WISCONSIN SUPREME COURT
CALENDAR AND CASE SYNOPSES
SEPTEMBER 2025

The cases listed below will be heard in the Supreme Court Hearing Room, 231 East, State Capitol. The cases listed below originated in the following counties:

Jefferson
Marathon
Milwaukee
Sheboygan
Waukesha

TUESDAY, SEPTEMBER 2, 2025

9:45 a.m.	23AP2319-CR	State v. Michael Joseph Gasper
11:00 a.m.	24AP469-CR	State v. Andreas W. Rauch Sharak

THURSDAY, SEPTEMBER 4, 2025

9:45 a.m.	23AP722-CR	State v. N.K.B.
11:00 a.m.	24AP1195	Sheboygan County v. N.A.L.

MONDAY, SEPTEMBER 8, 2025

9:45 a.m.	23AP715-CR	State v. J.D.B.
11:00 a.m.	22AP723	Estate of Carol Lorbiecki v. Pabst Brewing Company

THURSDAY, SEPTEMBER 4, 2025

9:45 a.m.	22AP182	Koble Investments v. Elicia Marquardt
11:00 a.m.	22AP1728	Heather Gudex v. Franklin Collection Service, Inc.

Note: The Supreme Court calendar may change between the time you receive it and when a case is heard. It is suggested that you confirm the time and date of any case you are interested in by calling the Clerk of the Supreme Court at (608) 266-1880. If your news organization is interested in providing any type of camera coverage of Supreme Court oral argument, you must contact media coordinator Jason Cuevas at WISC-TV, (608) 277-5241. The synopses provided are not complete analyses of the issues presented.

WISCONSIN SUPREME COURT
September 2, 2025
9:45 a.m.

23AP2319-CR State v. Michael Joseph Gasper

This is a review of a decision by the Wisconsin Court of Appeals, District II (headquartered in Waukesha), which reversed a suppression order issued by the Waukesha County Circuit Court, Judge Michael O. Bohren presiding. The case examines whether law enforcement violated the defendant's Fourth Amendment rights by viewing a flagged Snapchat video without a warrant, and whether exceptions to the warrant requirement apply.

Snapchat detected a video suspected of containing child sexual abuse material (CSAM) that was uploaded to Michael Gasper's account. The platform generated a CyberTip that was forwarded to the National Center for Missing and Exploited Children (NCMEC), which in turn referred the material to the Wisconsin Department of Justice (DOJ). A policy analyst at DOJ reviewed the video, and the CyberTip was then sent to the Waukesha County Sheriff's Department. A detective viewed the file without a warrant and subsequently obtained a search warrant, which led to the discovery of additional CSAM on Gasper's phone. He was later charged with multiple counts related to possessing and distributing CSAM.

Gasper filed a motion to suppress the evidence, arguing that the warrantless review of the Snapchat content violated his constitutional rights. The circuit court agreed, ruling that Gasper retained a reasonable expectation of privacy in his Snapchat data and that the viewing by law enforcement did not qualify under the "private search" exception to the Fourth Amendment. The court also rejected application of the good faith exception to the exclusionary rule. It granted the motion to suppress, effectively barring the evidence obtained through the search.

The Court of Appeals reversed the circuit court's ruling. It concluded that, because Snapchat's terms of service notify users that prohibited content may be flagged and reported, Gasper lacked a reasonable expectation of privacy in the flagged material. The appellate court found that law enforcement's viewing of the CyberTip did not violate the Fourth Amendment and declined to address the remaining legal questions raised by the circuit court's ruling.

The Wisconsin Supreme Court granted review to address the following issues:

1) Whether Gasper was entitled to a "reasonable expectation of privacy" in data uploaded to his snapchat account from his cellphone.
2) Whether the March 3, 2023 warrantless viewing by law enforcement of the Snapchat cybertip satisfies the "private search" exception to the fourth amendment.
3) Whether the "good faith exception" to the exclusionary rule applies to obviate the constitutional violation of the fourth amendment warrant requirement in this case.

