Consumer Law

Wisconsin Consumer Act – Class Actions

***Gudex v. Franklin Collection Serv. Inc.*, 2026 WI 6 (filed March 4, 2026)**

HOLDING: A defendant may avoid a class action for damages under the Wisconsin Consumer Act if it gives or agrees to give appropriate relief within the meaning of the statute to the party bringing the suit – not to the putative class.

SUMMARY: This case involves Wis. Stat. section 426.110, part of the Wisconsin Consumer Act (WCA), which provides various rules and restrictions governing class actions under the WCA. Plaintiff Gudex filed a class action against Franklin Collection Service Inc. after receiving a letter requesting that she pay an alleged debt. She claimed that Franklin violated various provisions of the WCA by providing the false impression that Franklin would sue her. She sent the defendant a notice and demand indicating her intent to seek damages on behalf of a putative class (other Wisconsin consumers allegedly injured by Franklin's letter).

Franklin responded with an offer of relief, which Gudex rejected. When the motion for class certification came, Franklin argued the class action for damages was barred because it had offered "an appropriate remedy" to Gudex under Wis. Stat. section 426.110(4)(c). The circuit court disagreed and certified the class, relying in part on its determination that the Wis. Stat. section 426.110(4)(c) remedy must be offered to the class and not only to the party bringing the suit (here, Gudex). The court reasoned that if Franklin's interpretation were correct, then any class action for damages would be unduly difficult to maintain because potential defendants could simply compensate the lead plaintiff and thereby stop the class action from proceeding. This would be inconsistent with the purpose of allowing class actions for WCA violations (*see* ¶ 6). In an unpublished decision, the Wisconsin Court of Appeals affirmed.

In a majority opinion authored by Justice Hagedorn, the Wisconsin Supreme Court reversed the court of appeals. It concluded that "when a customer brings a class action for damages under § 426.110(4), § 426.110(4)(c) requires an appropriate remedy be given or agreed to be given to the party bringing suit, not to the putative class. Here, that means Franklin may avoid the class action for damages if it gives or agrees to give appropriate relief within the meaning of the statute to Gudex herself" (¶ 31).

Said the court: "The legislature provided a strong incentive for a defendant like Franklin: make an injured party whole now, or face a costly and time-consuming class action proceeding that may require you to provide a remedy to a much larger group later. Moreover, the statute still allows a class action for injunctive relief to proceed under Wis. Stat. § 426.110(4)(e). The limitation occasioned by the provision of an appropriate remedy under para. (c) is limited to a class action 'for damages'" (¶ 30).

Justice Dallet filed a concurring opinion that was joined in by Chief Justice Karofsky and Justice Protasiewicz. Justice Crawford filed a dissent.

BLINKA

HAMMER

In this column, Prof. Daniel D. Blinka and Prof. Thomas J. Hammer summarize all decisions of the Wisconsin Supreme Court (except those involving lawyer or judicial discipline).

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Criminal Procedure

Miranda Rights – Juveniles – Schools – Custody

***State v. K.R.C.*, 2026 WI 10 (filed March 26, 2026)**

HOLDING: Interrogation at school by police officers of a 12-year-old student was governed by *Miranda*.

SUMMARY: Twelve-year-old "Kevin" was accused by another student of having touched his groin. Police officers questioned Kevin several times about the incident in two different rooms within the school, namely, the school "resource officer's" small office ("like a closet") and in a student services area designated for "in-school suspension" (¶ 8). Police officers never read Kevin his *Miranda* rights. *See Miranda v. Arizona,* 384 U.S. 436 (1966).

Kevin admitted he may have accidentally touched the victim's groin. He was charged with fourth-degree sexual assault and convicted following a bench trial. Before trial, the judge denied Kevin's suppression motion, which alleged that the interrogation violated *Miranda* and that his statement was involuntary. The court of appeals affirmed, concluding that Kevin had not been in "custody" for *Miranda* purposes at the time he was questioned.

The supreme court reversed in a majority opinion authored by Justice Protasiewicz. The court reviewed the case law governing "custody" for *Miranda* purposes, especially emphasizing its application in school settings where a child might "feel bound to submit to questioning" when an adult would feel "free to leave" (¶ 22).

The opinion addresses various factors that apply in a "school setting" (¶ 23). These include the child's age, the role of police in contrast to school personnel, and whether "friendly adults" were present or contacted (¶ 24). Applying these considerations, the court held that Kevin was in "custody" because a "reasonable 12-year-old would not feel free to leave the office." That police did not take Kevin "into custody" at that time was "not enough" to defeat that inference for *Miranda* purposes (¶ 32). Because he never received *Miranda* warnings, the statements should have been suppressed. That said, the majority opinion concluded that the error was harmless (*see* ¶ 38).

Justice Hagedorn concurred, joined by Justice Ziegler and Justice Bradley, but would have affirmed on the ground that Kevin was not in custody. Any "run of the mill schoolhouse fears" felt by Kevin did not rise to the level of *Miranda*-type custody (¶ 47). **WL**