

Clerk of the Supreme Court

April 7, 2022

Clerk of the Supreme Court
Attn: Deputy Clerk – Rules
P.O. Box 1688
Madison, WI 53701-1688

RE: Business Court Pilot Project

Chief Justice Ziegler and Members of the Supreme Court:

In 2016, after 41 years as a private practice business lawyer who throughout his time in private practice had to make decisions on how to resolve my client's business disputes, I found myself in a position to serve the people of Wisconsin and contribute to a solution that would provide business and commercial entities with a more effective, competent and efficient forum for resolving such matters. Draft legislation was on my desk to create a "business court" and the question was – should it be submitted to the legislative process? I decided I wanted the opinion of the judiciary before proceeding, and, as they say, the rest is history – not legislation but a judicial solution that allows the Wisconsin court system to quickly join the majority of other states that provide business and commercial parties a process that resolves their disputes within the existing court system. A program thoughtfully designed and well received by those parties who have used it. A program that makes the most out of existing state resources and addresses, in an immediate way, concerns by the bar and clients that these types of disputes will be managed and, in most cases, decided by judges who have background and training relevant to the issues to be decided. A program sensitive to the desires of the parties and society for a rapid resolution of these disputes. Not preferred justice, but the ideal justice – that is – justice that is more technically competent and more efficiently delivered.

I have been fortunate to have been a member of the Business Court Advisory Committee and watched how the Court has administered Wisconsin's business court docket and all the efforts and success provided by the staff of the Court, the circuit court clerks and, most especially, the circuit court judges who have processed and presided over these matters. The result is a program that has been received by overwhelming positive support. Over time, the Court has made adjustments to the program and provided opportunities for those assigned to implement the program to get necessary training to make it a success. The program in place is the essence of what the public expects government and the judiciary to deliver as it discharges its duties.

My interest in this matter dates back over 40 plus years of reoccurring concern that the court system did not, prior to this Pilot Project, have sufficient tools to deal with business and commercial disputes. At no time during my time in private practice, as a member of the executive branch of state government and as a member of the Business Court Advisory Committee have commercial interests approached me to exercise influence over this project or make suggestions as to who the members of the Advisory Committee should be or who should be designated as Business Court judges. Nor during this Pilot Project have I seen anyone give up their right to represent other stakeholders in our court system. The objective has always been to work within the present court structure and make it work better.

Thanks to a very persuasive Chief Justice, the support of the members of this Court, and a governor and legislative leadership willing to defer to the judiciary, we are well on the way to a very successful judiciary-designed 21st century program that can effectively address an ever-present public and bar concern regarding the ability of the court system to meet the needs of certain parties with business and commercial problems. This concern will not go away if this program is discontinued. If not by the judiciary, it will be addressed by the executive and the legislature. After all the progress and investment that has been made, it would seem most appropriate to continue the existing path, making adjustments as necessary to address issues or problems, if any, in the present design. The Court should move with alacrity to final rules so that the public can make plans and decisions knowing Wisconsin, like so many other states, has a way within the existing court system to competently and efficiently address and resolve business and commercial disputes. Continuing the Pilot Program would be a major step in addressing this issue.

I wish to note that the positions and opinions expressed herein are solely those of the undersigned and may or may not represent those of the Business Advisory Committee or its individual members.

Very truly yours,



RUDER WARE
Lon E. Roberts

cc: Matthew Rowe