WISCONSIN SUPREME COURT
September 2, 2025
11:00 a.m.

24AP469-CR State v. Andreas W. Rauch Sharak

This case is before the Wisconsin Supreme Court on certification from the Court of Appeals, District IV (headquartered in Madison), seeking review of a Jefferson County Circuit Court decision, Judge William F. Hue presiding. The case examines whether law enforcement's warrantless review of digital files originally flagged and reported by an online service provider violated the defendant's Fourth Amendment rights.

This case arises from a report submitted by Google to the National Center for Missing and Exploited Children (NCMEC) after its automated systems flagged four image files in a Google Photos account believed to contain child sexual abuse material (CSAM). Google reported the materials through a CyberTipline report as required by federal law. A Google employee viewed the files before submitting the report. NCMEC forwarded the report and associated files to the Wisconsin Department of Justice, which in turn referred the case to the Jefferson County Sheriff's Office. A detective viewed the files without a warrant and obtained a search warrant based on the information. A subsequent search uncovered additional material, and the defendant, Andreas W. Rauch Sharak, was charged with multiple counts of possession of child pornography.

At issue is whether Rauch Sharak had a reasonable expectation of privacy in the files flagged by Google, whether Google's actions constituted a government search for purposes of the Fourth Amendment, and whether suppression of the evidence is required if the search is deemed unconstitutional. The circuit court found that Rauch Sharak did have a reasonable expectation of privacy in his Google Photos content but ruled that Google did not act as a government agent. The court denied the motion to suppress. However, the Wisconsin Court of Appeals reversed that decision, concluding that the warrantless review by law enforcement did violate the Fourth Amendment and that the motion to suppress should have been granted.

The Wisconsin Supreme Court granted review to address the following issues:

1) Whether a person who holds an electronic account with an ESP retains a reasonable expectation of privacy, as to the government, in files that the ESP obtains from the account, despite terms of service that provide that the ESP will scan the account for illegal content and may report such content to law enforcement.
2) Whether and ESP's scan and review of files in a person's electronic account constitute a private search or a government search under State v. Payano-Roman, 2006 WI 47, 290 Wis. 2d 380, 714 N.W.2d 548.
3) Whether a law enforcement officer is required to obtain a warrant before opening and viewing any files that the ESP sent to NCMEC, which then sent the files to law enforcement.

WISCONSIN SUPREME COURT
September 4, 2025
9:45 a.m.

2023AP722-CR State v. N.K.B.

This is a review of a decision by the Wisconsin Court of Appeals, which reversed a Milwaukee County Circuit Court order, Judge David C. Swanson presiding. The case examines whether a circuit court has the statutory authority to order involuntary medication for a defendant committed under Wis. Stat. § 971.14 based on the defendant's dangerousness at the institution, absent a separate commitment under Chapter 51.

The case arises from a criminal proceeding in which the defendant, identified as N.K.B., was found incompetent to stand trial and committed to the Department of Health Services for treatment under Wis. Stat. § 971.14. While confined at Mendota Mental Health Institute, N.K.B. exhibited aggressive behavior toward staff and refused medication for a serious thyroid condition. Although the circuit court initially authorized involuntary medication under the standard established in *Sell v. United States* to restore her competency to proceed, that order was later vacated. The court then issued a new order authorizing involuntary medication under Wis. Stat. § 51.61(1)(g)3., citing N.K.B.'s dangerousness to herself and others at the facility.

The circuit court concluded that the statute permitted such an order for a person committed under § 971.14, relying on the Wisconsin Supreme Court's earlier decision in State v. Fitzgerald, which allowed similar involuntary medication orders for individuals civilly committed under Chapter 980. The State argued this interpretation aligned with the broader intent of the Mental Health Act, which allows for medication to prevent harm within institutional settings.

