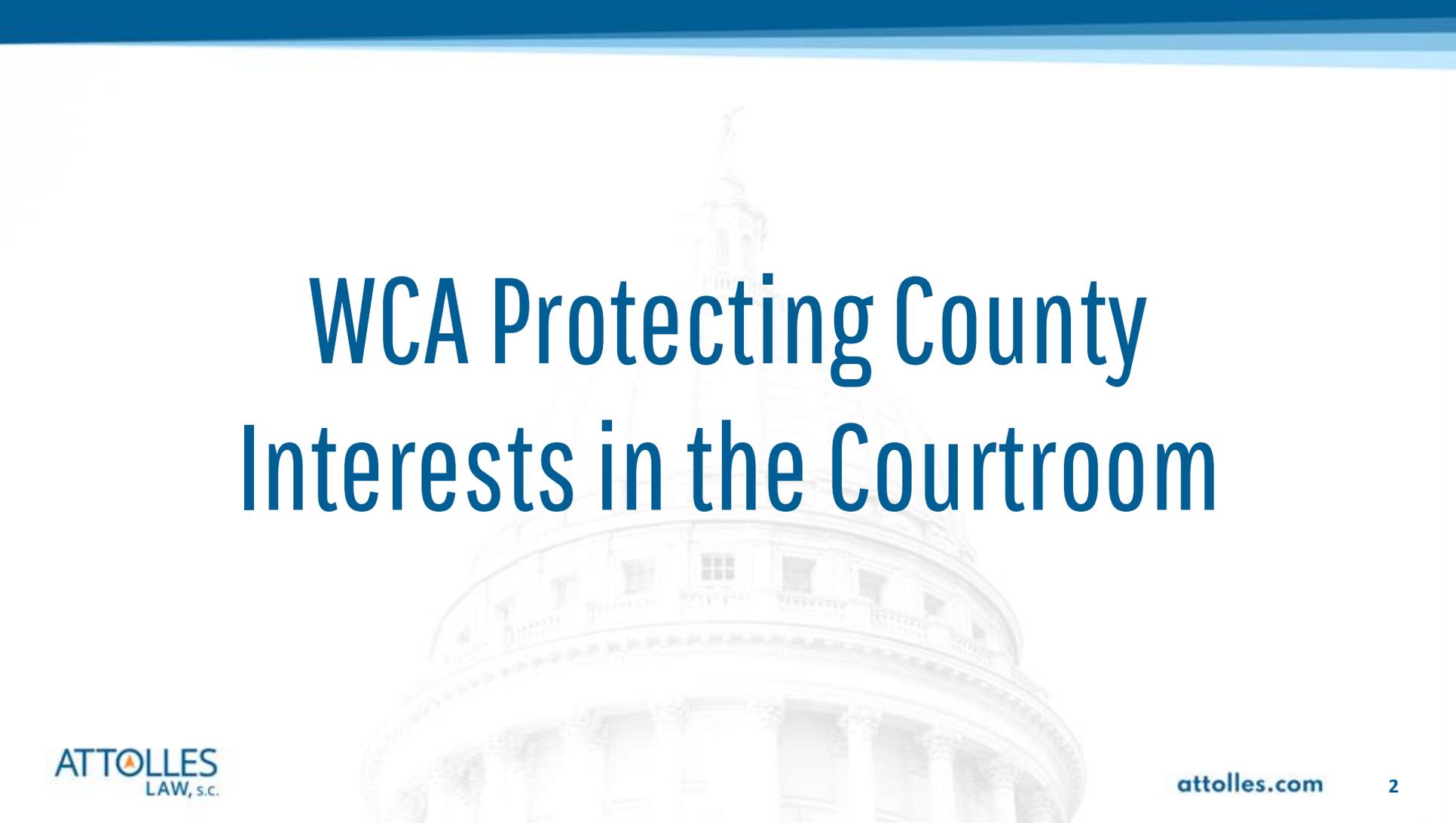


# WCA Legislative Conference

February 10, 2026

“Legal Update”





