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WISCONSIN SUPREME COURT ANNUAL STATISTICAL REPORT

2008-2009 TERM

This annual statistical report presents information about the work of the Wisconsin Supreme Court in its judicial and rulemaking functions from September 1, 2008 through August 31, 2009. Included are statistics on case filings, opinions, and dispositions issued by the Court and information about the creation or amendment of rules governing pleading, practice and procedure in judicial proceedings in all Wisconsin courts.

Opinions Issued by the Court

The Supreme Court issued opinions resolving 87 cases during the 2008-2009 term.

	<u>2008-09</u>	<u>2007-08</u>
Total number of cases resolved by opinion	<u>87</u>	<u>109</u>
Attorney discipline cases	23	34
Judicial discipline cases	0	1
Bar admission cases	0	0
Civil cases	43	49
Criminal cases	21	25

Petitions for Review

A total of 777 petitions for review were filed during the term. A petition for review asks the Supreme Court to review the decision of the Court of Appeals. The Supreme Court’s jurisdiction is discretionary, meaning that review is granted in selected cases only. During the 2008-2009 term, the Supreme Court disposed of 740 petitions for review, of which 47 petitions were granted. At the end of the term, the Court had 233 petitions for review pending.

	<u>2008-09</u>	<u>2007-08</u>
Petitions for Review filed	<u>777</u>	<u>824</u>
Civil cases	391	470
Criminal cases.....	386	354
 Petition for Review dispositions	 <u>740</u>	 <u>812</u>
Civil cases (petitions granted).....	372 (31)	456 (45)
Criminal cases (petitions granted)	368 (16)	356 (26)

Petitions for Bypass

This term, the Supreme Court received 9 petitions for bypass and disposed of 11 petitions for bypass, of which one was granted. In a petition for bypass, a party requests that the Supreme Court take jurisdiction of an appeal or other proceeding pending in the Court of Appeals. A matter appropriate for bypass is usually one which meets one or more of the criteria for review by the Supreme Court and one the Supreme Court concludes it will ultimately choose to consider regardless of how the Court of Appeals might decide the issues. A petition for bypass may also be granted where there is a clear need to hasten the ultimate appellate decision. At the end of the term, the Court had 4 petitions for bypass pending.

	<u>2008-09</u>	<u>2007-08</u>
Petitions for Bypass filed.....	<u>9</u>	<u>16</u>
Civil cases	6	11
Criminal cases.....	3	5
 Petition for Bypass dispositions.....	 <u>11</u>	 <u>14</u>
Civil cases (petitions granted).....	8 (0)	11 (0)
Criminal cases (petitions granted)	3 (1)	3 (0)

Requests for Certification

During the 2008-2009 term, the Supreme Court received 10 requests for certification and disposed of 11 requests for certification, of which 9 were granted. In a request for certification, the Court of Appeals asks the Supreme Court to exercise its appellate jurisdiction before the Court of Appeals hears the matter. A request for certification is decided on the basis of the same criteria as a petition to bypass. At the end of the term, the Court had one request for certification pending.

	<u>2008-09</u>	<u>2007-08</u>
Requests for Certification filed.....	<u>10</u>	<u>14</u>
Civil cases	7	7
Criminal cases	3	7
Request for Certification dispositions.....	<u>11</u>	<u>23</u>
Civil cases (requests granted)	8 (6)	12 (6)
Criminal cases (requests granted)	3 (3)	11 (7)

Regulatory Matters, Supervisory Writs, and Original Actions

During the 2008-2009 term, a total of 50 matters within the regulatory jurisdiction of the Court (bar admission, lawyer discipline, and judicial discipline) were filed. The Supreme Court also received 72 petitions for supervisory writ, which ask the Supreme Court to order the Court of Appeals or a circuit court to take a certain action in a case. Ten original actions were filed. An original action is a petition asking the Supreme Court to take jurisdiction over a particular matter. In addition, one certified question was received from the U.S. Court of Appeals for the Seventh Circuit. Opinions disposing of cases in these categories are included in “Opinions Issued by the Court” above; statistics on dispositional orders are listed below. At the end of the term, the Court had 32 regulatory matters and 23 petitions for supervisory writ pending.

	<u>2008-09</u>	<u>2007-08</u>
<u>Filings</u>		
Attorney discipline.....	48	73
Judicial discipline.....	1	1
Bar admission.....	1	1
Petitions for Supervisory Writ	72	53
Other (including Original Actions).....	11	4

Dispositions by Order

Attorney discipline.....	22	19
Judicial discipline.....	0	0
Bar admission.....	0	1
Petitions for Supervisory Writ	56	48
Other (including Original Actions).....	13	15

Rules Petitions

Each term, the Court notices and holds public hearings on petitions for the creation or amendment of rules governing pleading, practice and procedure in judicial proceedings in all courts, provided that the Court deems the petition to have arguable merit. In the term just ended, the Court held 8 rules hearings and convened 10 open administrative conferences at which 16 petitions were considered. During the term, the Court adopted 11 amendments or new rules governing practice and procedure in Wisconsin.

