



STATE OF WISCONSIN – JUDICIAL COUNCIL

THIRD AMENDED MINUTES OF THE MEETING OF THE WISCONSIN JUDICIAL COUNCIL MADISON, WISCONSIN February 21, 2025

The Judicial Council met at 9:30 a.m. on February 21, 2025 in Room 328NW.

MEMBERS PRESENT: Vice Chair Margo Kirchner; Judge Thomas Hruz; Judge Eugene Gasiorkiewicz; Judge Judge Emily Lonergan (by phone); Judge Kristine Snow; Steven Kilpatrick; Professor Lanny Glinberg; Daniel J. Blinka, Jr.; Sarah Barber; Rebecca Maki-Wallandar (by phone); Molly McNab (by phone); and Sarah Zylstra.

EXCUSED MEMBERS: Chair William Gleisner; Justice Brian Hagedorn; Judge Audrey Skwierawski; Judge Scott Needham; Tom Shriner; Senator Van Wanggaard; Saveon Grenell; and Rep. Ron Tusler.

Roll call was taken and the January 17, 2025 Minutes were approved.

Margo opened the meeting with an observation that there was another error in the 1/17 Minutes, which she corrected. The Minutes were then approved unanimously.

Margo then turned to the Council's budget request, which shows that once again the Council has received zero, and that is disappointing. So, the first order of business is how we go about approaching legislators so that we can receive funds in the final budget. We have to try; as they say about lotteries, you don't win if you don't play. Margo opened the floor up for discussion as to what we do. For example, 1) do we approach the Chief Justice and see if she will write another letter on our behalf; 2) do we try to set up a plan of attack that involves meetings with certain legislators. Margo asked, what do the Council members think we should be doing to get on the budget.

Margo stated that "Sarah Zylstra and I have worked on updating the talking points we have used to reach out to legislators." Our budget committee is chaired by Adam Plotkin but because of his new job we don't know if he will continue to be active on the budget committee. Regardless of who is running the committee, we have to move forward.

Judge Gasiorkiewicz said we absolutely want to get on the budget, but he is at a loss as to what else we can do. Gasiorkiewicz said he assumed we had the ear of the Governor, and we had a great letter from Chief Justice Ziegler last year, and still nothing. There is some hope because it does look like the Court is sending us assignments (like the interpreter

issue which we will talk about later), but the fact remains we have no money and no staff. It seems like we're in hospice. Margo says that it is her recollection that last time we did have a small group of people meeting with Chief Justice Ziegler and she did send out a letter for us. Margo says we could contact her again.

Margo then addressed Judge Snow who met with Mark Born a while back. Judge Snow noted that Born (who is on the Joint Finance Committee) is in Snow's district, but Born seems most interested in talking about the department of corrections. Judge Snow did indicate that she will try to set up a call with Born. Margo noted that John Orton did also meet with Senator Marklein who is co-chair of the budget committee. Judge Snow did try to talk to another legislator who did not even know that funding for the Council was an issue.

Judge Hruz asked if we ever got any feed back from any legislator about our needs. Judge Snow will check again, but there has been no reaction. Dan Blinka, Jr. said that he understands there have been efforts in the past, but do we know anything about why we can't get funding. What's the root evil that seems to make our efforts fail.

Judge Gasiorkiewicz says it goes back many years. Back in the day Gasiorkiewicz notes we had a staff member and there was a study done that she was not making pay comparable to male counterparts. Back then J. Dennis Moran was the court administrator and he is the one who actually suggested that the study be performed. Moran said that he could find the money to increase the staff member's pay so that it was comparable to what men were making. That irritated then Chief Justice Roggensack who was at the time trying to get a raise for all circuit judges. Roggensack was extremely mad at the Council because she thought that our efforts to give our staff person more money was going to undercut her efforts to get all judges an increase in pay. Roggensack then sent Justice Department personnel to one of our Council meetings to try to get us to reverse the pay increase. Thereafter, Roggensack sought to defund us and wrote a letter to the Legislature asking that the Council be closed down and even sought to repeal [Wis. Stat. §758.13] so that we would be erased from existence. There may also be animosity because the Council was seen as interfering with some of the new laws back then. Since then, the Council has been in the dog house.

