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Assembly Committee on Insurance
Testimony on Assembly Bill 225
Change of Venue
May 8, 2025

Thank you, Chair Dittrich, and members of the Assembly Committee on Insurance for holding a hearing on Assembly Bill 225, relating to determination of where a defendant resides or does substantial business for purposes of venue.

Venue shopping is a current practice where plaintiffs will attempt to move a trial to a court or judge who is sympathetic to their case. While it is easy to sympathize with those who are injured or wronged, it is also wrong to game the system for an unjust payout.

This bill seeks to limit venue shopping because of the undue impact it creates on consumer insurance rates. In our highly litigious society, lawsuits are causing insurance providers to pay out exponentially with no relief in sight. Insurance companies are then forced to pass along these increased costs to consumers through rate increases, losses in coverage, or both.

An insurance company may be named as a party to a civil action or special proceeding if they issued a policy against whom a claim is being made, or because the insurance company has a right to be reimbursed from any of the proceeds determined in court. Assembly Bill 225 provides clarity by stating that a court may not consider the location of the insurance company when determining the proper venue.

I hope you support this minor change that will have a large impact on everyday Americans, by making sure everyone has access to a fair and impartial legal process.

Thank you for your time and attention. I am happy to answer any question you have.

DAN FEYEN

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To: The Assembly Committee on Insurance
From: Sen. Dan Feyen
Re: Assembly Bill 225

Hello members of the committee, thank you for taking the time to hear testimony on AB 225.

Current law attempts to set guidelines for how a fair and convenient location can be selected for trial. A proper venue should be chosen based on the county that a claim arose, the county that the property in question is located, or where the defendant resides or does substantial business. However, many cases are being moved to any county where an insurer does business. This creates not only logistical challenges for those involved, but also allows certain parties to forum shop, choosing what they believe will be a more favorable court.

AB 225 simply provides that a court may not consider the location of an insurance company that is named as a party if the insurance company either issued a policy to the defendant, or the insurance company has a right to reimbursement as a result of the civil action or special proceeding.

This change will have several beneficial outcomes:

First and foremost, this will prevent forum shopping. Forum shopping is an attempt to tip the scales of justice one way or another by choosing where a case is heard. Removing this ability will help to maintain procedural fairness and uphold the integrity of our legal system.

This bill will also improve efficiency. Reducing delays and streamlining the process for determining a venue can help cases move more quickly through the legal system.

AB 225 will also provide consistency in legal decisions. Making sure cases are heard in the appropriate venue will help make the legal system more predictable and stable.

By changing this practice and limiting venue shopping we can ensure the legal system remains fair, impartial, and balanced. Thank you again for holding a hearing on this bill.

WISCONSIN CIVIL JUSTICE COUNCIL, INC.

Promoting Fairness and Equity in Wisconsin's Civil Justice System

To:	Rep. Dittrich, Chairperson Members, Assembly Committee on Insurance
From:	R.J. Pirlot, Executive Director
Date:	May 8, 2025
Subject:	Assembly Bill 225, venue determination reform

On behalf of the Wisconsin Civil Justice Council – a group of 16 business associations working together on civil liability matters – we respectfully ask you to support Assembly Bill 225, legislation to reform how venues for civil actions are determined in Wisconsin.

AB 225 would reform Wisconsin's laws regarding venue determination for certain civil actions. The fundamental intent of the bill is to reduce the ability of attorneys to forum shop, helping to ensure that when lawsuits are filed, the venue for the suit is convenient for the parties and not moved to a "friendly" venue from one of the party's perspective.

Under current law, with certain exceptions, the proper venue for a civil action must be in:

- the county where the claim arose,
- the county where any property subject to the claim is situated,
- the county where a defendant resides or does substantial business, or,
- if none of the above apply, in any county designated by the plaintiff.

The county where a defendant in an action does substantial business has given plaintiff's attorneys the opportunity to move cases to a county where an insurer does business, making the litigation less convenient for other defendants and too often to a "friendly" venue from the plaintiff's perspective.

AB 225 provides that when a court determines the proper venue for a proceeding, the court may not consider the participation of an insurance company who is named as a party to the civil action only because either:

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- the insurance company issued a policy to a policyholder against whom a claim is being made or
- the insurance company, by virtue of a payment made to its policyholder, has a right to be reimbursed out of any proceeds from the action or special proceedings, as provided under current law.

