

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. 21-05

**In the Matter of the Proposed
Amendment to Wis. Stat. § 804.03,
Relating to the Remote Administration
of Oaths at Depositions**

FILED

APR 21, 2022

Sheila T. Reiff
Clerk of Supreme Court
Madison, WI

On October 8, 2021, Attorney James D. Rogers, Government Affairs Director, on behalf of the Wisconsin Association for Justice, filed this rule petition. The petition asks the court to amend Wis. Stat. § 804.03 to allow the remote administration of oaths at depositions. The court permitted remote administration of oaths at depositions as a temporary measure during the Covid-19 Pandemic.¹ By order dated

¹ See *In re the Matter of the Remote Administration of Oaths at Depositions via Remote Audio-Visual Equipment during the Covid-19 Pandemic*, March 25, 2020; *In re the Matter of the Remote Administration of Oaths at Depositions via Remote Audio-Visual Equipment During the Covid-19 Pandemic*, April 28, 2020; *In re the Matter of the Extension of Orders Concerning Remote Administration of Oaths at Depositions, Remote Hearings in Appellate Courts, Filing of Documents in Appellate Courts, and Appellate Court Operations During the Covid-19 Pandemic*, May 22, 2020; *In re the Matter of the Remote Administration of Oaths at Depositions via Remote Audio-Visual Equipment*, June 18, 2021; and *In re the Matter of the Remote Administration of Oaths at Depositions via Remote Audio-Visual Equipment*, October 14, 2021.

October 14, 2021, the court extended the temporary order permitting remote depositions until July 1, 2022. If this practice is to continue long-term, the court needs to formally amend the rule.

Consistent with standard practice, the court voted to solicit written comment. Letters were sent to interested persons on February 4, 2022. A comment in support of the petition was received from Attorney Cheryl Furstace Daniels, President, State Bar of Wisconsin, on behalf of the Board of Governors.

The court conducted a public hearing on April 11, 2022. Attorney Rogers and Attorney Amy M. Risseeuw, President, Wisconsin Association for Justice presented the petition to the court. Attorney Daniels, President, State Bar of Wisconsin, spoke in support of the petition.

The court discussed the petition at a closed administrative conference and voted to grant the petition. Therefore,

IT IS ORDERED that, effective July 1, 2022:

SECTION 1. 804.03 (4) (title), (a), (b), and (c), of the statutes are created to read:

804.03 (4) (title) REMOTELY LOCATED INDIVIDUALS.

(a) For the purposes of this section, an oath may be administered to a remotely located individual using audio-visual equipment. An officer administering an oath shall be in simultaneous communication with all parties to the deposition, whether or not in the physical presence of any of them. Remote administration of an oath at a deposition via audio-visual communications technology shall constitute the administration of an oath before a court reporter.

(b) Court reporters qualified to administer an oath in the State of Wisconsin may administer an oath to a witness at a deposition remotely via audio-visual communications technology from a location within the State of Wisconsin provided the person administering the oath can see and hear the witness and can identify the witness;

(c) If a witness is not located within the State of Wisconsin, the witness may consent to being placed under oath remotely via audio-visual communication technology by a court reporter qualified to administer an oath in the State of Wisconsin.

IT IS FURTHER ORDERED that notice of the above amendments 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 21st day of April, 2022.

BY THE COURT:

Sheila T. Reiff
Clerk of Supreme Court

