 (1) (intro.) of the statutes is amended to read:

**809.50 (1) (intro.)** A person shall seek leave of the court to appeal a judgment or order not appealable as of right under s. 808.03 (1) by filing with the court of appeals within 14 days after the entry of the judgment or order a petition and supporting memorandum, if any. The petition and memorandum combined may not exceed 35 pages if a monospaced font or handwriting is used, or 8,000 words if a proportional serif font is used. The petition shall contain:

**SECTION 190.** 809.50 (1m) of the statutes is created to read:

**809.50 (1m)** The clerk of the court of appeals shall docket the petition upon receipt of the items referred to under sub. (1). The clerk shall assign a case number, create a notice that the petition has been docketed, and transmit the notice and petition to the clerk of the circuit court. For electronic filing users in the circuit court case, receipt of the notice of docketing and the petition through the circuit court electronic filing system provides access to the appellate proceeding and constitutes service of the petition. Where service on the attorney general is required by s. 809.802 (1), service shall be made as provided in s. 809.802 (2). The clerk shall serve the notice of docketing on paper parties by traditional methods. The petitioner shall serve the petition on paper parties by traditional methods.

**SECTION 191.** 809.50 (2) of the statutes is amended to read:

**809.50 (2)** An opposing party in circuit court shall file a response with supporting memorandum, if any, within 14 days after the service of the petition. The response and memorandum combined may not exceed 35 pages if a monospaced font or handwriting is used, or 8,000 words if a proportional serif font is used. Costs and fees may be awarded against any party in a petition for leave to appeal proceeding.

**SECTION 192.** 809.50 (3) of the statutes is amended to read:

**809.50 (3)** If the court grants leave to appeal, the procedures for appeals from final judgments are applicable to further proceedings in the appeal. The entry of the order granting leave to appeal has the effect of the filing of a notice of appeal. The court may specify the issue or issues that it will review in the appeal. If the court grants leave to appeal, the petitioner shall file a docketing statement in the court of appeals if required by s. 809.10 (1) (d), identifying the issues to be reviewed in the appeal. The docketing statement shall be filed within 11 days after the date of the order granting the petition for leave to appeal.

**SECTION 193.** 809.50 (4) of the statutes is amended to read:

**809.50 (4)** A person filing a petition or response under this section shall ~~append to~~ file with the petition ~~a statement identifying whether the petition is produced with a monospaced font or with a proportional serif font. If produced with a proportional serif font, the person shall set forth the word count of the petition or response~~ a certification setting forth the word count or page count of the document as provided in sub. (1) or (2).

**SECTION 194.** A Comment to 809.50 of the statutes is created to read:

**Comment, 2021**

A petition for leave to appeal may be filed in the court of appeals and served through the circuit court case in the same manner as a pre-appeal motion under s. 809.14 (5). Where the state needs to be added as a party, the attorney general is served through the appellate electronic filing system.

**SECTION 195.** 809.51 (1) (INTRO.) of the statutes is amended to read:

**809.51 (1) (INTRO.)** A person may request the court to exercise its supervisory jurisdiction or its original jurisdiction to issue a prerogative writ over a court and the presiding judge, or other person or body, by filing a petition and supporting memorandum. The petition shall be served on each party and proposed respondent, and, if applicable, upon the originating court or tribunal, by traditional methods as provided in s. 809.80 (2). The petition and memorandum combined may not exceed 35 pages if a monospaced font or handwriting is used, or 8,000 words if a proportional serif font is used. The petitioner shall name as respondents the court and judge, or other person or body, and all other parties in the action or proceeding. The petition shall contain:

**SECTION 196.** 809.51 (1m) of the statutes is created to read:

**809.51 (1m)** The clerk of the court of appeals shall docket the petition upon receipt of the items referred to in sub. (1). The clerk shall assign a case number, create a notice that the petition has been docketed, transmit the notice of docketing to the clerk of circuit court if applicable, and send the notice of docketing to the parties by traditional methods.

**SECTION 197.** 809.51 (2) of the statutes is amended to read:

**809.51 (2)** The court may deny the petition ex parte or may order the respondents to file a response with a supporting memorandum, if any, and may order oral argument on the merits of the petition. The response and memorandum combined may not exceed 35 pages if a monospaced font or handwriting is used, or 8,000 words if a proportional serif font is used. The respondents shall respond with supporting memorandum within 14 days after service of the order. A respondent may file a letter stating that ~~he or she~~ the respondent does not intend to file a response, but the petition is not thereby admitted.

**SECTION 198.** 809.51 (4) of the statutes is amended to read:

**809.51 (4)** A person filing a petition or response under this section shall ~~append to~~ file with the petition ~~a statement identifying whether the petition is produced with a monospaced font or with a proportional serif font. If produced with a proportional serif font, the person shall set forth the word count of the petition or response~~ a certification setting forth the word count or page count of the document as provided in sub. (1) or (2).

**SECTION 199.** A Comment to 809.51 of the statutes is created to read:

**Comment, 2021**

Unlike an appeal from a circuit court proceeding, writs and original actions do not necessarily arise from a pending case through which the parties can be served electronically. A proceeding under this section is a new action that must be served on the respondents by traditional methods.

**SECTION 200.** 809.60 (1) of the statutes is renumbered 809.60 (1) (a).

**SECTION 201.** 809.60 (1) (b) of the statutes is created to read:

**809.60 (1) (b)** The clerk shall docket the petition to bypass in the supreme court and notify the parties that the petition has been filed. For electronic filing users in the court of appeals proceeding, the notice of activity constitutes service of the petition and provides notification that the proceeding is pending before the supreme court. The clerk shall serve the notice of docketing on paper parties by traditional methods. The petitioner shall serve the petition for bypass on paper parties by traditional methods.

**SECTION 202.** A Comment to 809.60 (1) of the statutes is created to read:

**Comment, 2021**

Sub. (1) provides that when a petition to bypass is filed, electronic filing users will be served through the electronic filing system.

**SECTION 203.** 809.62 (1m) (a) of the statutes is renumbered 809.62 (1m) (a) 1. and amended to read:

**809.62 (1m) (a) 1.** A party may file with the supreme court a petition for review of an adverse decision of the court of appeals pursuant to s. 808.10. The clerk shall docket the petition for review in the supreme court and notify the parties that the petition has been filed.

**SECTION 204.** 809.62 (1m) (a) 2. of the statutes is created to read:

**809.62 (1m) (a) 2.** For electronic filing users in the court of appeals proceeding, the notice of activity constitutes service of the petition and provides notification that the petition is pending before the supreme court. Where service on the attorney general is required

by s. 809.802 (1), service shall be made as provided in s. 809.802 (2). The clerk shall serve the notice of docketing on paper parties by traditional methods. The petitioner shall serve the petition for review on paper parties by traditional methods.

