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## WISCONSIN SUPREME COURT ANNUAL STATISTICAL REPORT

### 2016-2017 TERM

This annual statistical report presents information about the work of the Wisconsin Supreme Court in its judicial and rulemaking functions from September 1, 2016 through August 31, 2017. Included are statistics on case filings, opinions, and dispositions issued by the Court and information about the creation or amendment of rules governing pleading, practice and procedure in judicial proceedings in all Wisconsin courts.

### Opinions Issued by the Court

The Supreme Court issued opinions resolving 86 cases<sup>1</sup> during the 2016-2017 term.

	<u>2016-17</u>	<u>2015-16</u>
Total number of cases resolved by opinion .....	<u>86</u>	<u>106</u>
Attorney discipline cases .....	30	45
Judicial discipline cases .....	0	0
Bar admission cases .....	1	1
Civil cases .....	27	41
Criminal cases .....	28	19

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<sup>1</sup> The number of authored opinions for the term may differ from the number of cases resolved by opinion for the term; multiple cases resolved by one opinion (consolidated cases) and *per curiam* opinions (by the court as a whole) account for this difference. There were 50 authored opinions for this term.

### Petitions for Review

A total of 734 petitions for review were filed during the term. A petition for review asks the Supreme Court to review the decision of the Court of Appeals. The Supreme Court's jurisdiction is discretionary, meaning that review is granted in selected cases only. During the 2016-2017 term, the Supreme Court disposed of 704 petitions for review, of which 65 petitions were granted. At the end of the term, the Court had 262 petitions for review pending.

	<u>2016-17</u>	<u>2015-16</u>
Petitions for Review filed .....	<u>734</u>	<u>642</u>
Civil cases .....	338	295
Criminal cases .....	396	347
Petition for Review dispositions .....	<u>704</u>	<u>600</u>
Civil cases (petitions granted).....	329 (32)	296 (29)
Criminal cases (petitions granted) .....	375 (33)	304 (21)

### Petitions for Bypass

This term, the Supreme Court received 12 petitions for bypass and disposed of 11 petitions for bypass, of which 3 were granted. In a petition for bypass, a party requests that the Supreme Court take jurisdiction of an appeal or other proceeding pending in the Court of Appeals. A matter appropriate for bypass is usually one which meets one or more of the criteria for review by the Supreme Court and one the Supreme Court concludes it will ultimately choose to consider regardless of how the Court of Appeals might decide the issues. A petition for bypass may also be granted where there is a clear need to hasten the ultimate appellate decision. At the end of the term, the Court had 3 petitions for bypass pending.

	<u>2016-17</u>	<u>2015-16</u>
Petitions for Bypass filed .....	<u>12</u>	<u>6</u>
Civil cases .....	7	5
Criminal cases .....	5	1
Petition for Bypass dispositions.....	<u>11</u>	<u>8</u>
Civil cases (petitions granted).....	9 (3)	7 (2)
Criminal cases (petitions granted) .....	2 (0)	1 (0)

**Requests for Certification**

During the 2016-2017 term, the Supreme Court received 6 requests for certification and disposed of 3 requests for certification, of which 1 was granted. In a request for certification, the Court of Appeals asks the Supreme Court to exercise its appellate jurisdiction before the Court of Appeals hears the matter. A request for certification is decided on the basis of the same criteria as a petition to bypass. At the end of the term, the Court had 4 requests for certification pending.

	<u>2016-17</u>	<u>2015-16</u>
Requests for Certification filed.....	<u>6</u>	<u>10</u>
Civil cases .....	2	5
Criminal cases .....	4	5
Request for Certification dispositions.....	<u>3</u>	<u>9</u>
Civil cases (requests granted) .....	2 (1)	4 (4)
Criminal cases (requests granted) .....	1 (0)	5 (3)

**Regulatory Matters, Supervisory Writs, and Original Actions**

During the 2016-17 term, a total of 55 matters within the regulatory jurisdiction of the Court (bar admission, lawyer discipline, and judicial discipline) were filed. The Supreme Court also received 44 petitions for supervisory writ, which ask the Supreme Court to order the Court of Appeals or a circuit court to take a certain action in a case. Three original actions were filed and 1 certified question. An original action is a petition asking the Supreme Court to take jurisdiction over a particular matter. Opinions disposing of cases in these categories are included in “Opinions Issued by the Court” above; statistics on dispositional orders are listed below. At the end of the term, the Court had 33 regulatory matters and 11 petitions for supervisory writ pending.

