

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. 19-02A and 20-07A

**In re Interim Court Rule Governing
Electronic Filing in the Supreme Court**

FILED

JUNE 15, 2021

Sheila T. Reiff
Clerk of Supreme Court
Madison, WI

This matter comes before the Wisconsin Supreme Court upon the court's own motion as part of the phased transition to electronic filing in Wisconsin's appellate courts.¹ This order sets forth the requirements applicable to filing documents in the supreme court, beginning July 1, 2021, and continuing until mandatory electronic filing begins in the supreme court.

On April 23, 2021, this court granted rule petition 20-07, expanding the electronic filing system to the appellate courts, and

¹ On April 15, 2019, this court authorized a pilot project and adopted an interim rule to facilitate the development and testing of procedures to permit exclusive electronic filing of documents in the Court of Appeals and Supreme Court. S. Ct. Order 19-02, 2019 WI 38 (issued Apr. 15, 2019, eff. Apr. 15, 2019).

amending the rules of appellate procedure in order to implement the system.²

As set forth in our order, implementation of mandatory eFiling in the appellate courts will occur in phases:³

Court of appeals: Effective July 1, 2021, electronic filing shall be required for all new actions and proceedings brought in the court of appeals and for all new documents submitted in previously filed cases, unless otherwise provided by rule or by court order. Therefore, the court of appeals' participation in the pilot project will cease on June 30, 2021.

Supreme court: The supreme court will continue its participation in the pilot project begun under S. Ct. Order 19-02 for the purpose of further refining and testing the electronic filing system. During this period, some proceedings will be included in the pilot project, while documents in other proceedings will continue to be filed on paper and served by traditional methods.

The appellate rules will be significantly revised, effective July 1, 2021, and many of the requirements associated with filing multiple copies of paper documents will be eliminated. It is therefore necessary to establish interim rules applicable to paper documents filed in the supreme court from July 1, 2021, until mandatory electronic filing

²S. Ct. Order 20-07, 2021 WI 37 (issued Apr. 23, 2021, eff. July 1, 2021). The petition also included amendments related to the circuit court electronic filing rule.

³See S. Ct. Order 20-07, 2021 WI 37, Section 238, stating "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."

commences in the supreme court. A copy of the Revised Interim Rule is attached to this order as Appendix A.

The Clerk of Supreme Court and Court of Appeals is directed to keep the court and the public informed about the progress of the pilot project in the supreme court, including any changes to the Revised Interim Rule. The adoption of mandatory electronic filing in the supreme court will require a separate order of this court. Therefore,

IT IS ORDERED that the Clerk of the Supreme Court and Court of Appeals, in collaboration with the Consolidated Court Automation Programs and the supreme court, shall continue the pilot project to facilitate the development and testing of procedures that will permit exclusive electronic filing of documents in the supreme court;

IT IS FURTHER ORDERED that the interim rule adopted April 15, 2019, is repealed and recreated as set forth in Appendix A, attached hereto as "Revised Interim Rule" and is adopted, effective July 1, 2021;

IT IS FURTHER ORDERED that on or before December 1, 2021, and at six-month intervals thereafter until the conclusion of the pilot project or further order of this court, the Clerk of Supreme Court and Court of Appeals shall submit a written progress report to this court that addresses the progress of the pilot project in the supreme court; modifications to the Revised Interim Rule, if any; and any other relevant matter that should be brought to the attention of the court; and

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 15th day of June, 2021.

BY THE COURT:

Sheila T. Reiff
Clerk of Supreme Court

Appendix A
Wisconsin Supreme Court Electronic Filing Pilot Project:
Revised Interim Rule Beginning July 1, 2021

1. Amendment. This revised interim rule adopted June 15, 2021, supersedes the interim rule adopted by order dated April 15, 2019.
2. Statement of purpose; authority. The supreme court is in the process of implementing a phased transition to electronic filing in the appellate courts of Wisconsin. The court has adopted rules to implement mandatory electronic filing and service and to eliminate the filing of paper documents by attorneys. See S. Ct. Order 20-07, 2021 WI 37 (issued Apr. 23, 2021, effective July 1, 2021). Mandatory electronic filing will begin in the court of appeals on July 1, 2021.

The court intends to extend these procedures to the supreme court as soon as reasonably practicable. Pending the adoption of mandatory electronic filing in the supreme court, this revised interim rule:

- A. Authorizes the Clerk of the Supreme Court and Court of Appeals (the "Clerk"), in collaboration with the Consolidated Court Automation Programs (CCAP) and the Supreme Court, to continue the pilot project established by order of April 15, 2019, in order to develop and expand the current electronic filing system in the supreme court ("pilot project").
- B. Provides the rules applicable to the filing of paper documents in the supreme court from July 1, 2021, until adoption of mandatory electronic filing in the supreme court or further order of the court.

This revised interim rule is adopted pursuant to the court's superintending and administrative authority over all courts conferred by Article VII, § 3 of the Wisconsin Constitution.

3. Effective dates; notice. The court of appeals' participation in the pilot project will end on June 30, 2021. Mandatory eFiling for attorneys will begin for all filings in the court of appeals in both existing and new matters on July 1, 2021.

The pilot project will continue in the supreme court until further order of the court. The Clerk shall make the requirements and applicability of the pilot project available to the public on the supreme court's website. During the pilot project, documents in some designated supreme court proceedings will be submitted and served through the electronic filing system, while documents in all other supreme court proceedings will be filed on paper and served by traditional methods.

