

**SUPREME COURT OF WISCONSIN**

## NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 19-02

---

**In re Petition for the Creation of a Pilot Project and Interim Court Rule Governing Electronic Filing in the Court of Appeals and Supreme Court**

**FILED****APR 15, 2019**

Sheila T. Reiff  
Clerk of Supreme Court  
Madison, WI

---

On February 15, 2019, Sheila T. Reiff, Clerk of the Supreme Court and Court of Appeals, filed a rule petition asking the court to authorize a pilot project and adopt an interim rule to facilitate the development and testing of procedures to permit exclusive electronic filing of documents in the Court of Appeals and Supreme Court, in collaboration with the Consolidated Court Automation Programs, the Court of Appeals, and the Supreme Court.

The court discussed the petition at a closed administrative rules conference on February 19, 2019 and voted to seek written comments and conduct a public hearing. A letter soliciting comment was sent to interested persons on February 20, 2019. Chief Justice Patience D. Roggensack also specifically invited input from the court of appeals and its staff, by letter dated February 19, 2019.

The court received three written responses in support of the proposed pilot project from the Honorable Maria S. Lazar, Waukesha County Circuit Court, State Public Defender Kelli S. Thompson, and Attorney Nicholas C. Zales. The court also received a letter from Wisconsin Court of Appeals Staff Attorneys dated March 19, 2019, asking the court to require a reduced number of paper copies during the pilot project and expressing some concern about the fiscal and administrative impact of the proposed project. The petitioner filed a response to the comments on March 26, 2019.

The court conducted a public hearing on April 8, 2019. Sheila T. Reiff, Clerk of Supreme Court and Court of Appeals, presented the petition to the court. The Honorable Randy Koschnick, Director of State Courts, and Jean Bousquet, Chief Information Officer, Consolidated Court Automation Programs, appeared in support of the petition.

At the ensuing closed administrative rules conference the court voted to grant the petition and approve the pilot project and interim rule. The court authorizes the petitioner to create an appellate eFiling working group to assist with the planning and implementation of the pilot project and with the preparation and drafting of any needed changes to the rules of appellate procedure.

We have previously indicated our support for the gradual transition to electronic filing in the Wisconsin courts. As relevant here, effective July 1, 2009, we adopted rules to permit electronic

filing of appellate briefs, no-merit reports, and petitions for review. See S. Ct. Order 08-15 & 08-18, 2009 WI 4 (issued Jan. 6, 2009, eff. July 1, 2009) (creating Wis. Stats. §§ 809.19(8)(a)4., 809.19(12), 809.19(13), 809.32(1)(fm), 809.62(4)(b), (c), and (d), 809.80(3), and 809.80(5) authorizing appellate electronic filing).

This pilot project is expected to commence in the fall of 2019, and will initially encompass a small number of appeals filed in the Court of Appeals, District IV. The pilot project will continue until further order of this court. The petitioner is directed to keep the court and the public informed about the progress of the pilot project, including any changes to the interim rules. A formal administrative rules petition and a public hearing will be required before the court will require appellate eFiling statewide and/or adopt any amendments to the court rules related to appellate eFiling.

Therefore,

IT IS ORDERED that the petition is granted and the interim rule set forth in Appendix A, attached hereto is adopted. The Clerk of the Supreme Court and Court of Appeals, in collaboration with the Consolidated Court Automation Programs, the Court of Appeals, and the Supreme Court, is authorized to convene a working group and commence a pilot project to facilitate the development and testing of procedures to permit exclusive electronic filing of documents in the Court of Appeals and Supreme Court.

IT IS FURTHER ORDERED that the pilot project may commence effective the date of this order, or as soon thereafter as reasonably practicable. The pilot project shall continue until further order of the court.

IT IS FURTHER ORDERED that the interim rule set forth in Appendix A, attached hereto, shall apply to cases in the pilot project.

IT IS FURTHER ORDERED that on or before September 1, 2019, and at six month intervals thereafter until the conclusion of the pilot project or further order of this court, the Clerk of Supreme Court and Court of Appeals shall submit a written progress report to the Wisconsin Supreme Court that addresses, to the extent practicable, the progress of the pilot project; modifications to the interim rule, if any; and any other relevant matter that should be brought to the attention of the Wisconsin Supreme Court. A copy of this progress report will be made available to the public and placed on the court's rules website, at <https://www.wicourts.gov/scrules/1902.htm>.

IT IS FURTHER ORDERED that notice of this decision be given by a single publication of a copy of this order in the official publications designated in SCR 80.01, including the official publishers' online databases, and on the Wisconsin court system's web site. The State Bar of Wisconsin shall provide notice of this order.

Dated at Madison, Wisconsin, this 15th day of April, 2019.

BY THE COURT:

Sheila T. Reiff  
Clerk of Supreme Court

**Appendix A**  
**Wisconsin's Appellate Electronic Filing Pilot Project: Interim Rule**

**1. Statement of Purpose; Authority.**

The Wisconsin Supreme Court intends to implement electronic filing and service and to phase out the filing of paper documents in the appellate courts of Wisconsin. This Interim Rule authorizes the Clerk of Supreme Court and Court of Appeals (the "Clerk"), in collaboration with the Consolidated Court Automation Programs (CCAP), the Wisconsin Court of Appeals, and the Wisconsin Supreme Court, to commence a Pilot Project to expand the current electronic filing system and implement an exclusively electronic filing system applicable to attorneys for all case types in the Court of Appeals and Supreme Court ("the Pilot Project"). This Interim Rule is adopted pursuant to the court's superintending and administrative authority over all courts conferred by Article VII, § 3 of the Wisconsin Constitution.

**2. Effective Dates; Notice.** The Pilot Project will begin and end by order of the Supreme Court, upon the recommendation of CCAP and the Clerk. The Clerk shall make the terms and requirements of the Pilot Project available to the public on the court's website.

**3. Terms.** Interim orders designed to implement pilot projects are typically drafted to anticipate rule changes that will be needed if the pilot project becomes a mandatory rule change. As this Pilot Project reflects the continuation of the court's ongoing electronic filing initiative, a number of rules and procedures are already in place for provisions such as Registration Requirements, Form and Content, Authentication, Notarization, Signatures, Confidential Information, Technical Failures, etc. See, e.g., Wis. Stat. §§ 801.18, 809.01, 809.105, 809.11, and 809.15.

Terms will generally have the meaning ascribed to them in in Wis. Stat. § 801.18 and this Interim Rule shall, to the extent practicable, comport with the requirements of existing rules.

**4. Official Record.** Electronically filed documents have the same force and effect as documents filed by traditional means. For purposes of this Pilot Project, the electronic version of a document may constitute the Official Record.

**5. Fee.** A \$20 per party fee may be imposed on each case electronically filed as part of the appellate eFiling Pilot Project, consistent with the terms and exceptions set forth in Wis. Stat. § 758.19(4m). Approval shall be sought before any fee increase or additional electronic filing surcharge is imposed.

6. Time and Effect of Appellate Electronic Filing; Review. A document is considered filed on a particular day if the submission is completed by 11:59 p.m. central standard time, as recorded by the electronic filing system, so long as it is subsequently accepted by the clerk of court upon review. Upon completion of filing, the Electronic Filing system shall issue a confirmation that includes the date and time of receipt that will serve as proof of filing. The Clerk may review documents to determine if they are properly filed. In the event the Clerk rejects a document following review, the document will not become part of the court records, and the filer will receive notification of the rejection. Users may be required to refile the rejected documents. The expanded availability of time to file shall not affect the calculation of time under other statutes, rules, and court orders. Due dates will remain the same, there will just be extra hours in the day to meet them.
7. Format and content of documents. Any requirement for sending multiple copies of a document, sending paper copies of a document, and requirements pertaining to binding, paper quality, and color of brief covers may be eliminated.
8. Application; Revision. Application of this and other rules should be consistent with the understanding that the rule was written for a Pilot Project. **This Interim Rule is temporary and is subject to change by CCAP and the Clerk, upon notice to the court, as the needs of the Pilot Project dictate.**