	<u>2016-17</u>	<u>2015-16</u>
<u>Filings</u>		
Attorney discipline.....	55	66
Judicial discipline.....	0	0
Bar admission.....	0	1
Petitions for Supervisory Writ .....	44	36
Other (including Original Actions).....	4	2
<u>Dispositions by Order</u>		
Attorney discipline.....	4	6
Judicial discipline.....	0	0
Bar admission.....	0	0
Petitions for Supervisory Writ .....	36	26
Other (including Original Actions).....	5	8

## Rules Petitions

Each term, the Court notices and holds public hearings on petitions for the creation or amendment of rules governing pleading, practice and procedure in judicial proceedings in all courts, provided that the Court deems the petition to have arguable merit. In the term just ended, the Court held 3 rules hearings and convened 9 open administrative conferences at which 19 petitions were discussed. During the term, the Court issued 15 orders, 9 of which were amendments or new rules governing practice and procedure in Wisconsin.

### New and Amended Rules

The Court entered the following rule orders during the term:

Petition 14-07A: In the matter of corrections to Supreme Court Order 14-07 amending Rules Relating to Electronic Banking. The Office of Lawyer Regulation identified the need for certain corrections or clarifications to the court's order issued April 4, 2016, amending and/or recreating supreme court rules (SCR) 20:1.0, 20:1.5, 20:1.15, and 22.39, (the "E-Banking" order). Order filed December 6, 2016, effective December 7, 2016.

Petition 16-01: In the Matter to Amend Wisconsin Statutes §§ 885.16, 885.17, 885.205, and 906.01. On April 19, 2016, Attorney April M. Southwick filed a petition on behalf of the Wisconsin Judicial Council requesting that the court repeal the so-called "Deadman's statutes," Wis. Stats. §§ 885.16 (Transactions with deceased or insane persons) and 885.17 (Transactions with deceased agent), and amend Wis. Stat. § 906.01 (General Rule of Competency) to remove references to the Deadman's statutes. The court discussed this petition at open rules conference on May 12, 2016, and voted to schedule a public hearing. The court conducted a public hearing on October 24, 2016. Attorney April M. Southwick appeared and presented the petition on behalf of the Wisconsin Judicial Council, joined by Attorney Thomas L. Shriner. Attorney Jonathon R. Ingrisano and Attorney Jonathan T. Smies testified in support of the aspect of the petition relating to repeal of the Deadman's statutes. Attorney Jeff A. Goldman, State Bar of Wisconsin Board of Governors, also testified, providing additional context for proposed repeal of the Deadman's statutes, but took no position on the petition. At the ensuing open conference, the court voted unanimously to repeal the Deadman's statutes and make the changes proposed by the petitioner. Order filed February 21, 2017, effective July 1, 2017.

Petition 16-03: In the Matter of the Petition to Amend Supreme Court Rules (SCR) 40.075 and 22.28. On September 15, 2016, the Board of Bar Examiners (BBE), by its director, Jacquelynn B. Rothstein, filed a rule petition asking the court to amend SCR 40.075, the "conditional admission" rule. The petition also proposed amending SCR 22.28 to include a mechanism to reinstate a lawyer whose license to practice law was suspended or revoked for failure to comply with the terms of conditional admission. The court discussed this petition at open rules conference on November 7, 2016 and voted to schedule a public hearing. The court conducted a public hearing on February 16, 2017. Jacquelynn B. Rothstein, director, appeared and presented the petition on behalf of the BBE. At the ensuing open rules conference, the court discussed the petition and voted (5–2) to approve the petition with certain changes. Order filed March 21, 2017, effective July 1, 2017.