**SECTION 205.** A Comment to 809.62 (1m) of the statutes is created to read:

**Comment, 2021**

Under sub. (1m), an electronic filing user may electronically file a petition for review with the court without also submitting a physical paper copy. The appellate electronic filing rule, s. 809.801 (4) (ar), extends the time of filing until 11:59 p.m. for documents filed through the eFiling system. Taken together, these two provisions supersede the decision in *St. John's Home v. Continental Casualty Co.*, 150 Wis. 2d 37, 441 N.W.2d 219 (1989), per curiam, holding that a petition for review must be physically received by 5:00 p.m. on the 30th day following the filing of the court of appeals decision to invoke the supreme court's appellate jurisdiction.

**SECTION 206.** 809.62 (2) (f) (intro.) of the statutes is amended to read:

**809.62 (2) (f) (intro)** ~~An~~ As a separate document, an appendix containing, in the following order, all of the following:

**SECTION 207.** 809.62 (4) (a) of the statutes is renumbered 809.62 (4) and amended to read:

**809.62 (4) FORM AND LENGTH REQUIREMENTS.** The petition for review and response, if any, shall conform to s. 809.19 (8) (b) ~~and (d)~~ (8) (bm) and (8g) as to form, pagination, and certification~~7~~. The petition shall be as short as possible~~7~~ and may not exceed 35 pages in length if a

monospaced font or handwriting is used, or 8,000 words if a proportional serif font is used, exclusive of appendix. ~~The petition for review and the response shall have white front and back covers, and a party shall file 10 copies with the clerk of the supreme court.~~ The first page of the petition for review shall be a white cover page that includes the proper case caption, including the case number, and shall bear the title "Petition for Review." The first page of the response shall be a white cover page that includes the proper case caption, including the case number, and shall bear the title "Response to Petition for Review."

**SECTION 208.** 809.62 (4) (b), (c), and (d) of the statutes are repealed.

**SECTION 209.** 809.62 (4m) of the statutes is amended to read:

**809.62 (4m)** COMBINED RESPONSE AND PETITION FOR CROSS-REVIEW. When a party elects both to submit a response to the petition for review and to seek cross-review, ~~its submission shall be titled~~ the first page shall be a white cover page that includes the proper case caption and case number, and shall bear the title "Combined Response and Petition for Cross-Review." The time limits set forth in sub. (3m) shall apply. The response portion of the combined document shall comply with the requirements of subs. (3) and (4). The cross-review portion of the combined document shall comply with the requirements of subs. (2) and (4), except that the requirement of sub. (2) (d) may be omitted. The cross-review portion shall be preceded by a blank white cover. A signature shall be required only at the conclusion of the cross-review portion of the combined document.

**SECTION 210.** 809.62 (6) of the statutes is amended to read:

**809.62 (6)** CONDITIONS OF GRANT OF REVIEW. The supreme court may grant the petition or the petition for cross-review or both upon such conditions as it considers appropriate, including the filing of additional briefs. If a petition or petition for cross-review is granted, the ~~parties~~ petitioner or cross-petitioner cannot raise or argue issues not set forth in the petition or petition for cross-review unless ordered otherwise by the supreme court. The supreme court may limit the issues to be considered on review. If the issues to be considered on review are limited by the supreme court and do not include an issue that was identified in a petition or petition for cross-review and that was left undecided by the court of appeals, the supreme court shall remand that issue to the court of appeals upon remittitur, unless that issue has become moot or would have no effect.

**SECTION 211.** A Comment to 809.62 (6) of the statutes is created to read:

**Comment, 2021**

Sub. (6) is amended to avoid the implication that the respondent in a petition for cross-review may not raise issues other than those identified in the petition for review, consistent the language of sub. (3m) (b).

**SECTION 212.** 809.70 (1) (intro.) of the statutes is amended to read:

**809.70 (1) (intro.)** A person may request the supreme court to take jurisdiction of an original action by filing a petition which may be supported by a memorandum. The petition shall be served on each party and proposed respondent by traditional methods as provided in s. 809.80 (2). The petition must contain all of the following:



**SECTION 213.** 809.70 (1m) of the statutes is created to read:

**809.70 (1m)** The clerk of court shall docket the petition upon receipt of the items referred to in sub. (1). The clerk shall assign a case number, create a notice that the petition has been docketed, and send the notice to the parties by traditional methods.

**SECTION 214.** A Comment to 809.70 of the statutes is created to read:

**Comment, 2021**

A proceeding under this section is a new action that must be served on the respondents by the initiating parties using traditional methods.

**SECTION 215.** 809.71 of the statutes is renumbered 809.71 (1) and amended to read:

**809.71 (1)** A person may request the supreme court to exercise its supervisory jurisdiction over a court and the judge presiding therein or other person or body by filing a petition in accordance with s. 809.51. The petition shall be served on each party and proposed respondent, and if applicable, upon the originating court or tribunal, by traditional methods as provided in s. 809.80 (2). A person seeking a supervisory writ from the supreme court shall first file a petition for a supervisory writ in the court of appeals under s. 809.51 unless it is impractical to seek the writ in the court of appeals. A petition in the supreme court shall show why it was impractical to seek the writ in the court of appeals or, if a petition had been filed in the court of appeals, the disposition made and reasons given by the court of appeals.

**SECTION 216.** 809.71 (2) of the statutes is created to read:

**809.71 (2)** The clerk of court shall docket the petition upon receipt of the items referred to in sub. (1). The clerk shall assign a case number, create a notice that the petition has been docketed, transmit the notice of docketing to the clerk of circuit court if applicable, and send the notice to the parties by traditional methods.

**SECTION 217.** A Comment to 809.71 of the statutes is created to read:

**Comment, 2021**

Supervisory writs do not always arise from a pending case through which the parties can be served electronically. A proceeding under this section is a new action that must be served on the respondents by the initiating parties using traditional methods.

**SECTION 218.** 809.80 (title) of the statutes is amended to read:

**809.80 (title) Rule (Filing and service of ~~papers~~ documents by traditional methods).**

**SECTION 219.** 809.80 (1) is amended to read:

**809.80 (1) FILING BY TRADITIONAL METHODS.** A person who is not an electronic filing user, as defined in s. 809.01 (33), shall file ~~any paper~~ a paper copy of any document required to be filed by these rules with the clerk of the court unless a different place of filing is expressly required or permitted by statute or rule. The clerk of the court is located at 110 E. Main Street, Madison, Wisconsin 53703. The mailing address for the clerk of the supreme court and the court of appeals is P.O. Box 1688, Madison, Wisconsin 53701-1688.

**SECTION 220.** A Comment to 809.80 of the statutes is created to read:

**Comment, 2021**

Section 809.80 adds the term "traditional methods" to refer to forms of filing and service such as hand-delivery and mail, describes how paper parties may file their documents, and outlines the standards that paper briefs must meet for format, printing, and proof of mailing. This is distinguished from electronic filing and service, which are addressed in s. 809.801.

