

STATE OF WISCONSIN
SUPREME COURT

In re:

PROPOSED AMENDMENTS TO RULE 809.23(3)

PETITION OF JUDICIAL COUNCIL FOR AN ORDER AMENDING RULE 809.23(3)

The Judicial Council respectfully petitions this Court to enter an order, pursuant to Wis. STAT. § 751.12, adopting the following amendment to Wis. STAT. RULE 809.23(3).

SECTION 809.23(3) of the statutes is amended to read:

809.23(3) ~~CITATION OF UNPUBLISHED OPINIONS NOT CITED.~~ An unpublished opinion may not be cited in any court of this state as precedent or authority, except to support a claim of claim preclusion, issue preclusion, or the law of the case. An unpublished opinion issued on or after [insert effective date] may be cited, provided that the party citing the opinion files a copy of the opinion with the court and serves a copy of the opinion upon all opposing parties together with the brief or other paper in which the opinion is cited. Because an unpublished opinion is not precedent, an unpublished opinion cited by a party is not binding on any court of this state, and the court need not distinguish or otherwise discuss an unpublished opinion cited by any party in its ultimate decision. For purposes of this section, “unpublished opinion” does not include summary dispositions.

Deleted: is of no precedential value and for this reason

JUDICIAL COUNCIL NOTE:

Section (3) was revised to reflect that unpublished Wisconsin appellate opinions are increasingly available in electronic form. This change also conforms to the practice in numerous other jurisdictions, and is compatible with, though more limited than, Fed. R. App. P. 32.1, which abolished any restriction on the citation of unpublished federal court opinions, judgments, orders and dispositions issued on or after January 1, 2007. The revision to Section (3) does not alter the non-precedential nature of unpublished Wisconsin appellate opinions.

RESPECTFULLY SUBMITTED

JUDICIAL COUNCIL

by: Marla J. Stephens
State Bar #1014721
735 N. Water Street, Suite 912
Milwaukee, WI 53202
(608) 266-7637

Date