4. Official record. On July 1, 2021, the Clerk shall begin to keep the official court record in electronic format, in both the court of appeals and the supreme court, for all proceedings listed in Wis. Stat. § 809.801 (5).
5. Proceedings included in the pilot project; rules. Actions and proceedings filed in the supreme court, other than supreme court agency proceedings arising under SCR ch. 22 and 40, may be included in the pilot project at the invitation of the Clerk or by order of the supreme court. All parties in such cases shall comply with amended Wis. Stat. ch. 809, Rules of Appellate Procedure, effective July 1, 2021 (hereinafter the "new rules") for proceedings included in the pilot project, including the electronic filing provisions.
6. Proceedings not included in the pilot project; interim rules. For proceedings not included in the pilot project ("non-pilot proceedings"), the supreme court will continue to require the filing of paper documents and traditional methods of service for proceedings in the supreme court, including the filing of multiple bound copies of briefs, appendices, and petitions for review, as specified in this section.

A. Applicability of former rules. The following provisions of Wis. Stat. ch. 809 (2019-2020), the Rules of Appellate Procedure in effect immediately prior to July 1, 2021 (hereinafter the "former" rules), shall continue to apply to documents filed in the supreme court in non-pilot proceedings:⁴

- 1) Parties in non-pilot proceedings shall continue to file paper documents with the Clerk and to serve paper copies by traditional methods on other parties. See former §§ 809.80 (1), (2), (3), and (4).
- 2) Unless the Supreme Court orders otherwise in a particular matter, papers must be filed (i.e., physically received) in the Clerk's office by the close of business at 5:00 pm. Filings by facsimile ("fax") must complete transmission by 5:00 pm. See former § 809.80 (3), (4).⁵
- 3) Handwritten signatures must be used to sign paper documents. See former § 802.05 (1).

⁴ A copy of Wis. Stat. ch. 809 (2019-20), the Rules of Appellate Procedure, in effect immediately prior to July 1, 2021, can be accessed at https://www.wicourts.gov/supreme/docs/wis_stat_ch809.pdf.

⁵ Parties are reminded that a petition for review may not be filed by fax or email under either the former or the new appellate rules. In addition, a petition for review that has not been accepted as part of the pilot project is not considered filed until a paper copy is physically received in the Clerk's office. This rule, and the 30-day filing deadline, are strictly enforced. See Wis. Stat. § 808.10 (1). In addition, there are restrictions on what other types of documents may be filed in the Supreme Court by facsimile transmission. An individual wishing to file a document by facsimile transmission should first contact the Clerk's office to clarify that the particular filing will be accepted via facsimile transmission.

- 4) Briefs, appendices, petitions for review, and responses to petitions for review shall continue to be printed and bound, with color covers if applicable. See former §§ 809.19 (6) (b) and (c), 809.19 (8) (b) 4., 809.19 (9), 809.62 (4) (a).
 - 5) The number of copies to be filed and served shall be as provided by former rule. See former §§ 809.19 (8)(a), 809.62 (4), 809.81 (2).
 - 6) An attorney filing a brief, appendix, petition for review, or response to a petition for review must file an electronic copy of the document with the court in addition to the paper copies. An attorney filing an appendix may file an electronic copy in addition to the paper copies. The attorney must certify that the electronic copy is identical to the paper copy. See former §§ 809.19 (12) (f) and (13) (f) and Comment, 809.32 (1) (fm), 809.62 (4).
 - 7) Certifications of length, confidentiality, and client counseling shall continue to use the wording provided in former rule. See former §§ 809.19 (2) (b), (8) (d), 809.32 (1) (c).
- B. Applicability of new rules. The following procedures of the new rules apply to documents filed in the supreme court in non-pilot proceedings. Parties in non-pilot proceedings should consult S. Ct. Order 20-07 for specifics applicable to these provisions.⁶
- 1) The formatting of documents, including form, pagination, and length, shall be as provided in the new rules. See new § 809.19 (8) (b), (bm), and (c); 809.81.
 - 2) The appendix shall be formatted in accordance with the new rules. See new § 809.19 (2).
 - 3) The confidentiality provisions of the new rules apply with respect to protection of sealed and redacted information in the record and identification of a petition seeking a protective order. See new §§ 809.801 (14), 809.81 (9).
 - 4) The Clerk will use the circuit court document number in numbering the record on appeal. See new §§ 809.15 (2), 809.19 (2).
 - 5) The Clerk will calculate the time for responsive pleadings using the provisions of the new rules. See new §§ 809.19 (3), (4), and (6). The date the paper copy of a document is physically received in the clerk's office will

⁶ See S. Ct. Order 20-07, 2021 WI 37 (issued Apr. 23, 2021, eff. July 1, 2021), posted on the court website at <https://www.wicourts.gov/sc/rulhear/DisplayDocument.pdf?content=pdf&seqNo=360509>.

be used as the date of filing for the purpose of this calculation consistent with section 6.A (2) above.

- 6) The electronic copy of briefs and appendices submitted under former §§ 809.19 (12) and (13) must meet the court's technical standards for electronic documents. See new § 809.801 (8).
7. Proceedings commenced in the court of appeals on or after July 1, 2021. It is possible that some documents filed in the court of appeals on or after July 1, 2021, may need to be submitted to the supreme court prior to the end of the pilot project, for instance upon a request for expedited review. Parties should file a motion with the supreme court to request inclusion of the proceeding(s) in the pilot project in order to file documents electronically under the new rules.
8. Application; revision. Application of this and other rules should be consistent with the understanding that the rule was written for a pilot project. This revised interim rule is temporary and is subject to change by CCAP and the Clerk, upon notice to and approval by the court, as the needs of the pilot project dictate.