**SECTION 221.** 809.80 (2) (title) is created to read:

**809.80 (2) (title)** SERVICE BY TRADITIONAL METHODS.

**SECTION 222.** 809.80 (2) (a) of the statutes is amended to read:

**809.80 (2) (a)** ~~A person shall serve and file a copy of any paper required or authorized under these rules to be filed in a trial or appellate court as~~ In this subsection, "service by traditional methods" means service in the manner provided in s. 801.14 (1), (2), (2m), and (4) of any document required or authorized under these rules to be filed in a trial or appellate court.

**SECTION 223.** 809.80 (2) (b) of the statutes is repealed.

**SECTION 224.** 809.80 (2) (bm) of the statutes is created to read:

**809.80 (2) (bm)** A party initiating a proceeding under s. 809.51, 809.70 or 809.71 shall serve a petition and memorandum on all parties by traditional methods.

**SECTION 225.** 809.80 (2) (c) of the statutes is created to read:

**809.80 (2) (c)** Except as provided in par. (bm), a paper party may initiate a proceeding in the appellate courts without serving electronic filing users by traditional methods. The clerk of the circuit or appellate court shall promptly enter filed documents into the electronic filing system and generate a notice of docketing. Service on electronic

filing users shall be as provided in s. 809.10, 809.11, 809.14, 809.32, 809.50, 809.60, or 809.62.

**SECTION 226.** 809.80 (2) (d) of the statutes is created to read:

**809.80 (2) (d)** A paper party may file subsequent documents in the appellate courts without serving electronic filing users by traditional methods. The clerk of the circuit or appellate court shall image the documents and promptly enter the documents into the electronic filing system. The notice of activity generated by the entry shall constitute service on the electronic filing users in the case as provided in ss. 801.18 (6) (d) and 809.801 (6) (d).

**SECTION 227.** 809.80 (2) (e) of the statutes is created to read:

**809.80 (2) (e)** Paper parties shall be served by traditional methods. Paper parties shall serve other paper parties by traditional methods.

**SECTION 228.** A Comment to 809.80 (2) of the statutes is created to read:

**Comment, 2021**

Sub. (2) does not require a paper party to provide service of a filed document on an electronic party. Because the clerk will be scanning all paper documents submitted by paper parties, electronic filing users will automatically receive notification of new paper documents without the need for traditional service. The current provision regarding service on the attorney general in certain cases has been moved to s. 809.802.

**SECTION 229.** 809.80 (3) (title) of the statutes is amended to read:

**809.80 (3) (title)** ~~FILING OF PAPERS; USE OF MAIL~~ TIME OF FILING BY TRADITIONAL METHODS.

**SECTION 230.** 809.80 (3) (a) of the statutes is amended to read:

**809.80 (3) (a)** *All filings – general rule.* Except as provided in pars. (b) to (e), filing by traditional methods is not timely unless the clerk receives the paper documents within the time fixed for filing. Filing may be accomplished by hand delivery, mail, or by courier. Filing by facsimile is permitted only as set forth in s. 801.16 (2) (a) to ~~(e)~~ (f) and the rules and directives governing facsimile filing in the court of appeals and supreme court. Documents completing transmission after ~~regular business hours of the clerk~~ 11:59 p.m. central time are considered filed the next business day the clerk's office is open.

**SECTION 231.** A Comment to 809.80 (3) of the statutes is created to read:

**Comment, 2021**

Under sub. (3), documents faxed by 11:59 pm are considered filed the same day. This gives paper parties the same filing hours as electronic parties. The appellate courts place a number of restrictions on filing by fax with respect to length, type of document, and payment of applicable fees. Persons wishing to file by fax should consult the clerk's office for guidance.

**SECTION 232.** 809.80 (4) (title) of the statutes is amended to read:

**809.80 (4) (title)** PROOF OF FILING DATE FOR BRIEF OR APPENDIX FILED BY TRADITIONAL METHODS.

**SECTION 233.** 809.80 (4) (a) of the statutes is amended to read:

**809.80 (4) (a)** When a brief or appendix is filed by mail or commercial carrier in accordance with s. 809.80 (3) (b), the ~~attorney~~ ~~or~~ person filing the document shall ~~append~~ include a certification or

affidavit setting forth the date and manner by which the document was mailed or delivered to a 3rd-party commercial carrier.

**SECTION 234.** 809.80 (4) (b) of the statutes is amended to read:

**809.80 (4) (b)** If a certification or affidavit is ~~appended~~ included, the clerk's office shall consider the brief or appendix filed on the date of mailing or delivery set forth in the certification or affidavit. If no certification or affidavit is ~~appended~~ included, the date of filing shall be the date on which the brief or appendix is received by the clerk's office.

**SECTION 235.** 809.80 (5) of the statutes is repealed and recreated to read:

**809.80 (5)** CLERK REVIEW.

The clerk may review a document for compliance with rule requirements relating to form, including caption, format, length, and confidentiality, to determine if the electronic document should be accepted for filing. If the clerk rejects the document following review, the filer shall receive notification of the rejection. The filer may be required to resubmit the document.

**SECTION 236.** A Comment to 809.80 (5) of the statutes is created to read:

**Comment, 2021**

Since 2009, the appellate clerk has reviewed electronic briefs to make sure that rule requirements relating to form have been met. Under sub. (5), the clerk's review includes review of all filed documents, both paper and electronic. The same review is applied to electronic documents under s. 809.801 (4) (b).

**SECTION 237.** 809.80 (6) of the statutes is created to read:

**809.80 (6) PRINTING SPECIFICATIONS.** When paper copies of briefs or appendices in cases are required to be filed or served, the briefs or appendices shall be printed, typed, duplicated or reproduced by a process that produces a clear, black image of the text on white paper, in conformity with this chapter.

**SECTION 238.** 809.801 of the statutes is created to read:

**809.801 Rule (Appellate electronic filing).**

**(1) DEFINITIONS.** The definitions in s. 809.01 apply in this section.

**(2) EFFECTIVE DATE; APPLICABILITY.**

**(a)** At the direction of the supreme court, the director shall implement an electronic filing system for the Wisconsin supreme court and court of appeals. The requirements of this section shall govern the electronic filing of documents in all types of actions and proceedings in the appellate courts.

**(b)** At the direction of the supreme court, mandatory use of the electronic filing system shall be phased in according to a schedule set by the director until the system has been fully implemented. Information about the transition schedule shall be made readily available to the public in advance of its application.

**(c)** Subject to the schedule in par. (b), mandatory users shall be required to use the appellate court electronic filing system for all new filings covered by the schedule. Electronic filing shall be required for all new actions and proceedings brought in the court of appeals and the supreme court, and for all new documents submitted in previously filed cases, except as otherwise provided in this section.

