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STATE OF WISCONSIN
IN THE SUPREME COURT

CLERK OF SUPREME COURT
OF WISCONSIN

**In re Creation of a Pilot Project for Dedicated
Judicial Dockets for Large Claim Business
and Commercial Cases**

**16-05A
Petition**
Proposed Amendments
to the Pilot Project and
Interim Rule

The Business Court Advisory Committee ("Committee") requests the court approve certain amendments to the existing pilot commercial court docket for large claims business and commercial cases (commercial court docket or pilot project) and its Interim Rule.¹

On April 11, 2017, the court approved an administrative rule petition filed by Attorney John A. Rothstein, on behalf of the Committee, and authorized the commercial court docket, a three-year pilot project commencing on or about July 1, 2017 to develop dedicated trial court judicial dockets for large claim business and commercial cases in Waukesha County Circuit Court and in the circuit courts of the Eighth Judicial Administrative District. The petition also proposed and the court approved an interim commercial court rule and guidelines applicable to the pilot project.

The pilot project is well underway. The Committee has determined that it is appropriate to extend the commercial court docket and expand it, in anticipation of the eventual establishment of state-wide trial court judicial dockets for large claim business and commercial cases. Accordingly, the Committee now requests the court: (1) extend the commercial court docket for two additional years, until July 1, 2022; (2) extend the court's scheduled review of the operation of this commercial court docket to accommodate the

¹ The Interim Rule for Pilot Project for Dedicated Trial Court Judicial Dockets for Large Claim Business and Commercial Cases; Assignment and Management of Business and Commercial Cases (Interim Rule) is attached as Appendix A to the court's order creating the pilot project. See S. Ct. Order 16-05, 2017 WI 33 (issued Apr. 11, 2017, eff. July 1, 2017).

two-year extension of the project; (3) authorize expansion of the commercial court docket to encompass the circuit courts of the Second Judicial Administrative District and the Tenth Judicial Administrative District;² (4) direct the Committee to develop and implement a training program for judges and lawyers interested in participating in a dedicated commercial docket; (5) allow cases involving receiverships in excess of \$250,000, cases involving confirmation of arbitration awards and involving compelling/enforcing arbitration awards, and cases involving commercial real estate construction disputes over \$250,000 to be assigned to the commercial case docket; (6) allow the Chief Justice to add additional counties and/or districts to the commercial court docket upon the recommendation of the Director of State Courts; (7) allow parties from counties that do not have a commercial court docket to have their cases administered within a commercial docket and (8) amend the Interim Rule, as needed, to reflect these developments. On or before the conclusion of the extended pilot project, the Committee intends to file an administrative rule petition seeking the establishment of a statewide Commercial docket, with proposed rules that will be developed based on information acquired during the pilot project.

The proposed amendments to the Interim Rule are as follows:

Section 1. Amend Section 2 b) of the Interim Rule to read:

2 b) The pilot project will begin and end, as authorized by order of the Supreme Court. See S. Ct. Order 16-05, 2017 WI 33 (issued Apr. 11, 2017, eff. July 1, 2017). The approximate duration of the project will be from July 2017 to July ~~2020~~ 2022.

Section 2. Amend Section 2 d) of the Interim Rule to read:

2 d) The circuit courts for Waukesha County and in the Eighth Judicial Administrative District are hereby designated as the initial locations for the Commercial

² The Tenth Judicial Administrative District includes the following counties: Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Polk, Rusk, St Croix, Sawyer, and Washburn. Pending before the court is an administrative rule petition 19-21 that would transfer Iron County to the Tenth Judicial Administrative District.

Court dockets. The circuit courts of the Second Judicial Administrative District and the circuit courts of the Tenth Judicial Administrative District are hereby designated as additional locations for the Commercial Court dockets.

Section 3. Amend Section 2 e) of the Interim Rule to read:

2 e) The Chief Justice shall select the circuit court judges in the counties and judicial administrative districts participating in the pilot plan who will be assigned to the Commercial Court docket. Selection of a judge for the Commercial Court docket shall not preclude the judge from continuing work on any other assigned docket. The Chief Justice shall select no fewer than: three circuit court judges in Waukesha County; ~~and~~ no fewer than four circuit court judges within the Eighth Judicial Administrative District; no fewer than four circuit court judges within the Second Judicial Administrative District; and no fewer than three circuit court judges within the Tenth Judicial Administrative District. The Chief Justice may also add additional counties and/or districts to the commercial court docket upon the recommendation of the Director of State Courts.