AB 225 also provides that, for the purpose of determining where a business entity resides or does substantial business, a business entity is deemed to reside in the place of incorporation or organization and is deemed to do substantial business only in the county of its principal place of business.

The purpose of venue determination is to set a fair and convenient location for trial.

Wisconsin courts have acknowledged that the county where the underlying conduct occurred is likely the most convenient forum. However, the practice by plaintiff's attorneys of moving cases to any county where an insurer does business undermines the fair and convenient standards for civil litigation.

The key points of this reform are:

- Limiting venue shopping helps ensure that parties cannot choose a specific court more favorable to a party for a case, maintaining procedural fairness and preventing abuse of our court system.

- By limiting venue shopping, cases can often be resolved more quickly and efficiently as they will be heard in the appropriate court, reducing delays and costs associated with unnecessary venue changes.

- Having cases heard in the appropriate venue helps ensure that legal decisions are made in a consistent manner, as the laws and procedures of that jurisdiction are applied, helping to promote predictability and stability in the courts.

- Limiting venue shopping helps ensure that all parties have equal access to a fair and impartial legal process, as cases are heard in a venue that has a direct connection to the litigation because it is the county where the incident arose, the county where the subject property is situated, or the county where the principal defendant(s) reside(s) or has its principal place of business, without preference given to one party over another.

We respectfully request you support AB 225.

WISCONSIN ASSOCIATION *for* JUSTICE
The Trial Lawyers Association

Vote Against Anti-Consumer Changes to the "Venue" Statute

Wis. Stat. § 801.50 Determines where a civil lawsuit must be filed. It was first enacted in 1983, with the consensus input of stakeholders and expert vetting by the Judicial Council. Civil procedure statutes should not be partisan issues. Any attempt to change this statute legislatively this session is not the product of a consensus effort, featuring input and the balancing of interests, but instead a power grab that exists for the sole benefit of special interests: insurance companies and corporate defendants.

Wisconsin's Venue Statute Works. The applicable portions of Wis. Stat. § 801.50 have remained unchanged since 1983. They have remained unchanged because they were enacted after the considered input of judges, legislators, and legal practitioners and not the result of a partisan legislative process.

About Wis. Stat. § 801.50. For most claims, section (2) of Wis. Stat § 801.50 controls where a case may be filed. It establishes that venue is appropriate:

> (a) In the county where the claim arose;
> (b) In the county where the real or tangible personal property, or some part thereof, which is the subject of the claim, is situated;
> (c) In the county where a defendant resides or does substantial business; or
> (d) If the provisions under par. (a) to (c) do not apply, then venue shall be in any county designated by the plaintiff.

Wis. Stat. § 801.50(2)(a)-(d).

Wisconsin Judges Already Have the Power to Change Venue for Convenience or In the Interest of Justice. Insurance companies and other defendants are already protected by multiple features of Wisconsin law. A Wisconsin trial judge "may at any time, upon its own motion, the motion of a party or the stipulation of the parties, change the venue to any county in the interest of justice or for the convenience of the parties or witnesses[.]" Wis. Stat. § 801.52. Defendants are also permitted to ask the court to change the venue. Wis. Stat. § 801.51.

Insurance Companies Have Unsuccessfully tried to Narrow the Wis. Stat. § 801.50(2)(c) in Court and Now Want Legislative Help. Wisconsin insurers are trying to convert the venue statute into one which tilts the field in their favor by redefining "substantial business" to mean their headquarters. Circuit Courts have regularly seen through this maneuver, noting that insurers often write, at minimum, hundreds of policies per county, collecting thousands of dollars in premiums. *Stelling v. Middlesex Ins. Co.*, 2023 WI App 10.

Wisconsin Defense Counsel

Defending Individuals And Businesses In Civil Litigation

Assembly Committee on Insurance
Thursday, May 8th, 2025
Assembly Bill 225

Chair Dittrich and members of the Assembly Committee on Insurance, thank you for providing me the opportunity to testify in favor of Assembly Bill 225. My name is Ariella Schreiber and I am the Vice President of Claims and General Counsel at Rural Mutual Insurance Company. Rural Mutual is a Wisconsin only property and casualty insurance carrier; we write personal auto, home, commercial, farm, business auto, and worker's compensation insurance policies for Wisconsinites. I've been at Rural for almost 15 years and have occupied my current role since 2018. Before I joined Rural, I was an attorney in private practice in Madison, Wisconsin.