Judge Snow added to what Gasiorkiewicz just said and indicated that Born told her that Born had tried to get the whole Judicial Council "done away with." Margo also noted that there was a proposed legislative bill which did seek to eliminate the Council completely.

Gasiorkiewicz then noted that we have had some very strong support in the legislature from Republicans members, such as Senator Van Wanggaard. However, all of Wanggaard's efforts have never come to fruition. Judge Snow then noted that there are those in the Legislature who doubt our neutrality and that does not help with our efforts to get financing. Judge Snow continued: "Getting back to Margo's initial question; what do we do?" Snow continued saying "meeting again with the Chief Justice seems like a good idea and, if we get continued support there, we can then use that support to reach out to legislators again."

Judge Snow further observed that we should use folks like John Orton and his contacts to find out which legislators might be open to helping us regain our financing. Snow said that she did not know if we ever sent something to all of the legislators. Maybe it's time to do that and see where it goes. But Snow said it will be hard to convince folks like Born. For example, Snow says the Legislature believes that it does not need the Council to help with legislation. As Born says, "we have our own lawyers to help with the drafting of legislation." It was that noted whether you provide funding to the Supreme Court and they then fund us, or we get funding directly from the Legislature. What's the difference? It all comes from taxpayers.

Judge Gasiorkiewicz then observed that there is this perception in the Legislature that we are a body that only serves the judiciary, and Judge Snow said she agreed with that. Judge Hruz stated that he doesn't want to give up, but he doesn't know what we can do to change the mentality that we do nothing to help anyone besides the judiciary.

Margo then identified the members of the Joint Committee on Finance,¹ and suggested that members of the Council contact any members they know. Margo then asked who would be willing to contact Chief Justice Ziegler. Tom Shriner was suggested, and Judge Gasiorkiewicz offered to contact Justice Hagedorn to get his thoughts. Margo then asked that our Budget Committee draft a general email that we all can use to reach out the Legislature's Joint Finance Committee members. Margo thinks the budget is finalized by June, but the sooner folks make contact with legislators the better.

The Interpreter Issue.

The Supreme Court issued an Order on 1/22/25 denying a rule petition for interpreters in municipal courts, but the Order provided: "The Petition is denied. However, pursuant to Wis. Stat. §758.13(2)(d), the Court suggests that the Wisconsin Judicial Council in its discretion study the issues relating to access for qualified court interpreters in Municipal Court, the use of interpreter translation services in such proceedings and funding therefore

¹[Senator Mark Born \(Co-Chair\)](#)
[Senator Marklein \(Co-Chair\)](#)
[Representative Kurtz \(Vice-Chair\)](#)
[Senator Testin \(Vice-Chair\)](#)
[Senator Wimberger](#)
[Senator Stafsholt](#)
[Senator Bradley](#)
[Senator Quinn](#)
[Senator L. Johnson](#)
[Senator Roys](#)
[Representative Zimmerman](#)
[Representative Rodriguez](#)
[Representative Dallman](#)
[Representative Hurd](#)
[Representative McGuire](#)
[Representative Andraca](#)

and take whatever action it deems appropriate within the remit of its statutory authority.” A copy of the Supreme Court’s Order accompanies this Amended draft 2/21/25 Minutes.

Going to Wis. Stat. §758.13(2)(d), that statute provides that the Judicial Council is authorized “to survey and study the organization, jurisdiction and methods of administration and operation of all the courts of this state.” The Supreme Court went to great lengths to make it clear that the Council is not being required to take any action. As the Court made clear, anything we do is discretionary with the Council. As a matter of full disclosure, Margo wants it made clear that it was an organization of which Margo is a member who brought the petition which was denied. Margo wants it further known that she was heavily involved in drafting the petition that was denied. Tom Shriner’s firm was pro bono counsel regarding the petition, and Justice Hagedorn ruled on the petition. The Director of State Courts filed an opposition to the petition. There were thus four people from the Council who were involved in the petition.

Margo stated that since the petition was denied there is nothing now pending and that affects whether there could be a conflict of interest. But it is up to the Council to decide who is or is not too heavily involved to vote on the Supreme Court referral to the Council.

Margo noted that she is wearing three hats here. First, she is a municipal judge. Second, she is executive director of the organization that drafted and filed the defeated municipal interpreter petition. And third, she is on the Judicial Council, which must now decide how the Council will respond to the referral from the Supreme Court.

