

**STATE OF WISCONSIN  
IN THE SUPREME COURT**

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In the Matter of the proposed amendment to Wisconsin Statute § 804.03, relating to the remote administration of oaths at depositions.

**PETITION 21-\_\_\_\_**

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For the reasons set forth in the accompanying memorandum, the petitioner, the Wisconsin Association for Justice, respectfully petitions the Supreme Court to amend the Rules of Civil Procedure, WIS. STAT. § 804.03, to allow for the remote administration of oaths at depositions. This petition is filed pursuant to the Court’s rulemaking authority under WIS. STAT. § 751.12 and its administrative authority over all courts conferred by Article VII, § 3 of the Wisconsin Constitution.

**MOTION TO EXTEND INTERIM ORDER**

To allow for the continued operation of the justice system in Wisconsin during the unprecedented COVID-19 pandemic, the Court issued emergency orders that allowed for the conducting of depositions remotely, without the necessary stipulation of parties.<sup>1</sup>

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<sup>1</sup> *IN RE THE MATTER OF THE REMOTE ADMINISTRATION OF OATHS AT DEPOSITIONS VIA REMOTE AUDIO-VISUAL EQUIPMENT DURING THE COVID-19 PANDEMIC*, March 25, 2020; *IN RE THE MATTER OF THE REMOTE ADMINISTRATION OF OATHS AT DEPOSITIONS VIA REMOTE AUDIO-VISUAL EQUIPMENT DURING THE COVID-19 PANDEMIC*, April 28, 2020; *IN RE THE MATTER OF THE EXTENSION OF ORDERS CONCERNING REMOTE ADMINISTRATION OF OATHS AT DEPOSITIONS, REMOTE HEARINGS IN APPELLATE COURTS, FILING OF DOCUMENTS IN APPELLATE COURTS, AND APPELLATE COURT OPERATIONS DURING THE COVID-19 PANDEMIC*, May 22, 2020; *IN RE THE MATTER OF THE REMOTE ADMINISTRATION OF OATHS AT DEPOSITIONS VIA REMOTE AUDIO-VISUAL EQUIPMENT*, June 18, 2021.

Practitioners, litigants and witnesses have all benefitted from the safety, convenience, and efficiency of this practice. Those who interact with the civil justice system will benefit from the continued use of remote depositions not only during the final phases of the pandemic, but also on a permanent basis.

The most recent order, issued on June 18, is scheduled to expire on December 1, 2021.<sup>2</sup> In that interim order, the Court stated that it “expects that during the period in which this interim order is in effect, a rule petition regarding the remote administration of oaths at depositions via remote audio-visual equipment will be filed with and considered by the Court.”<sup>3</sup>

As of the filing date of this petition, the interim rule remains in effect. However, the interim order will likely expire before the requested amendment, even if granted, could take effect. Given the need to circulate this petition among relevant stakeholders and solicit comments, as well as the timing requirements of Wis. Stat. § 751.12 (1) (“The effective dates for all rules adopted by the court shall be January 1 or July 1. A rule shall not become effective until 60 days after its adoption.”), an extension of the June 18 interim order may be necessary.

Accordingly, the petitioner requests this Court extend the expiration date of the June 18 interim order pending the Court’s consideration of and decision on this rule petition. The order could be extended until further order of the Court. Or, if the Court prefers a more precise extension, it could be extended until the effective date of an order adopting a permanent rule regarding the remote administration of oaths at depositions via

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<sup>2</sup> *IN RE THE MATTER OF THE REMOTE ADMINISTRATION OF OATHS AT DEPOSITIONS VIA REMOTE AUDIO-VISUAL EQUIPMENT*, June 18, 2021.

<sup>3</sup> *Id.*

remote audio-visual equipment, or one year following the date of an order denying or dismissing this rule petition.

## PETITION

The Wisconsin Association for Justice respectfully requests that the Supreme Court adopt the following:

**SECTION 1.** 804.03(4) of the statutes is created to read:

804.03 (4) REMOTELY LOCATED INDIVIDUALS. For the purposes of this section, an oath may be administered to a remotely located individual using audio-visual equipment. An officer administering an oath shall be in simultaneous communication with all parties to the deposition, whether or not in the physical presence of any of them. Remote administration of an oath at a deposition via audio-visual communications technology shall constitute the administration of an oath before a court reporter.

(a) Court reporters qualified to administer an oath in the State of Wisconsin may administer an oath to a witness at a deposition remotely via audio-visual communications technology from a location within the State of Wisconsin provided the person administering the oath can see and hear the witness and can identify the witness; and

(b) If a witness is not located within the State of Wisconsin, the witness may consent to being placed under oath remotely via audio-visual communication technology by a court reporter qualified to administer an oath in the State of Wisconsin.

Dated October 8, 2021.

Respectfully submitted,

WISCONSIN ASSOCIATION FOR JUSTICE



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