# WCA Protecting County Interests in the Courtroom

# Shifts in Supreme Court Ideology

- **Current United States Supreme Court**
  - 6-3 conservative majority
  - Conservative – Roberts, Thomas, Alito, Gorsuch, Kavanaugh, Barrett
  - Liberal – Sotomayor, Kagan, Jackson
- **Current Wisconsin Supreme Court**
  - 5-3 liberal majority
  - Liberal – Krosky, Dallet, Protasiewicz, Crawford
  - Conservative – Ziegler, Hagedorn, Bradley
- **WHAT DOES THIS TELL US ABOUT THE CASES THE COURT WILL TAKE AND THE ISSUES ON WHICH THE COURT WILL FOCUS?**

# *Pung v. Isabella County*, No. 25-95 (U.S. Supreme Court)



- Pung's home was taken through the tax foreclosure process for failure to pay \$2,241.93 in delinquent taxes.
- The home sold for \$76,008 at auction.
- The home was worth \$194,400 at the time of the tax foreclosure.
- Based upon *Tyler v. Hennepin County*, we know that the retention of surplus sale proceeds is an unconstitutional taking without just compensation.
- BUT, at what point in time does the requirement to pay just compensation arise?

# *Winnebago County v. D.E.W., 2023AP215*



- How much does a physician need to discuss with a patient regarding a proposed medication that a county seeks to administer involuntarily?
- Prior case law established that the conversation could be general in nature regarding advantages, disadvantages and effects of certain medications.
- D.E.W. sought a new standard requiring the physician have a specific discussion about the specific medication.
- HELD: Petition for Review dismissed as “improvidently granted.”

# *Waukesha County v. M.A.C.*, 2023AP533



- If a county provides notice of a recommitment hearing to the attorney that represented the individual in the original commitment hearing, is that sufficient?
- *Waukesha County v. S.L.L.*, 2019 WI 66 held “yes.”
- The Court in *M.A.C.* held “not” and overruled *S.L.L.*
- So how is “service” achieved on persons that cannot be found?

# *Outagamie County v. M.J.B., 2024AP250*



- If one of the two required examiner reports was not accessible to counsel for the individual at least 48 hours prior to final hearing, does the circuit court lose “competency” to proceed?
- COURT OF APPEALS HELD: YES
- County argued that the late filing was not fatal to the case because the county did not rely on the report or call the examiner as a witness.
- Supreme Court has case and oral argument was today!

# *Racine County v. R.P.L., 2025AP813*



- What is the appropriate standard for determining the elements of “dangerousness” and “permanent” in the context of an annual Watts review in a protective placement case?
  - Not to get too far into the weeds, but there is a question of whether there is an erroneous exercise of discretion standard (deferential) or *de novo* standard (independent review) to determine if a given set of facts leads to the appropriate conclusion.
- Oral Argument scheduled for March 10.

# Waukesha County v. R.D.T., 2024AP1390



- Primary issue on appeal related to the evidence necessary to establish the “dangerousness” element in a chap. 51 proceeding, BUT
- The primary issue was not addressed in the Court of Appeals’ decision because the case was dismissed as moot.
- What is the import of the mootness doctrine in a chap. 51 proceeding?
  - An appeal “from expired commitment or recommitment order may not be moot if ‘ongoing collateral consequences causally related to [the expired order] could be practically affected by a favorable decision.’” (quoting *Sauk County v. S.A.M.*, 2022 WI 46.
- Oral Argument scheduled for March 10.

# *D.M. v. Ozaukee County, 2025AP2027 (Court of Appeals)*



- Issue Presented: Can independently wealthy parents who have the ability to pay for residential care for their child use a parent-initiated CHIPS action to require the county to pay for most of the cost, even after they voluntarily placed their child in the residential facility and were paying for the cost of the placement prior to the CHIPS action?
- Case is in the beginning stages of briefing

# Questions in Dealing with Courts

- How can a court decision shape policy?
  - *Tyler v. Hennepin County* is an example of how a decision can dramatically alter a system that has been in place for decades.
- What role does the make-up (and seemingly consistent shift in make-up) of the Wisconsin Supreme Court play in both legal and legislative strategy?
- How does WCA position itself to best protect counties in the courts?

THANK YOU.