The Court of Appeals reversed the circuit court's decision. It held that Wis. Stat. § 51.61(1)(g)3. does not independently authorize courts to order involuntary medication for individuals committed under § 971.14 without a separate Chapter 51 civil commitment. The appellate court concluded that, even if the individual is found dangerous, the statutory authority must be rooted in a civil mental health proceeding rather than a competency commitment under criminal procedure.

The Wisconsin Supreme Court granted review to address the following issue:

1) Under Wisconsin's Mental Health Act, "patients" have the right to refuse medication except under certain circumstances, including where they pose a danger to themselves or others at the institution charged with their care. Chapter 971.14 committees, like Chapter 980 committees, are "patients" within the meaning of the Act. This Court previously held that the Act authorized a Chapter 980 committing court to order involuntary medication to address a committee's dangerousness at an institution. Does the Act also authorize a Chapter 971.14 committing court to order forced medication to address dangerousness at an institution?

WISCONSIN SUPREME COURT
September 4, 2025
11:00 a.m.

24AP1195 Sheboygan County v. N.A.L.

This is a review of a decision by the Wisconsin Court of Appeals, which affirmed a Sheboygan County Circuit Court order, Judge Rebecca L. Persick presiding. The case examines whether a circuit court must conduct a personal colloquy before accepting a stipulation to commitment and issuing an involuntary medication order under Wisconsin's Mental Health Act.

The case stems from a Chapter 51 mental health proceeding. The individual, identified in court filing as N.A.L, was detained following multiple visits to an emergency department and behavior that raised concerns about potential harm to self or others. After counsel was appointed, the N.A.L. was informed of their rights and evaluated by two independent examiners. Both examiners concluded that the statutory criteria for commitment were met and recommended a six-month commitment with an involuntary medication order. At the final hearing, the individual, through counsel, did not contest the evaluations or recommendations and agreed to the proposed course of treatment. The circuit court entered the commitment and medication orders without conducting a direct conversation with the individual to confirm the stipulation.

Several months later, N.A.L. challenged the commitment order, arguing that due process required the court to conduct a personal colloquy to ensure the stipulation was made knowingly, intelligently, and voluntarily. The circuit court denied the motion, and the Court of Appeals affirmed. The appellate court held that Wisconsin's Mental Health Act does not require a personal colloquy in these circumstances and concluded that existing procedural safeguards, including notice, legal representation, and written advisement of rights, were sufficient to protect due process.

The Wisconsin Supreme Court granted review to address the following issues:

1) Did the trial court violate N.A.L.'s due process rights by accepting the stipulation for commitment and issuing an order for involuntary medication without conducting a colloquy to ensure the stipulation was knowing, intelligent, and voluntary?

WISCONSIN SUPREME COURT
September 8, 2025
9:45 a.m.

23AP715-CR State v. J.D.B.

This is a review of a decision by the Wisconsin Court of Appeals, which reversed a Milwaukee County Circuit Court order, Judge Milton L. Childs Sr. presiding. The case concerns the standards the State must meet to medicate a defendant involuntarily in order to restore competency to stand trial.

The case stems from an incident in which police responded to a mental health crisis involving a 19-year-old Milwaukee resident, identified in court filings as J.D.B. Following the incident, J.D.B. was charged with battery to law enforcement. During pretrial proceedings, the court determined that J.D.B. was not competent to stand trial and ordered commitment for treatment. The State then sought an order authorizing involuntary medication to restore J.D.B.'s competency.

The circuit court granted the motion, finding that the State had satisfied the criteria under *Sell v. United States*, which requires the government to prove, among other factors, that the medication is medically appropriate, necessary to further significant government interests, unlikely to have side effects that would interfere with the defendant's ability to stand trial, and that no less intrusive alternatives would suffice. J.D.B., who has a history of diabetes and a seizure disorder, opposed the order, raising concerns about the individualized medical risks associated with the proposed treatment.

The Court of Appeals reversed, concluding that the State had not demonstrated the *Sell* factors by clear and convincing evidence. Specifically, the court found that the proposed treatment plan lacked sufficient medical specificity and failed to adequately address how the defendant's co-occurring health conditions would be managed. The appellate court also ruled that the State did not prove J.D.B. was incompetent to refuse treatment under Wisconsin law, which requires an assessment of the defendant's ability to understand and make informed decisions regarding medication.

