



Supreme Court of Wisconsin

OFFICE OF COURT COMMISSIONERS

110 E. MAIN STREET, SUITE 440

MADISON, WISCONSIN 53703

Nancy A. Kopp
Julie A. Rich
Coleen Kennedy
David W. Runke
Commissioners

Telephone (608) 266-7442

August 11, 2005

Dorothea Watson, Esq.
First Assistant
Office of the State Public Defender
P.O. Box 7884
Madison, WI 53703-7884

Michael Bauer, Esq.
Administrator, Div. Of Legal Services
P.O. Box 7857
Madison, WI 53707-7857

George C. Brown, Executive Director
State Bar of Wisconsin
5302 Eastpark Blvd.
Madison, WI 53718

Michael Guerin, President
State Bar of Wisconsin
5302 Eastpark Blvd.
Madison, WI 53718

Re: Rules Petition 04-09

Dear Sir or Madam:

On March 15, 2005, the Wisconsin Supreme Court held a public hearing on a petition filed by Attorney Jason Hanson, asking the Court to amend Wis. Stat. § (Rule) 908.03 (6) and create Wis. Stat. §§ (Rules) 909.02 (12), and 909.02 (13), of the Rules of Evidence relating to domestic and foreign records of regularly conducted activity. The proposal would effectively adopt amendments to the Federal Rules of Evidence Rule made in 2000. The Advisory Committee Notes to the Federal amendment explain that the purpose of the amendment is, *inter alia*, to provide that the foundation requirements for admission of "business" records can be satisfied under certain circumstances without the expense and inconvenience of producing time-consuming foundation witnesses.

James C. Alexander
Judicial Council
110 E. Main Street, Ste. 606
Madison, WI 53703-3328

Joseph D. Kearney, Dean
Marquette University Law School
P.O. Box 1881
Milwaukee, WI 53201

Kenneth B. Davis, Jr., Dean
University of Wisconsin Law School
975 Bascom Mall
Madison, WI 53706

Page Two
August 11, 2005

At the open administrative conference following the hearing the Court was favorably inclined to the petition, but voted to hold the petition in abeyance and seek additional input on the matter.

Accordingly, I attach for your review a copy of the amended petition filed in this matter. You should be aware that there was discussion at the hearing regarding the scope of the proposed amendments to Section 908.03(6). The petitioner indicated he would not oppose a more narrowly tailored amendment to this provision that would read as follows:

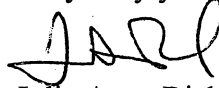
(6) Records of regularly conducted activity. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted activity, as shown by the testimony of the custodian or other qualified witness, or by certification that complies with §909.02(12), §909.02(13), or a statute permitting certification, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

The Court will conduct an open administrative conference to discuss this matter further during the fall of the 2005-06 term. If you deem it appropriate, you are invited to provide a written response on this matter, no later than October 15, 2005.

If you have specific questions or other comments regarding this matter, please don't hesitate to contact me.

On behalf of the Court, I thank you for your assistance in this important matter.

Very truly yours,



Julie Anne Rich

JR:jac

Attachment

cc: The Court
Jason J. Hanson, Esq.