I am also here as a longstanding member and past president of the Wisconsin Defense Counsel, a statewide organization of more than 350 defense attorneys. Our primary role is to provide a professional defense for individuals and businesses involved as defendants in civil lawsuits. The association was founded in 1962 and is dedicated to the defense of Wisconsin citizens and businesses, the maintenance of an equitable civil justice system, and the education of its attorney members.

The purpose of Wisconsin's Venue in a Civil Action statute – Wis. Stat. 801.50 – is to set forth the factors that determine where a case's venue is proper. The goal is a fair, convenient trial for all parties in the case. Unfortunately, the current Venue statute creates an opportunity for a plaintiff to sue a defendant in a county that has no relationship to the parties, the accident, or the property at issue simply because an insurance company "does substantial business" in that county. In simple terms, this is forum shopping and it allows plaintiffs to capitalize on the insurer's business in that county rather than filing the case in the proper venue. Allowing plaintiffs to forum shop based solely on an insurer's business in any particular county is unfair to Wisconsin residents named as defendants in civil lawsuits because it creates an unlevel playing field and harms individuals when they have to travel great distances to counties unrelated to the case.

Forum shopping has a significant negative effect on Wisconsin residents when a court allows a plaintiff to venue a case solely because of the insurer's business in a particular county. For example, one of the cases discussed below involved an injury that occurred due to alleged exposure to carbon monoxide. The building where this occurred was in Outagamie County. The building owner and other witnesses all resided in Outagamie County, as did the plaintiff and the plaintiff's treating physicians. Despite that, the plaintiff filed the lawsuit in Dane County. The circuit court refused to move the venue away from Dane County because the corporate defendant was headquartered in Dane County. That is an absurd and harmful result: the individual defendant then had to face the expense and time of traveling to Dane County for deposition, hearings, mediation, and (potentially) trial. That is a significant onus of expense and time to

impose on an individual consumer simply because the plaintiff views Dane County as a preferable venue to Outagamie County.

AB 225 solves the forum shopping issue in a fair and common sense manner by preventing a plaintiff from using an insurer's mere presence to justify a venue when that venue has no true relationship to the case. It does not change the law on venue in any other way: a plaintiff may still sue a defendant in the county where the claim arose, where the real or tangible property that is the subject of the claim is situated, or in the county where a non-insurer defendant resides or does substantial business. It does not limit a plaintiff's ability to bring the lawsuit against the at-fault party or against the insurer directly. And it does not limit the plaintiff's ability to venue a case in any particular county as long as that county has some relationship to the case other than the insurer's business.

Next, AB 225 promotes fairness in the courts and ensures that defendants are judged by a jury of their peers. It ensures that a case is heard in the county that has actual ties to either the accident, the property, or the defendants. It ensures that the jury is composed of members of the defendant's community. And it avoids favoring the plaintiff over the defendant simply because the defendant had the good sense to buy insurance.

AB 225 also promotes access to the court system by ensuring that cases are heard in the correct county. It will reduce the number of cases filed in counties that plaintiffs view as favorable, which, in turn, promotes better efficiency in all counties. If an accident happens in Clark County and the defendant resides in Clark County, then a Clark County judge should rule on the case and a Clark County jury should evaluate that defendant's conduct. A plaintiff should not have the ability to venue the case in a different county – thereby adding to already high caseloads – simply because they view that county as more favorable.

Finally, any discussion of the Venue statute is incomplete without also addressing Wisconsin's Direct Action Against Insurer Statute, Wis. Stat. 632.24. The Direct Action statute allows injured individuals the right to sue the tortfeasor's insurer directly and without the need to name the tortfeasor in the lawsuit. Direct Action statutes are unusual – only about 20% of States have a Direct Action statute and Wisconsin's statute is one of the most expansive in the US. While they may not seem directly related, the existence of a Direct Action statute creates another opportunity for forum shopping because it allows the plaintiff to sue the insurer directly without naming any other defendant in the lawsuit. The Direct Action statute and the current Venue statute enable a plaintiff to name only the insurer and file the suit in the desired county simply because the insurer is the only defendant named in the lawsuit. Again, this is not a just result for all parties; it is a result chosen by the plaintiff and enabled by the Venue Statute's current drafting. AB 225 fixes this in a simple and elegant way that ensures justice and does not prejudice any party in the lawsuit.