**(e)** Electronic filing is limited to methods specifically approved by the director. The director may enter into an agreement with any state agency to allow electronic filing through a custom data exchange between the court case management system and the agency's automated information system. Parties using a custom data exchange are considered mandatory users and are subject to the requirements of this section.

**(f)** The procedures in this section shall be interpreted in a manner consistent with existing procedures. This section is not intended to limit the director's approval of new technologies that accomplish the same functions.

**(g)** All judicial officers, the clerk of court, and all court staff shall cooperate and assist with the implementation of electronic filing.

**(h)** This section does not apply to documents required by law to be filed with court officials that are not filed in an action before the court. These documents may be filed by traditional methods unless otherwise required.

**(k)** The procedures under this section are intended to be consistent with the procedures governing electronic filing and service in the circuit courts under s. 801.18. The circuit and appellate court electronic filing and service rules shall be interpreted consistently to the extent practicable.

**(3)** REGISTRATION REQUIREMENTS.

**(a)** The following individuals shall register for access to the electronic filing system prior to filing documents:

1. Licensed Wisconsin attorneys.
2. Attorneys appearing under SCR 10.03 (4).
3. High-volume filing agents.



**(b)** Parties who are not subject to par. (a) may voluntarily register to use the electronic filing system.

**(c)** Except as otherwise provided, a party not subject to par. (a) who does not choose to participate in the electronic filing system under par. (b) shall file, serve, and receive paper documents by traditional methods.

**(d)** All users shall register through the electronic filing system by executing a user agreement governing the system's terms of use. To register, users must have the capability to produce, file, and receive electronic documents meeting the technical requirements of the electronic filing system. The electronic filing system shall make information on the technical requirements for filing readily available. By registering, users agree to electronically file all documents to the extent the electronic filing system can accept them. Users shall promptly provide notice through the electronic filing system of any change in the information provided for registration.

**(e)** Upon completion of a properly executed user agreement under par. (d), the electronic filing system shall provide the user with a confidential, secure authentication procedure for access to the electronic filing system. This authentication procedure shall be used only by that user and by any agents or employees that the user authorizes. The same authentication procedure shall be used for all cases on which the user is an attorney or a party. The electronic filing system may reset authentication procedures as needed for administrative and security purposes. Upon learning that the confidentiality of the authentication procedure has been inadvertently

or improperly disclosed, the user shall immediately report that fact through the electronic filing system.

**(f)** After registering to use the electronic filing system, a user shall also opt in as an attorney or party on any case in which the user intends to participate. Users shall promptly opt in or out on each case upon beginning or ending appearance as an attorney or as a party. Filing agents appearing under par. (a) or (b) shall promptly opt in or out upon any change in the identity of a filing agent. Mandatory users who do not opt in on a case will not receive notices of activity or service of documents.

**(g)** Attorneys appearing under SCR 10.03 (4) shall register following court approval of a motion to appear *pro hac vice*.

**(i)** Voluntary users who wish to opt out of a particular case shall use the "opt out" feature of the electronic filing system or notify the clerk of court. The electronic filing system shall indicate that traditional methods must be used for this party for future filings and service.

**(j)** The electronic filing system may provide a method for filing documents by individuals who are not parties to the case. It may also provide a method for professionals and agencies associated with the case to receive information and file reports.

**(4)** TIME AND EFFECT OF ELECTRONIC FILING.

**(a)** The electronic filing system is an agent of the appellate courts for purposes of filing, receipt, service, and retrieval of electronic documents. The electronic filing system shall receive electronic filings 24 hours per day except when undergoing maintenance or repair.

**(am)** A document is considered filed on a particular day if the submission is completed by 11:59 p.m. central time, as recorded by the electronic filing system, so long as it is subsequently accepted by the clerk of court upon review. Documents filed after 11:59 p.m. are considered filed the next day the clerk's office is open. The expanded availability of time to file shall not affect the calculation of time under other statutes, rules, and court orders. The electronic filing system shall issue a confirmation that submission to the electronic filing system is complete.

**(b)** When a document is submitted by a user to the electronic filing system, the electronic filing system shall transmit it to the appropriate clerk of court. The clerk may review documents for compliance with rule requirements relating to form, including caption, case number, format, length, and confidentiality, to determine if the documents should be accepted for filing.

**(c)** If the clerk of court accepts a document for filing, it shall be considered filed with the court at the date and time of the original submission, as recorded by the electronic filing system. The electronic filing system shall issue a notice of activity to serve as proof of filing. When personal service or traditional service is not required, the notice of activity shall constitute service on the other users in the case.

**(cm)** If the clerk rejects the document following review, the user shall receive notification of the rejection. The user may be required to resubmit the document.

**(5)** COMMENCEMENT OF ACTION OR PROCEEDING; FILING OF INITIATING DOCUMENTS.

**(a)** Original actions, writs, and other matters commenced in the appellate courts. A user seeking to initiate an action or proceeding in an appellate court under s. 757.85 (5), 809.51, 809.70, or 809.71 shall first register with the electronic filing system as provided in sub. (3). The user shall then file an initiating document in the appellate court and provide the additional information requested by the electronic filing system. At the written or oral request of the filer, the clerk of court may reject the document for filings made in error, if the request is made before the clerk of court has accepted the document. Initiating documents shall be served by traditional methods unless the responding party has consented in writing to accept electronic service or service by some other method.

**(b)** Petitions for review and petitions to bypass. A user seeking review by the supreme court under s. 809.60 or 809.62 shall file an initiating document in the supreme court. At the written or oral request of the filer, the clerk may reject the document for filings made in error, if the request is made before the clerk has accepted the document. Service shall be as provided in s. 809.60 (1) (b) or s. 809.62 (1m) (a) 2.

**(c)** Appeals from circuit court. A user seeking to initiate an appeal under s. 809.10, 809.103, 809.104, 809.105, 809.107, 809.30, 809.32, or 809.40 shall file a notice of appeal in the circuit court case appealed from as provided in that section. The clerk of circuit court shall transmit the notice of appeal to the clerk of the court of appeals. The docketing statement, motions under s. 809.41 (1) or (4), and statement on transcript, where applicable, shall also be filed with

the clerk of circuit court and transmitted to the clerk of the court of appeals. Service shall be as provided in s. 809.10 (1) (h).

**(d)** Petitions for leave to appeal. A user seeking leave to appeal under s. 809.50 shall file a petition in the court of appeals and provide the additional information requested by the electronic filing system. At the written or oral request of the filer, the clerk of the court of appeals may reject the document for filings made in error, if the request is made before the clerk has accepted the document. Service shall be as provided in s. 809.50 (1m).

