



STATE OF WISCONSIN – JUDICIAL COUNCIL

AMENDED MINUTES OF THE MEETING OF THE WISCONSIN JUDICIAL COUNCIL MADISON, WISCONSIN November 22, 2024

The Judicial Council met at 9:30 a.m. on November 22, 2024 in Room 328NW.

MEMBERS PRESENT: Chair William Gleisner; Vice Chair Margo Kirchner; Justice Brian Hagedorn; Judge Eugene Gasiorkiewicz; Judge Thomas Hruz (by phone); Judge Judge Emily Lonergan; Audrey Skwierawski (by designee Klein); Steven Kilpatrick; Professor Lanny Glinberg; Sarah Barber; Daniel J. Blinka, Jr.; Saveon Grenell; Rebecca Maki-Wallandar (by phone); Molly McNab (by phone); Adam Plotkin; Tom Shriner; and Sarah Zylstra.

EXCUSED MEMBERS: Senator Van Wanggaard; Scott Needham; Judge Kristine Snow; Rep. Ron Tusler.

Roll call was taken and the October 18, 2024 Minutes were approved.

We began our November 22, 2024 Council Meeting with a Report from Racine County Circuit Court Judge Gene Gasiorkiewicz on the work of the Wisconsin Judicial Conference, which met this month from November 13 to November 15. In part, he reported on the election at the Conference of Judge Lonergan to serve as representative of the Conference on the Judicial Council.

Judge Gasiorkiewicz also reported on the issue of DAR. Judge Gasiorkiewicz was appointed DAR liaison between the Judicial Council and the Office of Director of State Courts. Judge Gasiorkiewicz discussed what he sees as his role as liaison.

Chair Gleisner made two appointments during the November 22nd meeting. First, he welcomed Outagamie Circuit Court Judge Emily Lonergan to the Council as the Judicial Conference's §758.13 appointee to the Council. Immediately after introducing her, he appointed Judge Lonergan to the Council's Evidence & Civil Procedure Committee, which is chaired by Attorney Tom Shriner.

Also, during the November 22nd meeting Gleisner officially appointed Attorney Daniel J. Blinka as Chair of the Council's Criminal Procedure Committee. Dan is a shareholder at Godfrey & Kahn, where he is a member of that firm's Litigation Team as well as the Government & White-Collar Investigations Team, and is thus very well qualified to serve

as Chair of the Criminal Procedure Committee. Dan is not to be confused with his father, MU Law Professor Dan Blinka, who also serves the Council as an ad hoc member of the Council's Evidence & Civil Procedure Committee.

The Council heard from the following Council Committees at our November 22nd meeting:

- a) Thomas Shriner gave an update on the work of the Evidence and Civil Procedure Committee (ECP). He noted that with the help of Professors Blinka and Schwartz, the ECP is nearing a final report on recommendations for changes to the Council of proposed changes and updates to the Wisconsin Rules of Evidence..
- b) Judge Hruz gave an update from the Appellate Procedure Committee (APC). First, Judge Hruz discussed the general problem of mail not getting to inmates at state correctional institutions. This is especially a problem where inmates are involved in appeals. Judge Hruz characterized this as a “pretty robust discussion.” The conclusion was that there wasn't really a rule to be proposed, but Judge Hruz stated that his committee might write a “White Paper” wherein recommendations would be made on how to improve mail delivery. Second, Judge Hruz also noted that his committee is working on promulgating a statement on what Courts of Appeal are looking for on statements on oral argument and publication. Third, Judge Hruz reported on the experience of a civil litigator who is a member of his committee that referenced a case that came down recently and addressed what should happen when summary judgment is denied and a trial follows. Apparently, there is case law from a number of years ago that failure to seek an interlocutory appeal of a denial of summary judgment waives the right to challenge summary judgment when the entire case is up on appeal. Judge Hruz and others stated this was a misstatement of law, but that really was the point. What should be done with per curiam opinions which misstate the law? The Committee will discuss this further. Sarah Zylstra asked if a non-party can ask for publication of an unpublished opinion of the Court of Appeals. Judge Hruz said that is correct. He said that the APC may review this rule further in the future.
- c) Attorney Dan Blinka shared his thoughts in general as new Chair of the Judicial Council's Criminal Procedure Committee.
- d) Attorney Adam Plotkin gave a Report of the Ad Hoc Budget Committee
- e) Council Vice Chair Margo Kirchner reported on “Council Corner” and her desire to find further submissions to “Council Corner” in *The Wisconsin Lawyer* and in the State Bar's *Inside Track*.

Adjournment occurred at 10:15 a.m..

Minutes prepared by Attorney Gleisner