New and Amended Rules

The Court adopted the following new and amended rules during the term:

Petition 07-11A (In the matter of the petition to create a rule governing the discretionary transfer of cases to tribal court). Issued July 1, 2009, this rule amendment creates a narrow exception to Wis. Stat. § 801.54 to facilitate transfer of post-judgment child support cases to tribes under certain circumstances. Effective 07-01-09.

Petition 08-02 (In the matter of the amendment of Wis. Stat. § (Rule) 809.23 regarding citation to unpublished opinions). Issued January 6, 2009, this rule amendment allows unpublished opinions issued on or after July 1, 2009 to be cited for their persuasive value. Effective 07-01-09.

Petition 08-03 (In the matter of amendment of SCR 20:1.15 Safekeeping property; trust accounts and fiduciary accounts). Issued July 1, 2009, this rule amendment adopted an interest rate comparability rule for IOLTA accounts. The amendments require attorneys to hold IOLTA funds in the account with the highest interest rate that is available to other customers at that financial institution when the IOLTA account meets the same minimum balance and other account qualifications. Effective 01-01-10.

Petition 08-04 (In the matter of the Petition for Amendment to Supreme Court Rules (SCR) 31.01, 31.03, 31.05, and 31.07 Relating to Procedures for Reporting Continuing Legal Education (CLE) Credits). Issued December 3, 2008, this rule amendment changes the procedures by which Wisconsin attorneys report Continuing Legal Education (CLE) credits. Effective 12-03-08.

Petition 08-05 (In the matter of the amendment of Supreme Court Rules 31.10(1) and 31.11 regarding notices of noncompliance with continuing legal education requirements and reinstatement). Issued January 6, 2009, this rule amendment broadens distribution of the notices of an attorney's suspension and reinstatement. Effective 01-06-09.

Petition 08-06 (In the matter of amendment of Supreme Court Rule 31.13(2) regarding the manner of filing documents relating to continuing legal education requirements). Issued February 20, 2009, this rule amendment changes the filing deadline for a CLE report. Effective 06-01-2009.

Petition 08-07 (In the matter of amendment to Supreme Court Rule (SCR) 40.05 relating to admitting lawyers upon proof of practice elsewhere). Issued January 6, 2009, this rule amendment changes the requirements for out-of-state attorneys to be admitted to the Wisconsin bar. Effective 01-01-09.

Petition 08-14 (In the matter of amendment of Supreme Court Rule 40.14(2) regarding the filing of applications for admission and Supreme Court Rule 40.14(3)(h) regarding the fee for late application under the diploma privilege). Issued February 20, 2009, this rule amendment changes the filing deadline for bar applications. Effective 06-01-09.

Petitions 08-15 and 08-18 (In the matter of the petitions to create Wis. Stat. §§ (Rule) 809.19, 809.32, 80.62, and 809.80 relating to the electronic filing of appellate briefs, no-merit reports, and petitions for review and responses). Issued January 6, 2009, these rule amendments require attorneys to file electronic versions of all appellate briefs, no-merit reports, and petitions for review. Effective 07-01-09.

Petition 08-17 (In the matter of Creation of an Access to Justice Commission). Issued June 5, 2009, this rule amendment establishes a statewide Access to Justice Commission in response to the petition of the State Bar of Wisconsin, acting pursuant to a resolution of its Board of Governors and in keeping with the report entitled Bridging the Justice Gap: Wisconsin's Unmet Legal Needs (March 2007). Effective 06-05-09.

Petition 08-24 (In the matter of amendment of Supreme Court Rules Chapter 20, Rules of Professional Conduct for Attorneys). Issued June 17, 2009, this rule amendment modifies Supreme Court Rule (SCR) 20:3.8 to adopt the substance of recent changes to the American Bar Association Model Rule 3.8 relating to special responsibilities of a prosecutor. Effective 07-01-09.

Other Rules Matters

In addition to adopting new and amended rules, the Court adopted a revision of its Internal Operating Procedures (Petition 09-04, order issued June 17, 2009). Effective 06-17-09.

The Court also discussed at length two petitions submitted by the Wisconsin Board of Bar Examiners. The first was a petition to create Supreme Court Rule (SCR) 40.055 permitting graduates of law schools in other nations to take the Wisconsin bar examination (Petition 08-09). The second was a petition asking the Court to create Supreme Court Rule (SCR) 40.056 authorizing registered legal consultants. Regarding both these matters, the Court voted to return them to the BBE for further development of certain issues that arose during the Court's discussion.

The Court also considered a BBE petition to permit conditional admission. The Court voted to hold this petition in abeyance pending consideration of a petition to address monitoring in the fall of 2009.

The Court also extended the effect of its May 1, 2006 order amending Supreme Court Rule 22.24 relating to the assessment of costs in lawyer disciplinary proceedings. The order

provided that the amendments to Supreme Court Rule 22.24 would expire on December 31, 2008, unless this court took further action. The court reviewed this matter at its open administrative conference on October 28, 2008, and concluded it was appropriate for the amendments to continue in effect. (See Rule Order 05-01A, issued December 1, 2008.)

On October 28, 2008, the Court conducted an open administrative conference on Petition 07-09 (In the matter of the Definition of the Practice of Law and the Administration of a Rule Defining the Practice of Law). The Court declined to dismiss the petition. A public hearing will be scheduled during the 2009-2010 term.