Summary of Relevant Rural Mutual Cases:

1. *Rauch* – This lawsuit arose out of an auto vs. pedestrian accident that occurred in the Washington County. The plaintiffs and defendants resided in Washington County. Witnesses listed on the police report were from Washington County residents. The majority of medical treatment occurred in Washington County. The plaintiffs filed the lawsuit in Milwaukee County. We filed a Motion to Change Venue to Washington County, which the judge denied; the case remained in Milwaukee County.

2. *Hanthorn* – This was an underinsured motorist claim, so the insurer was the only defendant in the case. The plaintiff resided in Rock County and the accident occurred in Rock County. The plaintiff filed the lawsuit in Dane County. We filed a Motion to Change Venue to move the case to Rock County. The judge denied the motion and the case remained in Dane County. The judge reasoned that it was acceptable to leave the case in Dane County because Rock and Dane are adjacent and it wouldn't cause too much inconvenience for the witnesses to travel to Dane County.

3. *O'Brien* – This was an auto vs. motorcycle liability accident that occurred in Crawford County. The plaintiffs resided in Crawford County and the defendant resided in Grant. Witnesses to the accident resided in Crawford County and the majority of the plaintiff's medical treatment occurred in Crawford County. The plaintiffs filed the lawsuit in Dane County. We filed a Motion to Change Venue and asked the court to move the venue to Crawford County. The judge denied the motion and the case remained in Dane County.

4. *Pawlak* – This was a two-vehicle accident that occurred in Rock County. The plaintiff was a resident of Lyman, WY. The defendants resided in Rock County and all of the plaintiff's medical treatment occurred in Rock County. The plaintiffs filed the lawsuit in Milwaukee County. We filed a Motion to Change Venue to Rock County. The court denied the motion and ruled that the plaintiff's choice of venue is given "great deference". The case remained in Milwaukee County.

5. *Burg* – This was a liability claim arising out of a forklift accident that occurred on a farm located in Rock County. The defendants resided in Rock County. The plaintiffs filed the lawsuit in Milwaukee County. We filed a Motion to Change Venue to Rock County, which was where the incident occurred, where the defendants resided, and where all witnesses other than the plaintiff resided. The court denied the Motion and the case remained in Milwaukee County.

6. *Dorn* – This was a liability claim arising out of an alleged exposure to carbon monoxide, which occurred in Outagamie County. The plaintiffs resided in Outagamie County and the incident occurred at the insured property in Outagamie County. The plaintiffs filed the lawsuit in Dane County. We moved to change the venue to Outagamie County. The court

denied the motion because the defendant's headquarters are in Dane County. The case remained in Dane County.

Anecdotal Examples by WDC Members:

1. We have seen a rise by plaintiffs' law offices bringing cases in Dane County with no other contact other than an insurer doing business in the county. *Steven Snedeker – Stone Ridge Law Offices of Pahl & Snedeker*

2. Our office has defended long term care providers in multiple actions in which the facility is located in a county miles away from the county in which the case was filed, often Milwaukee or Dane Counties, because the insurance carrier does substantial business in multiple, if not most counties in Wisconsin. Plaintiffs' counsel files in the counties in which verdicts tend to favor plaintiffs and damage awards are typically higher. Forum non convenes arguments are much less effective in the virtual age and I think judges tend to think of it as "a cost of doing business" issue for the insurance company. Plaintiffs' lawyers (and some judges) seem to believe that an insured can be sued in any county in Wisconsin because of its insurer's profile. *Patrick Sullivan – Siesennop & Sullivan*

3. 24-CV-0287 Smith v. American Family et al. Accident occurred in Illinois, less than a mile south of the border. All parties lived in ROCK County at the time of the accident. Plaintiff brought suit in DANE County. Both defendants moved for change of venue. At the time the motion was filed, Plaintiff and one defendant still lived in Rock County. The other Defendant was no longer in Rock County but was incarcerated at Dodge Correctional. Court denied both motions for change of venue (Dane to Rock) because American Family is in Dane County. Mara Spring – *Conway & Josetti*

4. Our firm represents a trucking company with its headquarters in Fond Du Lac, the accident occurred in Milwaukee County, plaintiff's address on her ID is in Illinois. Plaintiff filed in Ashland County with the reasoning that because our client indicates on their website that they provide their services throughout Wisconsin, that they do substantial business in Ashland County. The judge ruled against us on our motion to change venue to Fond Du Lac County or in the alternative Milwaukee County. *Ben Nichols – Crivello, Nichols, & Hall*

Thank you for your time. I'm happy to answer any questions committee members may have.