The Wisconsin Supreme Court granted review to address the following issues:

1) Did the State prove the *Sell* factors by clear and convincing evidence?
2) Did the state prove the defendant incompetent to refuse treatment?

WISCONSIN SUPREME COURT
September 8, 2025
11:00 a.m.

2022AP723 Estate of Carol Lorbiecki v. Pabst Brewing Company

This is a review of a decision by the Wisconsin Court of Appeals, District I (headquartered in Milwaukee), affirming a Milwaukee County Circuit Court ruling, Judge Christopher R. Foley presiding. The case concerns liability under Wisconsin's safe place statute in a personal injury and wrongful death action, jury instructions on punitive damages, and the statutory interpretation of "compensatory damages recovered" under Wis. Stat. § 895.043(6).

The lawsuit was brought by Carol Lorbiecki, on behalf of the estate of her late husband, Gerald Lorbiecki. Mr. Lorbiecki worked as a pipefitter at Pabst Brewing Company's Milwaukee facility from 1955 to 1979. The lawsuit alleged that Pabst failed to maintain a safe workplace and failed to warn employees about the dangers of asbestos exposure. Mr. Lorbiecki later developed mesothelioma and died in 2016. At trial, a jury found Pabst liable under the safe place statute and awarded damages, including punitive damages.

Pabst challenged the trial court's rulings on several grounds. It argued that it was not liable under the safe place statute because it had delegated maintenance responsibilities to outside contractors and lacked actual or constructive notice of the hazard. Pabst also contended that the jury should not have been instructed on punitive damages and that such damages were not warranted based solely on negligence. Finally, Pabst disputed the scope of Wis. Stat. § 895.043(6), which limits punitive damages to twice the amount of "compensatory damages recovered." Pabst argued that this phrase refers only to recoverable damages, not to damages awarded but later offset or barred.

The Court of Appeals affirmed the trial court's rulings. It concluded that sufficient evidence supported the jury's finding that Pabst retained control over the worksite and failed to maintain safe conditions. The appellate court also upheld the punitive damages instruction, finding that the jury could consider whether Pabst's conduct demonstrated a disregard for the safety of others. On the statutory interpretation question, the court held that "compensatory damages recovered" refers to the total amount of compensatory damages awarded by the jury, regardless of whether some of those damages are ultimately unrecoverable due to legal offsets or caps.

The Wisconsin Supreme Court granted review to address the following issues:

1) Is Pabst liable under Wisconsin's safe place statute for Mr. Lorbiecki's injuries?
2) Should the jury be allowed to consider punitive damages for every alleged negligent violation of Wisconsin's safe place statute?
3) Does the statutory phrase "compensatory damages recovered" in Wisconsin Statute § 895.043(6) include damages that a plaintiff cannot recover?

WISCONSIN SUPREME COURT
September 9, 2025
9:45 a.m.

2022AP182 Koble Investments v. Elicia Marquardt

This is a review of a decision by the Wisconsin Court of Appeals, District III (headquartered in Wausau), which reversed a Marathon County Circuit Court ruling, Judge LaMont K. Jacobson presiding. The case concerns whether provisions of the Wisconsin Consumer Act and Wisconsin landlord-tenant law apply to lease enforcement and related attorney fee recovery claims following a residential eviction dispute.

Koble Investments initiated eviction proceedings against Elicia Marquardt after she fell behind on rent payments. James Miller, who had been living at the property with Marquardt, intervened in the case and raised counterclaims under the Wisconsin Consumer Act. Miller argued that Koble's conduct violated Wis. Stat. § 427.104, which prohibits certain debt collection practices, and that the lease was invalid because it failed to include a statutorily required notice about tenant protections for domestic abuse victims.