The history of the petition is that in municipal court the judges don’t have to have professional interpreters. The judges can allow defendants to bring family or friends to act as informal interpreters for them. Some judges are using Google Translate; some Judges do hire translators. But the biggest objection to authorizing municipal judges to hire interpreters in municipal courts is the issue of unknown costs. The Justices recognized that this is an important issue, and they then voted 7 to 0 against granting the petition.

With that, Margo opened it up to a general discussion. Judge Snow observed that municipal judges don’t have to be an attorney. They can be anyone who is elected to the post. They can be called on to adjudicate a wide variety of offenses: first time OWI, truancy petitions, ordinances violations, etc. A survey of municipal judges was conducted, and of those who responded 45% to 50% said they use family friends or Google Translate.

Judge Gasiorkiewicz then said that he sees two issues here. First, does the Council take up this issue. And if the vote is “yes we take it up,” then Gasiorkiewicz thinks we need to learn a lot more than we do now about interpreter services and a special committee should be established to study this entire issue. Among the things we need to know, is who will pay and how will the services be provided (in person or via a phone or zoom). Judge Gasiorkiewicz says he’s torn. While everybody should know what’s going on in court, there is only so much money available. Judge Snow observed that there may be a “sliding scale” depending on how serious a charge is involved.

Sarah Zylstra stated that the referral from the Supreme Court stated that we can take it “in our discretion.” So the first thing to do is vote on whether we want to undertake a study of interpreters in municipal court. Sarah also stated that absent a conflict of interest rule, Sarah would recommend that the four individuals who have been identified as possibly having a conflict refrain from voting on this issue.

Sarah made the motion to study the issue. Judge Gasiorkiewicz seconded that motion. Judge Gasiorkiewicz emphasized the importance of the moment. This is the first time in his memory that the Supreme Court Justices have asked us to do something. Margo then observed that we have to ask ourselves if we can undertake such a study when we do not have any staff. Margo also stated that she would abstain from any vote on the issue.

Assistant Attorney General Kilpatrick has not had an opportunity to study this matter, let alone talk with the Attorney General about this matter. Kilpatrick thinks that it is premature to even consider whether we should address the issue. Kilpatrick further recommended that we wait until the March meeting to take a vote on whether we accept this referral from the Supreme Court. Judge Gasiorkiewicz said he thought that Kilpatrick raises a fair point. The entire referral issue was supposed to be sent out with the agenda, but it wasn't. So Gasiorkiewicz agrees Kilpatrick that Sarah's motion should be laid on the table until the March meeting.

Judge Lonergan then joined the conversation and stated that she had watched the Supreme Court discussion about whether to refer this matter to the Council, and that the Supreme Court was very concerned about not being understood as requiring the Council to take this matter up. That being said, Judge Lonergan would vote in favor of studying this issue. Judge Lonergan made some important points. One may be inclined to downplay the importance of municipal court cases. But consider OWI. A first municipal conviction can set up a defendant to face criminal penalties in subsequent prosecutions. Lonergan said that we should be very sensitive to the fact that the type of things municipal courts deal with can lead to criminal problems for someone down the road. So we want to get it right in municipal court.

Margo deferred the issue of municipal court translators until next month.

We heard from the following Council Committees at our 2/21/25 meeting:

- a) In Tom's absence, Sarah Zylstra gave the Evidence and Civil Procedure Committee (ECP) Report. Zylstra said the ECP is getting very close to our recommendations on revisions to the Rules of Evidence. One of the major issues is how the ECP present our recommendations. The consensus was that it should be presented to the Council first. The ECP did not meet today because Bill and Tom are absent.
- b) Judge Hruz gave a short report from the Appellate Procedure Committee (APC).
- c) Judge Gasiorkiewicz reported on DAR. According to Judge Gasiorkiewicz, there was a first meeting of the DAR subcommittee created by the Director of State Courts

in January. Judge Audrey Skwierawski did a very good job of chairing this meeting. The subcommittee consists of twenty-eight members, including 8 judges. The membership is impressive and includes DAR experts. Clearly there will be much of interest coming from this subcommittee in the following months.

- d) Dan Blinka's Criminal Procedure Committee did not meet this past month.
- 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*.

Minutes prepared by Attorney Gleisner