**(e)** Motions prior to appeal. A user moving the court for an order or other relief under s. 809.14 (5) before a notice of appeal is filed shall file an initiating document in the court of appeals and provide the additional information requested by the electronic filing system. At the written or oral request of the filer, the clerk of the court of appeals may reject the document for filings made in error, if the request is made before the clerk has accepted the document. Service shall be as provided in s. 809.14 (5) (b).

**(f)** Respondent to opt in. A mandatory user who represents a responding party shall register to use the electronic filing system as provided under sub. (3) (d). After registering to use the electronic filing system, the user shall opt in on the case as provided in sub. (3) (f).

**(6)** FILING AND SERVICE OF SUBSEQUENT DOCUMENTS.

**(a)** The electronic filing system shall generate a notice of activity to the other users in the case when documents other than initiating documents are filed. Users shall access filed documents through the appellate electronic filing system. For documents that do

not require personal or traditional service, the notice of activity is valid and effective service on the other users and shall have the same effect as traditional service of a paper document.

**(b)** If a document requires personal or traditional service, it shall be served by traditional methods unless the responding party has consented in writing to accept electronic service or service by some other method.

**(c)** Paper parties shall be served by traditional methods. The electronic filing system shall indicate which parties are to be served electronically and which are to be served by traditional methods.

**(d)** Paper parties shall file documents with the court by traditional methods. The clerk of court shall image the documents and enter the imaged documents into the electronic filing system promptly. The notice of activity generated by the entry shall constitute service on the users in the case. Paper parties shall serve other paper parties by traditional methods.

**(e)** An electronic notification that cannot be successfully delivered to a user shall be returned to the clerk of court. If the clerk cannot contact the user to update the information, the user shall be treated as a paper party until the problem is corrected.

**(f)** For cases that were originally filed by traditional methods, all of the following apply:

**1.** Subject to the schedule in sub. (2) (b), all mandatory users shall opt in on each case for which they continue to appear. Mandatory users who do not opt in on a case do not receive notices of activity or service of documents.

2. For all cases that are in open status at the time electronic filing is mandated, the clerk of court shall send a notice by traditional methods to each party who has not opted in stating that the case has been converted to electronic filing. Mandatory users shall promptly opt in on these cases unless the user informs the court that the user is no longer appearing on behalf of the party.

3. For all cases that were in closed status prior to the time electronic filing was mandated, no action is required until there is a subsequent filing or the court initiates further activity on the case, subject to all of the following:

a. A mandatory user who wishes to file on a closed case shall opt in on the case and shall serve any paper parties by traditional methods. Any mandatory user so served shall promptly opt in on the case or shall notify the court that the user is no longer appearing on behalf of the party.

b. A voluntary user who wishes to file electronically in a closed case shall opt in as a user on the case and shall serve any paper parties by traditional methods. Any mandatory user so served shall promptly opt in on the case or shall notify the court that the user is no longer appearing on behalf of the party.

c. Service on a party who might be a voluntary user shall include a notice stating that the case has been converted to electronic filing and giving instructions for how to use the electronic filing system if the party chooses to do so.

**(7) PAYMENT OF FEES.**

(a) Users shall make payments due to the clerk of court by check or through the court electronic payment system, unless otherwise ordered

by the court or unless arrangements are made with the clerk of court. The court electronic payment system shall deposit the fees due to the clerk of court in the clerk's account.

**(b)** A user may submit a petition or motion for waiver of costs and fees under s. 814.29 (1) or (1m) using a form provided by the court for that purpose. If a document is submitted with a petition or motion for waiver, it shall be considered filed with the court on the date and time of the original submission if the waiver is subsequently granted by the court or other arrangements for payment are made.

**(8)** FORMAT AND CONTENT OF FILINGS.

**(a)** The director shall make information about the technical requirements of the electronic filing system readily available to the public. Users are responsible for keeping up with these requirements and providing the necessary equipment, software, communication technology, and staff training.

**(b)** Users shall provide any case management information needed to file documents. The electronic filing system shall reject a document for failure to include information in any one of the mandatory fields identified by the system.

**(c)** Users shall format the appearance of all electronically filed documents in accordance with statutes and appellate court rules governing formatting of paper documents, including page limits.

**(d)** The electronic filing system may set limits on the length or number of documents. Leave of court may be granted for traditional filing and service in appropriate cases. If a brief or appendix cannot be electronically filed as a single document due to the size limitations of the system, the user shall contact the clerk of court for assistance.



**(e)** Electronically filed appendices, exhibits, and affidavits shall be filed in portable document format. All other electronically filed documents shall be filed in text-searchable portable document format.

**(f)** Electronically filed documents may include bookmarks that allow the reader to navigate quickly within a document, such as from the table of contents to the corresponding sections of a brief or from the table of contents to the corresponding documents in an appendix.

**(g)** Electronically filed documents may include hyperlinks that allow the reader to jump directly to another location in the document or to an external source of information, such as a published case or statute posted on the Internet. External hyperlinks shall be used only in accordance with security procedures set by the court.

**(h)** Users shall format electronically filed documents to leave a blank space 2 inches by 2 inches square at the top right corner of the first page to accommodate the court file stamp.

**(9) OFFICIAL RECORD.**

**(a)** Electronically filed documents have the same force and effect as documents filed by traditional methods. The electronic version constitutes the official record. No paper copy of an electronically filed document shall be sent to the court.

**(b)** The duties of the clerk of court under this chapter and all other statutes, court rules, and procedures may be fulfilled through proper management of electronic documents as provided in this section. The requirements of statutes and rules that refer to paper copies, originals, mailing, and other traditional methods may be satisfied by transmission of documents through the electronic filing system.

**(c)** Subject to the schedule in sub. (2) (b), the clerk of court shall maintain the official court record only in electronic format for all cases commenced after that date. Documents filed by traditional methods shall be electronically imaged and made part of the official record. The clerk of court may discard the paper copy pursuant to SCR 72.03 (3). Any official court record containing electronically filed documents must meet the operational standards set by SCR 72.05 for electronic records.

**(d)** If a document is filed in a case in closed status, the clerk of court shall file the document electronically and convert that case to electronic format within a reasonable time. If conversion of the case would be unusually burdensome, the clerk of court may maintain the record in paper format with the permission of the court.

**(e)** The clerk of court shall make the public portions of the electronic record available for viewing at the clerk of court's office. The clerk of court shall make nonpublic portions of the electronic record available for viewing by authorized persons.

**(f)** The clerk of court may provide either paper or electronic copies of pages from the court record. The clerk of court shall charge the per-page fee set by s. 809.25 (2) for electronic court records.

**(g)** Certified copies of an electronic record may be obtained from the clerk of court's office by traditional methods, as provided by s. 889.08. The electronic system may also make available a process for electronic certification of the court record. The seal of the court may be applied electronically. No use of colored ink or an impressed seal is required.

