
**In re Matter of Publication of
Supreme Court Orders - creation of
Rules under Supreme Court Rules Ch. 80
and amendment of Supreme Court
Rule 98.07, Publication of Rules**

**PETITION
12-**

This rule proposal comes before the Wisconsin Supreme Court upon the petition of the Publication Review Committee. Petitioner proposes that the Supreme Court adopt Supreme Court Rules 80.002 and 80.003 and amend Supreme Court Rule 98.07 to establish a procedure for the publication of court orders issued in cases and rule petition matters. This petition and supporting memorandum are filed pursuant to the court's rulemaking and administrative authority pursuant to Article VII, § 3 of the Wisconsin Constitution.

SECTION 1. Supreme Court Rule Chapter 80 (title) is amended to read:

SCR Chapter 80. Publication of Opinions and Orders

SECTION 2. Supreme Court Rule 80.002 is created to read:

SCR 80.002. *Supreme Court Opinions.* All supreme court opinions shall be published in the official publications designated in SCR 80.01.

SECTION 3. Supreme Court Rule 80.003 is created to read:

SCR 80.003. *Supreme Court Orders.*

- (1) A supreme court order shall be published if the order meets any of the following criteria:
 - (a) The order disposes of any appeal, review, or proceeding before the supreme court and contains significant discussion or explanation of the grounds for disposition.
 - (b) The order resolves a motion for reconsideration of a supreme court opinion and contains further explanation, clarification, or modification of the court's opinion.

- (c) The order resolves a bona fide and substantial request for recusal or disqualification of a justice.
- (2) Orders of the supreme court other than those in sub. (1) may be published if the order meets one or more of the following criteria:
- (a) The order concerns a legal, factual, jurisdictional, or procedural issue of significant public interest or importance.
 - (b) The order contains significant discussion or explanation of the state constitution, or any law, statute, or court rule.
 - (c) The order enhances access to or transparency of the court's work to the general public.
- (3) *Publication.*
- (a) A majority of the participating members of the court shall determine whether an order issued by the court satisfies the publication criteria under this rule. However, if a justice who authors a concurrence or dissent determines the concurrence or dissent satisfies the publication criteria under this rule, then the order and concurrence or dissent shall be published.
 - (b) The authoring justice of an order issued by a single justice shall determine whether the order satisfies the publication criteria under this rule.
 - (c) An order designated to be published under this rule shall include a statement, "This order will be published pursuant to rule ____." This statement will be removed upon publication.
- (4) Orders published under this rule shall be published in the official publications designated in SCR 80.01, including the official publishers' online databases, and on the Wisconsin court system's web site.

SECTION 4. Comments to Supreme Court Rule 80.003 are created to read:

1. A supreme court order published under this rule may include orders that provide a scholarly critique of an existing law, statute, or rule or a new interpretation, clarification, or criticism of an existing provision of the statute constitution, statute, or court rule.
2. A concurrence or dissent is considered part of the order to which the publication criteria apply.

3. Publication rules under this chapter govern court orders issued in appeals, reviews, or proceedings before the supreme court. Publication rules governing court orders issued on rule petitions are set forth in Supreme Court Rule Chapter 98.
4. Supreme court opinions include authored and per curiam opinions.
5. A supreme court order includes an order issued by this court including a single justice of this court.

SECTION 5. Supreme Court Rule 98.07 (title) is amended to read:

SCR 98.07 Publication of rules orders.

SECTION 6. Supreme Court Rule 98.07 is amended to read:

SCR 98.07. All orders of the supreme court adopting, amending or repealing a rule, statute, or policy shall be published in the official ~~state newspaper promptly after adoption~~ publications designated in SCR 80.01, including the official publishers' online databases, and by the state bar of Wisconsin, in its official publication and on the Wisconsin court system's web site.

SECTION 7. A Comment to Supreme Court Rule 98.07 is created to read:

All supreme court orders disposing of a rule petition will be available on the Wisconsin court system's web site.

Respectfully submitted this 7th day of September, 2012.

On behalf of the Publication Review
Committee, submitted by
Theresa Owens, Executive Assistant