

# Wisconsin business law attorney Richard A. Kranitz comments on State ex rel. CityDeck Landing LLC v. Circuit Court

*In this case, the Wisconsin Supreme Court takes the opportunity to clarify and acknowledge the dual purpose of the term supervisory writ.*

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/EINPresswire.com/ -- In CityDeck, Wisconsin Supreme Court issued a supervisory writ, holding that the circuit court could not stay a private arbitration in the case. [Richard A. Kranitz](#), in a newly published comment, reviews this case. The full comment will be published on the Blog of [Mr. Kranitz](#) at <https://richardkranitzblog.blogspot.com/>



Richard A Kranitz, attorney & business coach in Grafton, Wisconsin

This rather unusual action stemmed from a Brown County circuit court's order that stayed an arbitration proceeding. "In December 2013, CityDeck hired Smet Construction Services Corporation as its general contractor to construct an apartment building called 'CityDeck Residences' in Green Bay." Smet in turned hired various subcontractors. "A dispute arose and in May 2016, CityDeck filed for arbitration against Smet, alleging breach of the construction contract and theft by contractor. It filed an amended demand for arbitration in November 2016. In July 2017, Smet sought to bring the subcontractors into the arbitration because it contended the subcontractors were responsible for the problems and each of the subcontracts contained an indemnity provision requiring the subcontractor to 'defend, indemnify and hold [Smet] harmless.'"

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The Court explained that a party seeking a supervisory writ must establish four factors ... [and] went on to find that the circuit court could not stay a private arbitration"

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Insurer for one of the subcontractors sought to have the arbitration dismissed within the arbitration proceeding,

but also filed for a declaratory judgment in Brown County circuit court. "Society[, subcontractor's insurer,] sought a declaration 'on the scope of its insurance duties' to Smet and GB Builders[, subcontractor,] with respect to CityDeck's construction claims under arbitration. Society asked the circuit court to stay the arbitration until it could decide the insurance coverage issue. The circuit court granted Society's request and ordered the arbitration stayed on January 2, 2018." CityDeck appealed and sought a supervisory writ from the Wisconsin Supreme Court to overrule the circuit court.

Supreme Court went through a lengthy review of the history of supervisory writ and the factors the appellate court must consider. The Court noted that “[t]his historical analysis does not provide clear answers, but the court takes this opportunity to clarify and acknowledge the dual purpose of the term supervisory writ. It is both: (1) the general term used in petitioning the court of appeals to exercise its constitutional supervisory authority and in petitioning this court to exercise its constitutional superintending authority; and (2) a new writ this court devised independent of the traditional common law writs.”

The Court then explained that “[a] party seeking the issuance of a supervisory writ must establish four factors: (1) a circuit court had a plain duty and either acted or intends to act in violation of that duty; (2) ‘an appeal is an inadequate remedy;’ (3) ‘grave hardship or irreparable harm will result;’ and (4) the party requested relief ‘promptly and speedily.’” The Court went on to find that circuit court violated a duty by interfering in a private arbitration where it had no jurisdiction. The Court also found that appeal is an inadequate remedy “because any ‘appeal comes too late for effective redress’ and the damage——stopping the parties from resolving their dispute in arbitration——is not reparable or compensable.” The Court found that the other two factors were satisfied, and supervisory writ was appropriate. The case is *State ex rel. CityDeck Landing LLC v. Circuit Court for Brown County*, 2019 WI 15.

About Richard A. Kranitz

[Richard Kranitz](#) is an experienced attorney and business consultant in the areas of corporate, securities and tax planning for corporations, partnerships, joint ventures, limited liability companies, multi-unit enterprises, and a variety of different non-profit entities. In addition, he has counseled their owners and executives in compensation planning, estate plans, and asset protection.

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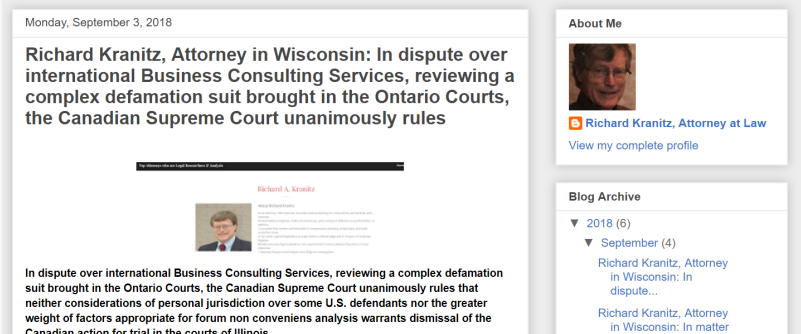
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