**(h)** Parties filing by traditional methods shall file a copy of any document and not the original paper document. The court may require the submitting party to produce the original paper document if authenticity of document is challenged. If the court inspects the original paper document, it shall be retained as an exhibit as provided in SCR 72.03 (4).

**(l)** For documentary exhibits submitted directly to the supreme court or court of appeals, parties shall submit a copy of the exhibit and not the original. The clerk of court shall image each documentary exhibit and enter the imaged document into the court record. Copies of documentary exhibits so imaged may be discarded as provided in SCR 72.03 (3). If inspection of the original document is necessary to the court proceeding, the court may order that the original document be produced. Any original document so produced shall be retained as an exhibit as provided in SCR 72.03 (4).

**(m)** When an action or proceeding requires a record to be submitted by a party directly to the court, the record shall be imaged and electronically submitted using a method provided by the electronic filing system. The electronic record shall be the official record in the action or proceeding. If inspection of an original document is necessary to the court proceeding, the court may order that the original document be produced.

**(11) NOTARIZATION AND OATHS.**

**(a)** Notaries public who hold valid appointments under ch. 140 may issue certificates of notarial acts for electronically filed documents as provided in this section.

**(b)** Court officials authorized by law to perform notarial acts may do so by application of their electronic signatures provided through the electronic filing system.

**(c)** Unless specifically required by statute or court rule, electronically filed documents are not required to be notarized.

**(d)** Documents notarized by traditional methods may be filed through the electronic filing system if a handwritten signature and physical seal appear on the original document. The user shall submit an imaged copy of the notarized document to the electronic filing system, and the court shall maintain the imaged copy as the official court record. The court may require the submitting party to produce the original paper document if the authenticity of the notarization is in question.

**(f)** The director, in his or her discretion, may approve the use of an electronic notary technology compatible with the existing electronic filing system.

**(12)** SIGNATURES OF USERS.

**(a)** To be considered electronically signed, a document must be submitted by or on behalf of a user through the electronic filing system. A document requiring the signature of a user shall bear either an electronic signature or a handwritten signature applied to a document before it is imaged. An electronic signature shall state "Electronically signed by" followed by the name of the signatory, and shall be placed where the person's signature would otherwise appear. Either form of signature shall be treated as the user's personal original signature for all purposes under the statutes and court rules.

**(b)** An initiating document that is signed in compliance with par. (a) bears a sufficient signature under s. 802.05.

**(c)** Each electronically filed document shall bear that person's name, mailing address, electronic mail address, telephone number, and state bar number if applicable. Users shall notify the electronic filing system of any change in this information, consistent with sub. (3) (d).

**(d)** An attorney may delegate the authority to submit documents to the electronic filing system to a person under the attorney's supervision. Any document requiring the attorney's signature is deemed to have been signed by the attorney if submitted to the electronic filing system and signed as provided in par. (a). Every attorney is responsible for all documents so submitted.

**(e)** Every attorney is responsible for electronically filed documents to the same extent as for paper filings. Attorneys using the electronic filing system are subject to sanctions under s. 802.05 and contempt procedures under ch. 785, and are subject to discipline for a violation of any duty to the court under the supreme court rules.

**(f)** Self-represented parties and filing agents under s. 799.06 are responsible for electronically filed documents to the same extent as for paper filings. Self-represented parties and filing agents using the electronic filing system are subject to sanctions under s. 802.05 and contempt procedures under ch. 785.

**(fm)** An electronically filed certification required by this chapter may be signed by applying the user's signature as provided in par. (a).

**(g)** A stipulation will be considered signed by multiple persons if it bears the handwritten signatures of all signatories or if it bears the printed name of each signatory and contains a representation by the filing party that the filing party has consulted with the signatories and all have agreed to sign the document. This paragraph does not apply to the signature requirements of s. 809.107 (2) (bm) 6., (5) (a), and (6) (f), where a signature is required from the appellant or petitioner, other than the state, on whose behalf the document is filed.

**(h)** For paper parties, every document requiring a signature shall be signed using a handwritten signature. If a document requiring a signature is filed by traditional methods, the filing party shall file a copy of that document and not the original paper document, as provided under sub. (9) (h).

**(i)** Documents containing handwritten signatures of third parties, such as affidavits, may be filed through the electronic filing system if a handwritten signature appears on the original document. The user shall submit an imaged copy of the signed document to the electronic filing system, and the court shall maintain the imaged document as the official court record. The court may require the submitting party to produce the original paper document if validity of the signature is challenged.

**(j)** The director, in his or her discretion, may approve the use of other signature technologies to the extent that they work with the existing electronic filing system.

**(13) SIGNATURES OF COURT OFFICIALS.**

**(a)** If the signature of a court official is required on a document, an electronic signature applied through the court case

management system may be used. The electronic signature shall be treated as the court official's personal original signature for all purposes under Wisconsin statutes and court rules. Where a handwritten signature would be located on a particular order, form, letter, or other document, the official's printed name shall be inserted.

**(b)** The electronic signature of a court official shall be used only by the official to whom it is assigned and by such delegates as the official may authorize. The court official is responsible for any use of his or her electronic signature by an authorized delegate.

**(c)** A court official may delegate the use of his or her electronic signature to an authorized staff member pursuant to the security procedures of the court case management system. Upon learning that the confidentiality of the electronic signature has been inadvertently or improperly disclosed, the court official shall immediately report that fact to the consolidated court automation programs. Court officials shall safeguard the security of their electronic signatures and exercise care in delegation.

**(14) CONFIDENTIAL INFORMATION.**

**(a)** The confidentiality of an electronic record is the same as for the equivalent paper record. The electronic filing system may permit access to confidential information only to the extent provided by law. No person in possession of a confidential electronic record, or an electronic or paper copy thereof, may release the information to any other person except as provided by law.

**(b)** Parties shall exercise care with respect to redaction of protected information as defined by s. 801.19 (1), identification of confidential material, and sealing of filed documents.

**(c)** If a document is confidential, it shall be identified as confidential by the submitting party when it is filed. The clerk of court is not required to review documents to determine if confidential information is contained within them.

**(d)** If a user seeks court approval to seal a document, the user may electronically file the document under temporary seal pending court approval of the user's motion to seal.

**(e)** If the clerk notes that a document has been identified as confidential or sealed, the electronic filing system shall place a visible mark on the document to identify it as confidential or sealed.

**(f)** An amicus party may, in the court's discretion, be granted access to confidential, redacted, or sealed portions of the court record upon motion to the court and a showing of good cause.

**(15) TRANSCRIPTS.**

**(a)** A transcript filed in the circuit court shall be electronically transmitted to the clerk of the court of appeals when made part of the record on appeal.

