



WISCONSIN CIVIL JUSTICE COUNCIL, INC.

Promoting Fairness and Equity in Wisconsin's Civil Justice System

FILED

SEP 18 2017

CLERK OF SUPREME COURT
OF WISCONSIN

Officers & Members

President - Bill Smith
*National Federation of
Independent Business*

Vice President
Scott Manley
*Wisconsin Manufacturers
and Commerce*

Treasurer
Andrew Franken
*Wisconsin Insurance
Alliance*

Secretary – Brad Boyceks
*Wisconsin Builders
Association*

John Mielke
*Associated Builders
& Contractors*

Gary Manke
*Midwest Equipment
Dealers Association*

Nickolas George
*Midwest Food Processors
Association*

William Sepic
*Wisconsin Automobile &
Truck Dealers Association*

John Holevoet
*Wisconsin Dairy Business
Association*

Jeffrey Leavell
Wisconsin Defense Counsel

Brian Doudna
*Wisconsin Economic
Development Association*

Eric Borgerding
*Wisconsin Hospital
Association Inc.*

Mark Grapentine
Wisconsin Medical Society

Neal Kedzie
*Wisconsin Motor Carriers
Association*

Matthew Hauser
*Wisconsin Petroleum
Marketers & Convenience
Store Association*

Edward Lump
*Wisconsin Restaurant
Association*

To: Evidence & Civil Procedure Committee
Wisconsin Judicial Council

From: Robert Fassbender
Executive Director

Date: September 2, 2016

Re: **Proposed Rule to Amend Wis. Stat. §§ 803.08 and 426.110**

The Wisconsin Civil Justice Council's mission is to promote fairness and equity in Wisconsin's civil justice system. We appreciate this opportunity to comment on these important reforms to Wisconsin's class-action statute.

The Wisconsin Civil Justice Council (WCJC) supports repealing Wisconsin's current class-action statute, Wis. Stat. § 803.08, and replacing it with a statute based on Rule 23 of the Federal Rules of Civil Procedure, as proposed by the Evidence & Civil Procedure Committee. We also support the recommended repeal of the subsections of Wis. Stat. § 426.110 under consideration by the committee, which addresses class actions in the context of consumer credit transactions.

Wisconsin's class-action statute is essentially unchanged since 1898. The federal statute, Rule 23, has undergone several important refinements. No fewer than 45 states have drafted or amended their class-action statutes to align with Rule 23. Aligning Wisconsin's class action statute with Rule 23 will add needed specificity, clarity, and consistency not found in our current law.

The federal rule, however, provides for discretionary review of class certification orders under Rule 23(f). WCJC supports a nondiscretionary right to an interlocutory appeal of class certification orders by both plaintiffs and defendants. This would align our laws with such states as Iowa, Ohio, and Texas.

Class action civil procedures are a complex area of law that significantly impacts many of our member companies. We will continue to evaluate the merits of reforms beyond those proposed here. However, aligning our laws with the federal rules, as have the vast majority of other states, is an important first step.

Thank you for your consideration and please feel free to contact us if you have any questions on our position on this important matter.