

## Case Caption (Case Name)

In the Matter of the Rehabilitation of:

Segregated Account of Ambac Assurance Corporation

**DOCKETING STATEMENT**

Circuit Court Case No. 10 CV 1576

Case Number Issued by Court of Appeals

## Appellant(s) (Cross-Appellant)

Wells Fargo Bank as Trustee for the Bondholders

## Attorney's Name and Address

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## Attorney's Telephone Number

please see above

(Space for file stamp.)

## Respondent(s) (Cross-Respondent)

Office of the Commissioner of Insurance of the State of Wisconsin, Sean Silweg,  
Commissioner of Insurance of the State of Wisconsin

and

Ambac Assurance Corporation

## Attorney's Name and Address

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**CRITERIA FOR EXPEDITED APPEALS**

- This Docketing Statement is used solely to determine whether an appeal should be placed on the expedited appeal calendar. The respondent is not required to respond to the Docketing Statement. Generally, an appeal is appropriate for the expedited appeal calendar if:

1. no more than 3 issues are raised;
2. the parties' briefs will not exceed 15 pages in length; and
3. the briefs can be filed in a shorter time than normally allowed.

These requirements can be modified somewhat in appropriate cases.

- Parties should assume that the appeal will proceed under regular appellate procedure unless the court notifies them that the appeal is being considered for placement on the expedited appeals calendar.

**JURISDICTION**

Has judgment or order appealed from been "entered" (filed with the clerk of circuit court)?

Yes  No If yes, date of entry July 16, 2010

Is appeal timely? (See §808.04, Wisconsin Statutes)

Yes  No

Is judgment or order final (does it dispose of the entire matter in litigation as to one or more of the parties)?

Yes  No (If "no", explain jurisdiction basis for appeal on separate sheet.)

**NATURE OF ACTION** – Briefly describe the nature of action and the result in circuit court:

Wells Fargo Bank, as Trustee for the Bondholders whose bonds are supported by an insurance policy and a surety bond (the "Insurance Policies") issued by Ambac Assurance Corporation, moved for an order declaring that the allocation of the Insurance Policies to the Segregated Account of Ambac was unlawful. Further, the Court denied Wells Fargo Bank's motion to intervene in this proceeding.

**ISSUES** – Specify the issues to be raised on appeal: (Attach separate sheet if necessary.)

(Failure to include any matter in the docketing statement does not constitute waiver of that issue on appeal.

The court may impose sanctions if it appears available information was withheld. Court of Appeals Internal Operating Procedures, sec. VII(2)(b).)

Did the Circuit Court err in holding that the allocation of the Insurance Policies to the Segregated Account was lawful and did not violate the provisions of Wis. Stat. § 611.24 or the Equal Protection Clauses of the U.S. and Wisconsin Constitutions?

Did the Circuit Court err in holding that Wells Fargo Bank, as Trustee for the Bondholders did not satisfy the requirements for intervention under Wisconsin law?

**STANDARD OF REVIEW** – Specify the proper standard of review for each issue to be raised, citing relevant authority:

Questions of statutory interpretation and constitutional issues are reviewed de novo. *State v. McClaren*, 318 Wis. 2d 739, 748, 767 N.W.2d 550, 554 (2009). The application of a statute to a given set of facts is a question of law, which is reviewed de novo. *Thorp v. Town of Lebanon*, 235 Wis. 2d 610, 623, 612 N.W. 2d 59, 67 (2000).

Whether to allow or to deny intervention as of right is a question of law. *Helgeland v. Wis. Municipalities*, 307 Wis. 2d 1, 23, 745 N.W.2d 1, 11 (2008). The appellate court's review of questions of law underlying the Circuit Court's decision is de novo. *Kocken v. Wis. Council 40, AFSCME, AFL-CIO*, 301 Wis. 2d 266, 278-279, 732 N.W.2d 828, 835 (2007).

Do you wish to have this appeal placed on the expedited appeals calendar? (See *Criteria For Expedited Appeals*.)

Yes  No If "no", explain: The appeal is not appropriate for the expedited appeals calendar under the Criteria for Expedited Appeals because the parties' briefs are likely to exceed 15 pages in length.

Will a decision in this appeal meet the criteria for publication in Rule 809.23(1)?

Yes  No

Will you request oral argument?

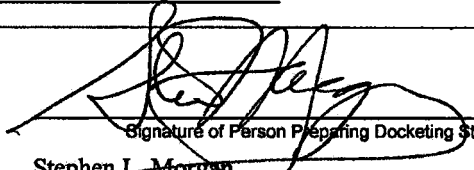
Yes  No

<u>Party</u>	<u>Attorney's Name and Telephone Number</u>	<u>Reason for not Participating</u>
Please see attached list of all parties in the trial court action who are not currently participating in this appeal.		

Are you aware of any pending or completed appeal arising out of the same or a companion trial court case that involves the same facts and the same or related issue?

Yes     No    Name of Case Sean Dilweg v Wells Fargo Bank / Eaton Vance Managemt et al v. Sean Dilweg

Appeal Number 2010AP1291 / 2010AP1291

  
 Signature of Person Preparing Docketing Statement  
Stephen L. Morgan  
 Name Printed or Typed  
August 6, 2010  
 Date

**Appellant Note:**  
 You **MUST** attach a copy of the following trial court documents to this form:

1. Trial court's judgment or order and findings of fact.
2. Conclusions of law.
3. Memorandum decision or opinion upon which the judgment or order is based.

You **MUST** also furnish all opposing counsel with a copy of this completed Docketing Statement and attached trial court documents.