**(b)** The transcript of any proceeding originating in the court of appeals or supreme court shall be electronically filed by the court reporter in accordance with procedures developed by the director. The clerk shall note in the court record that the transcript has been prepared and filed with the court.

**(c)** Arrangements for payment of the court reporter, access to the transcript, and service shall be as directed by the court.

**(d)** Any notice to the clerk of the supreme court and court of appeals filed under s. 809.11 (7) (a) or 809.32 (5) or any motion filed



under s. 809.11 (7) (c) shall be electronically filed. The court reporter shall serve paper parties by traditional methods.

**(e)** A transcript, when filed under this section, becomes a part of the court file. The transcript shall be made available to the public in accordance with the statutes and rules governing court records and any court orders.

**(f)** A court reporter may certify that the transcript is a verbatim transcript of the proceedings by applying the court reporter's signature in the same manner as provided in sub. (12) (a) and then electronically filing the transcript.

**(16)** TECHNICAL FAILURES.

**(a)** A user whose filing is made untimely as a result of a technical failure may seek appropriate relief from the court as follows:

**1.** If the failure is caused by the court electronic filing system, a user may move the court for relief on the basis that the user attempted to file the document with the court in a timely manner by submitting it to the electronic filing system. The court may enter an order permitting the document to be deemed filed or served on the date and time the user first attempted to submit the document electronically or may grant other relief as appropriate.

**2.** If the failure is not caused by the court electronic filing system, the court may grant appropriate relief upon satisfactory proof of the cause. Users are responsible for timely filing of electronic documents to the same extent as filing of paper documents.

**(b)** A motion for relief due to technical failure shall be made on the next day the office of the clerk of court is open. The document

that the user attempted to file shall be filed separately and any fees due shall be paid at that time.

(c) This subsection shall be liberally applied to avoid prejudice to any person using the electronic filing system in good faith.

**SECTION 239.** Comments to 809.801 of the statutes are created to read:

**Comments, 2021**

Although proposed s. 809.801 is new, the numbering reflects an effort to stay parallel with the section numbering of the circuit court eFiling rule, s. 801.18.

Section 809.801 is built on the template of the circuit court electronic filing rule, s. 809.18, with respect to structure, language, and procedure. There are no major differences between the two systems with respect to how electronic filing works. Sub.(2) (k) provides that the two rules "shall be interpreted consistently to the extent practicable".

At the direction of the supreme court, subs. (2) (b) and (c) provide for the use of an implementation schedule to govern the availability of electronic filing according to the type of proceeding involved and the type of court.

Sub. (3) (a) mandates that three types of filers participate in the electronic filing system. An exception for attorneys representing themselves was included in the circuit court electronic filing rule but is eliminated here. Experience has shown that electronic filing is straightforward to use, with minimal technical impediments and expense.

Subs. (3) (d) and (f) require electronic filing users to promptly opt in and opt out from the cases where they are representing parties

or participating as litigants. Users are required to keep their contact information up to date to receive electronic service.

Under sub. (3) (j), persons filing documents in cases where they are not parties, such as amicus curiae, may register to use the electronic filing system and file a document.

Sub. (4) (am) provides that filing occurs when the document is submitted to the electronic filing system as long as it is accepted by the clerk at a later time. Extending the filing day to 11:59 p.m. is consistent with the circuit court electronic filing rule and federal court electronic filing rules. This supersedes the decision in *St. John's Home v. Continental Casualty Co.*, 150 Wis. 2d 37, 441 N.W.2d 219 (1989), per curiam, requiring filing to occur only within the office hours of the clerk. This gives a user an extra few hours to file on the last day a document is due but does not otherwise affect the calculation of time. If a user submits a document or the court issues an order on a day when the clerk's office is closed, it is considered filed on the next day the clerk's office is open, except as provided by other statutes and rules, or by court order.

Since 2009, the appellate clerk has reviewed electronic briefs to make sure that rule requirements relating to form have been met. Together with s. 809.80 (5), subd. (4) (b) provides that the clerk may review all types of documents, both paper and electronic.

Sub. (4) (c) is consistent with s. 809.80 (2) (d), which provides that a document filed by a paper party will be served on the electronic users when the clerk scans and docket the document and a notice of activity is generated.

Sub. (5) addresses how the first document or group of documents should be filed in each type of appellate proceeding.

Sub. (6) (a) provides that the electronic filing system now serves as the means of delivery between users for documents filed after the case is initiated. Electronic filing users will receive a notice of activity letting them know that a new document has been filed in the proceeding. Paper parties will continue to be served by traditional methods for both initiating and subsequent documents.

Sub. (6) (e) provides that if an email to a party is returned as undeliverable, the clerk will attempt to locate the party and correct the problem. The other parties must serve that party by traditional methods in the meantime.

Sub. (6) (f) outlines how mandatory electronic filing will be initiated on previously filed cases. The clerk will work with attorneys to opt in on their open cases and will provide voluntary users with instructions on how to participate in the electronic filing system if they choose.

Sub. (8) (a) requires electronic filing users to keep their hardware, software, and staff training up to date with the minimum requirements set by the court.

Under former s. 809.18 (12), the supreme court required that briefs, no-merit reports, and petitions for review be submitted in text-searchable portable document format (PDF). Sub. (8) (e) broadens this requirement to include most documents submitted to the court, including motions, writs and petitions. Appendices, exhibits, and affidavits must be submitted in portable document format but are not required to be text-searchable.

Sub. (8) (g) provides for the permissive use of external hyperlinks to sources of information such as published cases and statutes posted on the Internet. Hyperlinks come with a small amount of risk for the introduction of malicious software into the electronic filing system and into law office case management systems. For that reason, hyperlinks may be used only in accordance with guidance posted by the court, and the court may limit the sites that users may link to. The use of hyperlinks is not required.

Sub. (9) provides that appellate court case files going forward will be kept electronically. Mandatory electronic filing users are required to file all documents electronically, with only a few exceptions. The documents submitted by paper parties will be imaged and converted to electronic format by the clerk of court. Because any paper submitted will be discarded after it is imaged, parties should not submit original documents to the court.

Sub. (12) (a) is amended to clarify the required format of an electronic signature. Handwritten signatures continue to be used despite the availability of electronic signatures and are permitted as long as the document is imaged and submitted through the electronic filing system. Either form of signature provides the level of accountability to client and court called for by the appellate rules. Compliance with this section is intended to satisfy the signature requirements of ss. 802.05 (1) and 809.19 (1) (h), as well as all other statutes and rules relating to court documents.

Sub. (12) (fm) is added to permit the use of electronic signatures for certifying briefs, appendices, and no-merit reports as to length, confidentiality, and client counseling.

Sub. (12) (g) responds to a recent legislative change requiring the signature of both counsel and parents on the notice of appeal in proceedings for termination of parental rights. A representation that all signatories have agreed to sign the document cannot be used in lieu of the parents' signatures in this situation.

