

STATE OF WISCONSIN  
SUPREME COURT

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In re:

PROPOSED AMENDMENTS TO WISCONSIN STATUTE § (RULE) 809.23(3).

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**PETITION OF WISCONSIN JUDICIAL COUNCIL  
FOR AN ORDER AMENDING WIS. STAT. § (RULE) 809.23(3)**

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The Wisconsin 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809.23(3) CITATION OF UNPUBLISHED OPINIONS—NOT CITED. ~~(a) An unpublished opinion is of no precedential value and for this reason~~ may not be cited in any court of this state as precedent or authority, except to support a claim of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.

(b) In addition to the purposes specified in sub. (a), an unpublished opinion may be cited for its persuasive value. Because an unpublished opinion cited for its persuasive value is not precedent, it is not binding on any court of this state, and a court need not distinguish or otherwise discuss it.

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Section (3) was revised to reflect that unpublished Wisconsin appellate opinions are increasingly available in electronic form.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 P. 32.1, which abolished any restriction on the citation of unpublished federal court opinions, judgments, orders and dispositions issued on or after January 1, 2007. The revision to Section (3) does not alter the non-precedential nature of unpublished Wisconsin appellate opinions.

Dated January 25, 2008.

RESPECTFULLY SUBMITTED,

WISCONSIN JUDICIAL COUNCIL

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