

COURT OF APPEALS OF WISCONSIN  
DISTRICT IV

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Appeal No. 2006AP000243

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In re the Paternity of K.J.P.:

Jerome E. Parrish,

Petitioner-Respondent,

v.

Diana Romfeldt-Mendoza,

Respondent-Appellant.

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ON APPEAL FROM THE CIRCUIT COURT OF RICHLAND COUNTY,  
THE HONORABLE EDWARD E. LEINEWEBER, PRESIDING  
Case No. 1992PA000011A

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NOTICE OF MOTION AND MOTION FOR LEAVE  
TO FILE AN *AMICUS CURIAE* BRIEF

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Pursuant to Wis. Stat. § 809.19(7), the Wisconsin Counties  
Association, by Stadler, Centofanti & Phillips, S.C., respectfully requests  
that the Court of Appeals of the State of Wisconsin grant it leave to file an  
*amicus curiae* brief in the above-captioned matter.

The Wisconsin Counties Association (WCA) was statutorily created in 1935 and is committed to protecting the interests of Wisconsin counties and promoting better county government. Wis. Stats. § 59.52(22) To meet its statutory obligation, the WCA represents interests common to Wisconsin's 72 counties, including the issues presented in the appeal in the above-captioned matter. In fact, one of the primary purposes of the WCA is to monitor and participate in the legal developments affecting county government.

The Wisconsin Supreme Court and Court of Appeals have not hesitated to allow the WCA to submit *amicus curiae* briefs on pending issues where it would further the WCA's role to protect interests that are common to Wisconsin counties. Examples include the following issues and cases:

1. At what rate does § 302.38, *Wis. Stats.*, mandate a county reimburse medical providers for care provided to inmates in custody of a county Sheriff's Department? *Meriter Hospital, Inc. v. Dane County*, Appeal No. 02-2837 (Court of Appeals).
2. Is a county law enforcement employee's appeal to a circuit court pursuant to § 59.52(8)(c), *Wis. Stats.*, the employee's

exclusive appeal procedure or may the employee also use the grievance procedures in the applicable collective bargaining agreement? *Eau Claire County v. General Teamsters Union Local No. 662*, 235 Wis. 2d 385, 611 N.W.2d 744 (2000).

3. Does a circuit court have discretion to terminate court-appointed counsel for an indigent individual on appeal? *In re the Paternity of Roberta Jo W. v. Leroy W.*, 218 Wis. 2d 225, 578 N.W.2d 185 (1998).
4. Do the immunity provisions of § 893.80(4), *Wis. Stats.*, apply to actions alleging defects in a highway brought against counties pursuant to § 81.15, *Wis. Stats.*? *Morris v. Juneau County*, 219 Wis. 2d 544, 579 N.W.2d 690 (1998);
5. Is a county's notice of foreclosure provided pursuant to § 75.521, *Wis. Stats.*, sufficient to afford a landowner due process of law? *Ritter v. Ross*, 207 Wis. 2d 477, 558 N.W. 2d 909 (App. 1996);
6. Is a circuit court a "municipal employer" under § 111.70, *Wis. Stats.*, such that its discretionary authority to appoint the register in probate pursuant to § 871.51, *Wis. Stats.*, can be

limited by a county's collective bargaining agreement? *Iowa County v. Iowa County Courthouse, Social Service Employees, Local 413*, 166 Wis. 2d 614, 480 N.W.2d 499 (1992);

7. Are records not required to be kept under § 59.14, *Wis. Stats.*, but in the lawful custody and possession of a sheriff required to be disclosed under § 59.14 and, if so, are the comprehensive procedural requirements delineated in § 19.35 applicable to records open to examination under § 59.14? *State of Wisconsin, ex rel. Brandon R. Schultz v. Donald A. Bruendl*, 168 Wis. 2d 101, 483 N.W.2d 238 (App. 1992);
8. Is a risk management study of county departments a public "record" as defined in § 19.32(2), *Wis. Stats.*? *Fox v. Bock*, 149 Wis. 2d 403, 438 N.W.2d 589 (1989);
9. Is § 59.12, *Wis. Stats.*, which allows the office of the county surveyor and counties of under 5,000 population to be an appointed position rather than an elective office, constitutional? *Whipley v. Brown*, 143 Wis. 2d 686, 422 N.W.2d 608 (1988); and

10. Must a county pay attorney fees pursuant to § 753.19, *Wis. Stats.*, where a trial court appointed counsel for a *pro se* criminal defendant? *In the Matter of the Finding of Contempt Relative to Attorney Fees in State v. Lehman*, 137 Wis. 2d 65, 403 N.W.2d 438 (1987).

Each of the above issues and cases vitally affected counties across Wisconsin because their impact was not just limited to a particular county that may have been a party in the case, but to all counties statewide. Therefore, participation by the WCA in the appeal process was recognized to be not only permissible, but desirable.

In this case, the Appellant has requested that the Court of Appeals recognize an indigent's constitutional right to appointed counsel in civil cases. The resolution of this issue will have a profound and substantial impact on county fiscal policy inasmuch as counties currently dedicate substantial resources to the provision of counsel to indigents in a variety of situations. If the Court of Appeals recognizes the constitutional right to counsel in civil cases, this would further strain county resources across the state. As in the above cases, the WCA believes it should be granted leave to file an *amicus curiae* brief in this case to fulfill its statutory role and

ensure that the state-wide interests of all 72 member counties are properly represented in this matter.

Accordingly, the WCA respectfully requests that this Court grant it leave to file an *amicus curiae* brief in the above-captioned case pursuant to Wis. Stat. § 809.19(7).

Dated this 14<sup>th</sup> day of June, 2006.

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STADLER, CENTOFANTI & PHILLIPS, S.C.  
Attorneys for the Wisconsin  
Counties Association

By: 

Andrew T. Phillips  
State Bar No. 1022232

P.O. ADDRESS

10140 N. Port Washington Road  
Mequon, WI 53092  
Phone: (262) 241-1900  
Fax: (262) 241-1910  
E-mail: [atp@stadler-law.com](mailto:atp@stadler-law.com)