

SUPREME COURT OF WISCONSIN  
PETITION TO ESTABLISH A RIGHT TO COUNSEL  
IN CIVIL CASES

The Wisconsin residents/attorneys/Court Commissioners signing below hereby petition this Court as follows:

1. WHEREAS, this country is founded on the principle set forth in the Declaration of Independence, that it is a self-evident truth that all persons are created equal; and
2. WHEREAS, the United States Supreme Court has declared that there can be no equal justice where the kind of trial a [person] gets depends on the amount of money [s]he has,@ *Griffin v. Illinois*, 351 U.S. 12, 19 (1956), and that there are fundamental principles of liberty and justice which lie at the base of all our civil and political institutions . . . The right to the aid of counsel is of this fundamental character,@ *Powell v. Alabama*, 287 U.S. 45, 67-68 (1932); and
3. WHEREAS, the American Bar Association in 2006 passed the following resolution:

The American Bar Association urges federal, state and territorial governments to provide legal counsel as a matter of right at public expense to low-income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody, as determined by each jurisdiction;

and

4. WHEREAS, the interests at stake in civil cases are significant, involving basic human needs, including children, food, clothing, shelter, heat, medical care and safety, and their loss has serious consequences; and
5. WHEREAS, the adversary system of justice used in this State allocates to the parties the primary responsibility for discovering the relevant evidence and finding the relevant legal principles and presenting them to a neutral judge or jury, and discharging these responsibilities generally requires the knowledge and skills of a legally-trained professional; and
6. WHEREAS, thousands of indigent litigants in Wisconsin go through civil court proceedings without the aid of counsel; and

7. WHEREAS, *pro se* civil litigants in Wisconsin are a substantial and growing part of state trial courts= caseloads, and unsophisticated and inexperienced *pro se* litigants complicate the court process, burden the entire system, and create the risk of a miscarriage of justice;
8. WHEREAS, the trial courts are in the best position, and are best able, to determine, in the exercise of their discretion, when counsel in civil cases should be provided; and
9. WHEREAS, affording indigent litigants a right to counsel at public expense 1) provides equal justice to poor people caught up in the courts and 2) provides relief to the courts themselves; and

The signatories to this petition, Wisconsin residents, hereby request that the Wisconsin Supreme Court amend Supreme Court Rule 11.02 by adding a Section (2), so that Rule 11.02 will provide as follows:

- (1) Appearance by attorney. AUTHORIZED. Every person of full age and sound mind may appear by attorney in every action or proceeding by or against the person in any court except felony actions, or may prosecute or defend the action or proceeding in person.
- (2) Appearance by attorney. PROVIDED. Where a civil litigant is indigent (defined as below 200% of the federal poverty guidelines), the court shall provide counsel at public expense where the assistance of counsel is needed to protect the litigant=s rights to basic human needs, including sustenance, shelter, clothing, heat, medical care, safety and child custody and placement. In making the determination as to whether the assistance of counsel is needed, the court may consider the personal characteristics of the litigant, such as age, mental capacity, education, and knowledge of the law and of legal proceedings, and the complexity of the case.

SIGNED: