



RON TUSLER

STATE REPRESENTATIVE • 3rd ASSEMBLY DISTRICT

Testimony
on
Assembly Bill 519
Before the
Senate Committee on Judiciary & Public Safety
January 4, 2018

Mr. Chairman and members of the committee, thank you for hearing Assembly Bill 519 and the opportunity to comment on this bill. Simply, this bill allows a plaintiff to personally serve a government entity instead of being required to use certified mail.

Under current law, a person may only serve notice to the State via certified mail.¹ Although certified mail successfully accomplishes service, hand-delivered personal service is just as effective, if not more so. Exclusion of personal service for a lawsuit against the state is likely a drafting error or an attempt to discourage lawsuits with this “gotcha” service provision.

This change became necessary after the 2016 Wisconsin Supreme Court case, *Sorenson v. Batchelder*.² In this case, Batchelder, a DOA employee, was driving a vehicle in his capacity as a state employee when he rear-ended Sorenson, a Wisconsin citizen. Sorenson sought compensation for both herself and her vehicle after suffering damages.

Sorenson’s attorney chose to use the most reliable type of service: personal service. Personal service is acceptable in any other situation except this one, when a claim is made against a state employee, so it is a simple mistake any attorney could easily make.

The court ultimately held that personal service does not comply with the requirements of the statute because it was not served by certified mail. Sorenson was unable to recover damages as a result of the statute.

This bill is a simple, common-sense change that prevents a minor technicality from interfering with justice and allows the use of personal service, the most reliable and common type of service. Additionally, please find a letter from the attorney in the *Sorenson* case attached to my testimony since he was unable to attend the hearing today. Thank you for your consideration.

¹ Wis. Stat. 893.82(5).

² 2016 WI 34, 368 Wis. 2d 140, 885 N.W.2d 362 (2016).

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January 4, 2018

To the State of Wisconsin Senate
Committee on Judiciary and Public Safety

RE: Assembly Bill 519

To Whom It May Concern:

I regret that I am unable to appear today in person to express to you my support of Assembly Bill 519.

I was the attorney of record in the *Sorenson v. Sentry Insurance a Mutual Company* case in which my client had a personal injury claim against the State of Wisconsin. The statute as it is currently written requires service of the Notice of Claim upon the State Attorney General at his or her office in the capitol by Certified Mail. In this case, we served the Attorney General by Personal Service, which is the gold standard of service. After the state paid our client's property damage, they denied the injury portion of the claim because we had done better service than the statute required, but not by Certified Mail. As a result, our client was left without a remedy against the State. We appealed to the Wisconsin Supreme Court, which found for the State and our client received no compensation. This was after it was discovered that it is impossible to serve the Attorney General in the Capitol by Certified Mail, based on their procedure of sending all Certified Mail to the Post Office.

The current language of the statute allowed the State to unfairly deny payment of a citizen's injury claim, despite having effectuated service upon the Attorney General in a manner better than originally intended by the legislature.

For this reason, I support Bill 519 to allow service upon the attorney general by personal service and/or certified mail.

Thank you.

Very truly yours,
Hupy and Abraham, S.C.

By

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