The circuit court dismissed Miller's claims and awarded possession of the unit to Koble. On appeal, the Court of Appeals reversed in part, holding that Wis. Stat. § 427.104 can apply to landlords enforcing residential leases. The appellate court also concluded that the lease violated Wis. Stat. § 704.44(10) and Wis. Admin. Code § ATCP 134.08(10) because it incorporated certain statutory provisions without also including a required notice under Wis. Stat. § 704.14. It further held that a tenant may recover statutory damages even without proving actual financial loss, and that Miller's former attorney could pursue attorney's fees under applicable statutes after withdrawing from representation.

The Wisconsin Supreme Court granted review to address the following issue:

1) Do the provisions of Wis. Stat. § 427.204(1) apply to a landlord attempting to enforce a residential lease?
2) If a residential lease incorporates the provisions of Wis. Stat § 704.05(3), does the lease violate Wis. Stat. § 704.44(10) and Wis. Admin. Code § ATCP 134.08(10) by failing to include the notice of domestic abuse protections required by Wis. Stat. § 704.14?
3) When a residential tenant does not prove that he or she suffered any pecuniary loss because of a violation of Wis. Stat. § 704.44 or Wis. Admin. Code § ATCP 134.08(1), are damages recoverable under Wis. Stat. § 100.20(5)?
4) Can an attorney, who has withdrawn from representing a residential tenant, directly pursue and recover his or her own attorney fees—including those incurred on appeal—under Wis. Stat. §§ 100.25(1) or 425.308(1) based upon a landlord's alleged violation of Wisconsin landlord-tenant law?

WISCONSIN SUPREME COURT
September 4, 2025
11:00 a.m.

2022AP1728 Heather Gudex v. Franklin Collection Service, Inc.

This is a review of a decision by the Wisconsin Court of Appeals, District I (headquartered in Milwaukee), affirming a Milwaukee County Circuit Court ruling, Judge Frederick C. Rosa presiding. The case examines whether a debt collector's offer of complete individual relief to a plaintiff, made under the Wisconsin Consumer Act (WCA), can moot the plaintiff's claim and bar the pursuit of class action damages. It also addresses whether a plaintiff who alleges confusion but no actual financial loss has standing to bring an action for damages under the WCA.

The dispute began when Heather Gudex received a debt collection letter from Franklin Collection Service, Inc. She alleged that the letter contained false threats of litigation in violation of both the WCA and the federal Fair Debt Collection Practices Act. Gudex filed a class action lawsuit seeking damages and injunctive relief. In response, Franklin offered Gudex complete individual relief, including a statutory penalty and universal injunctive relief under Wis. Stat. § 426.110(4)(c), but did not offer compensation to other members of the proposed class. Gudex rejected the offer and moved to proceed with class certification.

The circuit court denied Franklin's motion to dismiss and allowed the class action to proceed, finding that the unaccepted settlement offer did not moot Gudex's claims or preclude the class action. The court also found that Gudex had standing under Wis. Stat. § 427.105(1), even though she alleged no financial loss, because she experienced confusion resulting from the letter's content. The Court of Appeals affirmed, concluding that an individual offer of relief does not extinguish the right to bring or maintain a class action, and that emotional or informational harm can be sufficient to establish standing under the WCA.

The Wisconsin Supreme Court granted review to address the following issues:

1) Whether a rejected offer of complete individual relief, together with universal injunctive relief, for an alleged violation under the Wisconsin Consumer Act, Chapter 427, made by "the person against whom [the] alleged cause of action is asserted" to the allegedly aggrieved "party" pursuant to Wis. Stat. § 426.110(4)(c), both moots such aggrieved party's individual claim and precludes such party from maintaining a class action for damages and injunctive relief under Wis. Stat. § 426.110.
2) Whether a plaintiff who suffers no actual damages or other concrete injury, and who claims only "confusion" resulting from an alleged technical violation of Wis. Stat. Ch. 427, is "a person injured" within the meaning of Wis. Stat. § 427.105(1) so as to have standing to bring an action for actual damages and the statutory penalty under Wis. Stat. § 425.304.