



STATE OF WISCONSIN – JUDICIAL COUNCIL

MINUTES OF THE MEETING OF THE
WISCONSIN JUDICIAL COUNCIL
MADISON, WISCONSIN
March 17, 2023

The Judicial Council met at 9:30 a.m. on March 17, 2023 in Room 328NW.

MEMBERS PRESENT: Chair William Gleisner; Justice Brian Hagedorn (by phone); Judge Eugene Gasiorkiewicz; Judge Thomas Hruz; Judge Hannah Dugan; Judge Scott Needham; Judge Kristine Snow; Karley Downing; Lanny Glinberg (by phone); Margo Kirchner; ; Molly McNab (by phone).; John Orton; Tom Shriner; Judge Kristine Snow; Senator Van Wanggaard (by phone); Nick Zales (by phone); Nick Zales (by phone); and Sarah Zylstra.

Special Appearance by Nick Schultz for Representative Tusler.

EXCUSED MEMBERS: Sarah Barber; Steven Kilpatrick; Adam Plotkin; and Representative Ron Tusler.

I. The Roll was taken and the January 20, 2023 Minutes were approved.

II. The Reports by the Chairs of each Council Committee:

- A. Ms. Margo Kirchner, Chair of the ad hoc Committee on the “Council Corner” (a monthly report to the State Bar on the work of the Council) reported on work performed to date, as well as proposed new articles.
- B. Mr. Thomas Shriner, Chair of the Council’s Standing Committee on Evidence and Civil Procedure, reported as follows:
 1. Work completed to date on revisions of Wisconsin’s rules concerning injunctions.
 2. ongoing work on revisions to Wisconsin’s Rules of Evidence.
- C. Judge Thomas Hruz, Chair of the Council’s Standing Committee on Appellate Procedure, reported on the work completed by his committee to date.

- D. Because a new Chair has not yet been appointed to the Council's Standing Committee on Criminal Procedure, there was no report during this meeting from this Committee. It is anticipated that Judge Dugan will shortly assume the Chair of the Criminal Procedure Committee.
- III. Status report on Uniform Unsworn Declarations Act. Review status of Council's 2018 recommendation to the Legislature to adopt the Uniform Unsworn Declarations Act as amendment to current Wis. Stat. § 887.015 (Uniform Unsworn Foreign Declarations Act). Report was provided by Tom Shriner on his testimony before Senator Wanggaard's Committee. Mr. Shriner's testimony is preserved on tape (in the possession of Chair Gleisner) and can be reviewed by anyone wishing to learn more.
- IV. Old Business: At our October 2022 meeting, the JC decided to address some issues as a "Committee of the Whole" instead of farming all issues out to the Council's standing committees. No such issues for the Committee of the Whole came before the Council at this meeting. We look forward to a report from Sarah Zylstra concerning the foreign service of process at the next meeting on May 19, 2023.

Special Discussion regarding Meeting with the Chief Justice and related issues: There was a Discussion about a possible meeting between Judicial Council representatives and the Chief Justice of the Supreme Court. Margo Kirchner reported on what she had learned in talking with a representative from the Governor's Office. According to Margo, the Governor was not going to put the Council in his budget because it was really up to the Supreme Court to signal its support for the Council. According to Margo, it will be necessary for the Supreme Court to signal that the Court values the Council before the Governor would consider putting the Council in his budget. Judge Gasiorkiewicz said he didn't think the Supreme Court would weigh in on the issue of funding. Judge Gasiorkiewicz said that he thought the Governor is going to say funding should come from the Legislature. John Orton then directed attention to the 2017 letter written by the then Chief Justice. Orton believed the letter may be interpreted by the Legislature to say two things: 1) the Court does not believe that the Judicial Council should be funded from the Court's budget; and 2) the Legislature should consider terminating the Judicial Council altogether. John suggested that perhaps if the Court rescinded or explained the second half of the 2017 letter, and if the Court informed the Legislature that the Court values the work of the Council, it might make a difference on whether the Council gets funding from the Legislature.

Justice Hagedorn entered the conversation at this point. Justice Hagedorn recalls that the Council was funded as a separate state agency for many years and then in 2015 or thereabouts the funding of the Council was added to the Supreme Court funding. Then because of some challenges the funding was removed from the Supreme Court's budget. As noted by the Justice, the Council is largely a legislative creation. The Justice noted that the Supreme Court tries to stay out of any political issues and that is why Justice Hagedorn refrains from commenting on any substantive matters because he doesn't want to prejudge matters which may come before the Supreme Court. When Justice Hagedorn joined the Council, he was told by Chief Justice Ziegler that neither she nor the Court will oppose funding so whatever may

have occurred before is no longer an issue. Justice Hagedorn made it clear that the Court has not talked about funding, and he has no idea what the Court might do if the issue of Council funding came before the Court. According to the Justice, it is important to understand that the Council is an executive type of entity which makes recommendations of various issues, many of which go through the Legislature. The Council has never been identified with the Judiciary. Even when the Court “funded” the Council, it did so because it was given money by the Legislature which was earmarked for use by the Council.

Senator Wanggaard then made some points. He thought that then Chief Justice Roggensack’s 2017 letter relates to water that has gone under the bridge. What we need to do now is educate Legislators to what the Council does, and why it is important. He believes the Council was supposed to be a neutral body that worked independently of the three branches of government. The Council isn’t about Republican, Democrat, or independent viewpoints. The Council is a neutral body that tries to solve problems in the Justice system. Senator Wanggaard stressed the wisdom of having a meeting with Chief Justice Ziegler.

[The discussion ended there. However, there will be a report at the next meeting of the Judicial Council on May 19, 2023 about a meeting which did in fact occur on April 20, 2023 between: Chief Justice Ziegler, Director of State Courts Koschnick and his Chief Legal Counsel Karley Downing on the one side; and representatives of the Judicial Council consisting of Chair Gleisner, Vice Chair Orton, Senator Wanggaard and Judge Hruz].

Adjournment at approximately 10:30 a.m.

Minutes prepared by Attorney Gleisner