

# SUPREME COURT OF WISCONSIN

## NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 12-09

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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.

**FILED**

Motion for Reconsideration

Diane M. Fremgen  
Clerk of Supreme Court  
Madison, WI

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Justice N. Patrick Crooks: At a time and date to be set by the court, I request that my motion for reconsideration be heard in regard to Rules Petition 12-09. I request the court to reconsider the inclusion of the following sentence in proposed SCR 80.003: "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."

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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.

**FILED**

Memo In Support of Motion for Reconsideration

Diane M. Fremgen  
Clerk of Supreme Court  
Madison, WI

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Justice Patience Drake Roggensack: I write in support of Justice N. Patrick Crooks' motion for reconsideration because although I approve most of the principles chosen for SCR 80.003 and the amendments to SCR 98.07 which address when orders that deny rules petitions will be published, I would not adopt the final sentence of SCR 80.003. That sentence provides, "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." This directive is contrary to past court practices on publication because it permits one justice to override the decision of six justices in regard to the same issue. There is no provision in law or court practice that permits one justice to override the vote of six other justices.