Petition 16-04: In re amendment of Supreme Court Rule Chapter 20 relating to Limited Scope Representation. On October 14, 2016, the Director of State Courts filed a rule petition on behalf of the Planning and Policy Advisory Committee (PPAC) asking the court to amend SCR 20:2.4 to create a new sub. (c) to allow lawyer-mediators to draft settlement documents in family cases. On November 7, 2016, the court discussed the petition and voted to hold a public hearing. The court conducted a public hearing on January 12, 2017. The Honorable Michael J. Dwyer appeared and presented the petition on behalf of PPAC, joined by Attorney Susan A. Hansen and Attorney Michael B. Apfeld. At the ensuing open rules conference, the court voted 6:1 (Abrahamson, J. opposing) to approve the petition, as drafted. Order filed February 21, 2017, effective July 1, 2017.

Petition 16-05: In re creation of a pilot project for dedicated trial court judicial dockets for large claim business and commercial cases. On October 26, 2016, Attorney John A. Rothstein, on behalf of the Business Court Advisory Committee appointed by Chief Justice Patience Drake Roggensack, petitioned the Wisconsin Supreme Court requesting authorization for a three-year pilot project to create dedicated trial court judicial dockets for large claim business and commercial cases in Waukesha County and in the circuit courts of the Eighth Judicial Administrative District (pilot project). The court discussed the petition at open rules conference on November 7, 2016, and conducted a public hearing on February 16, 2017. Attorney John A. Rothstein presented the petition to the court. At the ensuing open rules conference, the court discussed the petition, the proposed interim commercial court rule, and proposed guidelines. A majority of the court voted to approve the interim commercial court rule, subject to certain amendments. The court will review the operation of this pilot project three years after the effective date. Order filed April 11, 2017, effective July 1, 2017.

Petition 16-06: In the matter of the petition to amend Supreme Court rules (SCR) 31.02 and 31.05 relating to the continuing legal education requirements. On November 2, 2016, the Wisconsin Board of Bar Examiners (BBE), by its director, Jacquelynn B. Rothstein, filed this rule petition asking the court to expand the scope of acceptable continuing legal education (CLE) topics under SCR 31.02 and to amend SCR 31.05 to increase the number of on-demand credits that a lawyer may use in a CLE reporting cycle and to permit use of some on-demand credits for reinstatement, readmission, or reactivation of a law license. The court discussed the petition at open rules conference on December 1, 2016 and voted to solicit written comments on the petition before deciding whether to schedule a public hearing. The court further discussed the petition at open rules conference on March 16, 2017. The court opted not to conduct a public hearing and, after discussion, the majority of the court voted to adopt the petition. The court declined to expand the proposed rule as suggested by the CLE Committee. Order filed March 20, 2017, effective July 1, 2017.

Petition 16-07: In the matter of the correction to Supreme Court Rule (SCR) 70.21. The court, on its own motion, identified the need for an updated cross-reference in SCR 70.21 (17m). Therefore, SCR 70.21 (17m) was amended. Order filed November 15, 2016, effective the date of the order.

Petition 16-08: In the matter of the correction of Supreme Court Rule (SCR) 75.01(3). The court, on its own motion, identified the need for an updated cross-reference in SCR 75.01(3). Accordingly, SCR 75.01(3) was amended. Order filed November 15, 2016, effective the date of the order.

Petition 17-02: In the matter of the petition to amend Supreme Court Rule (SCR) 33.04 regarding judicial education for municipal judges. On March 7, 2017, the Office of Judicial Education by Todd E. Meurer, Municipal Court Education Manager, filed this rule petition asking the court to make two changes to SCR 33.04. The court discussed the petition at open rules conference on April 20, 2017 and voted to solicit written comments on the petition. The court further discussed the petition at open rules conference on June 21, 2017 and opted not to conduct a public hearing. The court voted unanimously to adopt the petition. Order filed June 27, 2017, effective January 1, 2018.