Sub. (14) (b) refers to circuit court requirements regarding confidential, redacted, and sealed documents. Documents added to the circuit court record since 2016 should already be in compliance with ss. 801.19 to 809.21.

Sub. (15) (a) notes that circuit court transcripts are generally not filed directly with the appellate court. Transcripts are electronically transmitted by the clerk of circuit court as part of the record on appeal.

When transcripts are filed directly with the appellate court, sub. (15) (c) provides that arrangements for payment, copies and service shall be as directed by the court.

**SECTION 240.** 809.802 of the statutes is created to read:

**809.802 Rule (Service on the state in certain proceedings).**

**(1)** Any document required or authorized to be served on the state in appeals and other proceedings in felony cases in the court of appeals or supreme court shall be served on the attorney general unless the district attorney has been authorized under s. 978.05 (5) to represent the state. Any document required or authorized to be served on the state in appeals and other proceedings in misdemeanor cases decided by a single court of appeals judge under s. 752.31 (2) and (3) shall be served on the district attorney. Every petition for review of a

decision of the court of appeals in a misdemeanor case shall be served on the attorney general.

**(2)** Where service on the attorney general is required under sub. (1), the clerk of the court of appeals shall opt in the attorney general as an attorney for the state and provide the notice of docketing to the attorney general through the appellate electronic filing system. For the attorney general, receipt of the notice of docketing provides access to the proceeding and constitutes service of the initiating document and other documents filed with the initiating documents.

**SECTION 241.** A Comment to 809.802 of the statutes is created to read:

**Comments, 2021**

Former s. 809.80 (2) is recreated as sub. (1). The requirement to serve the attorney general under this section applies to both traditional and electronic modes of service. Sub. (2) describes the mechanism the clerk will use to assure service on the attorney general in cases where the other electronic parties are served with initiating documents through the circuit court electronic filing system or when the attorney general did not participate in a proceeding before a petition for review was filed.

**SECTION 242.** 809.81 (intro.) of the statutes is amended to read:

**809.81 (intro.) Rule (Form of Papers).** ~~A paper~~ The format of a document filed in the court must conform to the following requirements unless expressly provided otherwise in these rules:

**SECTION 243.** 809.81 (1) of the statutes is repealed and recreated to read:

**809.81 (1) SIZE.** Formatted to fit 8.5 by 11 inch paper.

**SECTION 244.** 809.81 (2) of the statutes is repealed.

**SECTION 245.** 809.81 (3) of the statutes is amended to read:

**809.81 (3) STYLE.** Produced using either a monospaced or a proportional serif font. If handwriting is used, the text must be legibly printed and not include cursive writing, except the person's signature.

**SECTION 246.** 809.81 (4) of the statutes is amended to read:

**809.81 (4) SPACING AND MARGINS.** Double-spaced with a minimum of a ~~1.5~~ 1.25-inch margin on ~~each of the 4 sides~~ the right and left sides, and a minimum of a 1-inch margin on the top and bottom.

**SECTION 247.** 809.81 (5) of the statutes is amended to read:

**809.81 (5) PAGINATION.** Paginated at the center of the bottom margin using Arabic numerals with sequential numbering starting at "1" on the first page.

**SECTION 248.** 809.81 (6) of the statutes is amended to read:

**809.81 (6) ~~COPYING PROCESS~~ APPEARANCE.** Any ~~duplicating or copying~~ process that produces a clear, black image on a white paper background. Carbon copies may not be filed. Imaged documents should be scanned at a resolution sufficient to ensure legibility.

**SECTION 249.** 809.81 (7) of the statutes is repealed and recreated to read:

**809.81 (7) BINDING.** Pages must be secured together at the top left corner.

**SECTION 250.** 809.81 (9) of the statutes is amended to read:

**809.81 (9) CAPTIONS.** Except as provided in s. 809.81 (8) or when "petitioner" has been substituted for an individual's name in the caption in an appeal from a domestic abuse protective order or



harassment injunction, or when the clerk has given notice of a different caption, the caption of any document shall include the full name of each party in the circuit court and shall designate each party so as to identify each party's status in the circuit court and in the appellate court, if any. In the supreme court, "petitioner" shall be added to the designation of a party filing a petition for review. The designation of a party responding to a petition for review shall remain the same as in the court of appeals.

**SECTION 251.** 809.82 (2) (d) of the statutes is repealed.

**SECTION 252.** 814.04 (2) of the statutes is amended to read:

**814.04 (2) DISBURSEMENTS.** All the necessary disbursements and fees allowed by law; the compensation of referees; a reasonable disbursement for the service of process or other papers in an action when the same are served by a person authorized by law other than an officer, but the item may not exceed the authorized sheriff's fee for the same service; amounts actually paid out for certified and other copies of papers and records in any public office; postage, photocopying, telephoning, electronic communications, facsimile transmissions, and express or overnight delivery; the electronic filing fee prescribed in s. 801.18 (7) (c); depositions including copies; plats and photographs, not exceeding \$100 for each item; an expert witness fee not exceeding \$300 for each expert who testifies, exclusive of the standard witness fee and mileage which shall also be taxed for each expert; and in actions relating to or affecting the title to lands, the cost of procuring an abstract of title to the lands. Guardian ad litem fees shall not be taxed as a cost or disbursement.

**SECTION 253.** 938.29 (1) of the statutes is amended to read:

**938.29 (1) Request for substitution.** Except as provided in sub. (1g), the juvenile, either before or during the plea hearing, may file a written request with the clerk of the court or other person acting as the clerk for a substitution of the judge assigned to the proceeding. ~~Immediately upon filing the written request, the juvenile shall mail or deliver a copy of the request to the judge named in the request.~~ In a proceeding under s. 938.12 or 938.13 (12), only the juvenile may request a substitution of the judge. If the juvenile has the right to request a substitution of judge, the juvenile's counsel or guardian ad litem may file the request. Not more than one written request may be filed in any one proceeding, and no single request may name more than one judge. This section does not apply to proceedings under s. 938.21.

IT IS FURTHER ORDERED that the rules adopted pursuant to this order shall take effect on July 1, 2021 and that mandatory use of the appellate electronic filing system shall be phased in according to a schedule set by the court.

It IS FURTHER ORDERED that the Comments to the statutes created pursuant to this order are not adopted, but will be published and may be consulted for guidance in interpreting and applying the rule.

IT IS FURTHER ORDERED that notice of the above amendments be given by a single publication of a copy of this order in the official publications designated in SCR 80.01, including the official publishers' online databases, and on the Wisconsin court system's web site. The State Bar of Wisconsin shall provide notice of this order.

Dated at Madison, Wisconsin, this 23rd day of April, 2021.

BY THE COURT:

Sheila T. Reiff  
Clerk of Supreme Court