Section 4. Create Section 4 h) in the Interim Rule to read:

4 h) Cases involving receiverships in excess of \$250,000;

Section 5. Create Section 4 i) in the Interim Rule to read:

4 i) Cases involving confirmation of arbitration awards and compelling/enforcing arbitration awards;

Section 6. Create Section 4 j) in the Interim Rule to read:

4 j) Cases involving commercial real estate construction disputes over \$250,000;

Section 7. Amend Section 7 b) of the Interim Rule to read:

7 b) Clerk of court duties.

1. In Waukesha county, upon the filing of a case qualifying for the Commercial Court docket, the clerk of court shall assign the case to the Commercial Court docket and to one of the judges designed for the commercial court docket. In the event of a request for judicial substitution, the case shall be transferred to

the next Waukesha County circuit court judge who is assigned to the Waukesha County Commercial Court docket.

2. In the Second Judicial Administrative District, Eighth Judicial Administrative District, and Tenth Judicial Administrative District, for cases filed in any county in which a circuit court judge in that county has already been assigned a Commercial Court docket, the same procedures shall apply. In counties of the Second, Eighth, or Tenth Judicial Administrative District in which no circuit judge has been assigned to the Commercial Court docket, upon the filing of a qualifying case, the clerk of court shall notify the chief judge of the ~~Eighth~~ Judicial Administrative District who shall assign one of the Commercial Court docket judges from the other counties in the ~~Eighth~~ Judicial Administrative District. The chief judge's selection shall be made pursuant to s.751.03(3), stats. In the event a request for substitution is filed against the judge chosen by the chief judge of the ~~Eighth~~ Judicial Administrative District, the chief judge shall then assign another judge from the ~~Eighth~~ Judicial Administrative District who has been appointed for Commercial Court cases.

Section 8. Create Section 10 of the Interim Rule to read:

10 Transferring a Case to the Commercial Docket. Parties from counties that do not have a dedicated commercial court docket may petition to have their cases administered within a commercial docket.

Section 9. Create Section 10 a) of the Interim Rule to read:

10 a) Such parties may jointly petition for transfer of the case to a commercial docket if all of the following are true:

1. The case is a type identified in Section 4. of the Commercial Docket Rule.
The case is not ineligible for assignment to a commercial docket under Section 6. of the Commercial Docket Rule.
2. The parties agree to use the forms and procedures developed for use in

the Commercial Docket Pilot Project.

3. The parties agree that all proceedings will be conducted in the county where the case is assigned under paragraph b) of this Section, except that if the case proceeds to trial, the trial will be conducted in the county where the case was originally filed.

Section 10. Create Section 10 b) of the Interim Rule to read:

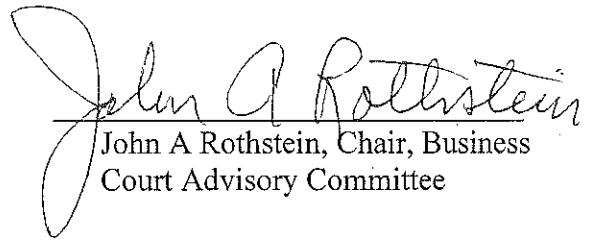
10 b) The procedure for a joint petition for transfer shall be as follows:

1. A joint petition for transfer of a case under this Section shall be submitted to the District Court Administrator for the Eighth Judicial District. The District Eight Court Administrator shall refer the petition to the Chief Judges for the Second, Third, and Eighth Judicial Administrative Districts.
2. The Chief Judges shall consider the caseload of the judges designated for the commercial docket, the nature of the case, and the work requirements for cases already pending in the commercial docket when determining whether to allow the transfer of a case under this paragraph.
3. The Chief Judges shall, upon allowing a transfer, assign the cases to the commercial docket and to one of the judges designed for the commercial docket in Waukesha County or within the Second, Eighth, or Tenth Judicial Administrative District.
4. In the event of a request for judicial substitution, the procedure set forth in Section 7 b) of the Interim Rule applies.

Section 11. Create section 10 c) of the Interim Rule to read:

10 c) No party may withdraw his or her request for transfer to the commercial docket after a judicial assignment has been made under paragraph b) of this section.

Respectfully submitted this 17th day of January, 2019.


John A Rothstein, Chair, Business
Court Advisory Committee