CHAPTER 806

CIVIL PROCEDURE — JUDGMENT

NOTE: Chapter 806 was created by Sup. Ct. Order, 67 Wis. 2d 585, 714 (1975), which contains explanatory notes. Statutes prior to the 1983−84 edition also contain these notes.

806.01 Judgment. (1) (a) A judgment is the determination of the action. It may be final or interlocutory.

(b) Each judgment shall specify the relief granted or other determination of the action, and the name and place of residence of each party to the action.

(c) Every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded the relief in the pleadings. If there be no answer the relief granted to the plaintiff shall not exceed that demanded in the complaint. If the amount of money sought was excluded from the demand for judgment, as required under s. 802.02 (1m), the court shall require the plaintiff to specify the amount of money claimed and provide that information to the court and to the other parties prior to the court rendering judgment.

(2) If a partial judgment is proper in an action with several parties, the court in its discretion, may render judgment against one or more of the defendants and dismiss or permit the action to proceed against the others. In case of a finding substantially disposing of a claim on its merits, but leaving an account to be taken or a condition to be performed in order fully to determine the rights of the parties, an interlocutory judgment may be rendered disposing of all issues covered by the finding and reserving final judgment.

History: Sup. Ct. Order, 67 Wis. 2d 585, 715 (1975); 1975 c. 218; 1985 a. 145; 1987 a. 256.

An order filed after verdict that gave the plaintiff the option of accepting a reduced judgment or a new trial limited to the issue of damages was not a "judgment" under this section. Collins v. Gee, 82 Wis. 2d 376, 263 N.W.2d 158 (1978).

Only the damages demanded may be awarded in a default judgment. Because the complaint did not contain a specific damage claim in accordance with s. 802.02 (1m), the plaintiff's failure to serve an affidavit setting forth the amount of its claimed damages was grounds for reversing a default judgment. Stein v. Illinois State Assistance Commission, 194 Wis. 2d 775, 535 N.W.2d 101 (Ct. App. 1995).

While a written judgment clear on its face is not open to construction, the trial court has the authority to construe an ambiguous judgment to effectuate the trial court's objective. A clarification is not a modification or amendment of the judgment. Because the judge who drafted the ambiguous language has a superior practical knowledge of its meaning, when the judge resolves an ambiguity based on his or her experience of the trial and uses a reasonable rationale, an appellate court is to affirm the clarification. Cashin v. Cashin, 2004 WI App 92, 273 Wis. 2d 754, 681 N.W.2d 255, 03−1010.

Use of a legal term of art is not necessary to incorporate documents. Documents may be incorporated in an order or other legal document without being physically attached to the document. Carney v. CNH Health & Welfare Plan, 2007 WI App 205, 305 Wis. 2d 443, 740 N.W.2d 625, 06−1529.

There need not be a specific injunction against the particular action to apply contempt sanctions to an order. An order or judgment that requires specific conduct, either to do, or to refrain from, specific actions, can be enforced by contempt. Neither s. 785.01 (1) nor case law requires that an order contain the specific term "enjoin" or "injunction" to allow the court to use contempt powers to enforce its orders, nor is the possibility of a separate civil action a bar to use of contempt to enforce a court order. Carney v. CNH Health & Welfare Plan, 2007 WI App 205, 305 Wis. 2d 443, 740 N.W.2d 625, 06−1529.

A party to a judgment is obligated to follow the court's judgment unless it is modified in a proceeding in the circuit court or on appeal. A judgment imposes a legal obligation, and violating it can subject an individual to contempt proceedings. This is true even if the judgment was entered in error, unless the court lacked jurisdiction to impose the judgment. Tensfeldt v. Haberman, 2009 WI 77, 319 Wis. 2d 329, 768 N.W.2d 641, 07−1638.

An otherwise valid judgment can be enforced against a legal entity when the judgment is entered against the name under which the legal entity does business. If the name under which a person or corporation does business is "simply another way to refer to" a single legal entity and constitutes no entity distinct from the person or corporation who does business, then a judgment against the "doing business as" name is enforceable against the legal entity from which it is indistinct. Paul Davis Restoration of S.E. Wisconsin, Inc. v. Paul Davis Restoration of Northeast Wisconsin, 2013 WI 49, 347 Wis. 2d 614, 831 N.W.2d 413, 11−1121.

The new Wisconsin rules of civil procedure: Chapters 805−807. Graczyk, 59 MLR 671.

806.02 Default judgment. (1) A default judgment may be rendered as provided in subs. (1) to (4) if no issue of law or fact has been joined and if the time for joining issue has expired. Any defendant appearing in an action shall be entitled to notice of motion for judgment.

(2) After filing the complaint and proof of service of the summons on one or more of the defendants and an affidavit that the defendant is in default for failure to join issue, the plaintiff may move for judgment according to the demand of the complaint. If the amount of money sought was excluded from the demand for judgment, as required under s. 802.02 (1m), the court shall require the plaintiff to specify the amount of money claimed and provide that information to the court and to the other parties prior to the court rendering judgment. If proof of any fact is necessary for the court to give judgment, the court shall receive the proof.

(3) If a defendant fails to appear in an action within the time fixed in s. 801.09 the court shall, before entering a judgment against such defendant, require proof of service of the summons in the manner required by s. 801.10 and, in addition, shall require further proof as follows:

(a) Where a personal claim is made against the defendant, the court shall require proof by affidavit or other evidence, to be made and filed, of the existence of any fact not shown by the complaint which is needed to establish grounds for personal jurisdiction over

the defendant. The court may require such additional proof as the interests of justice require.

(b) Where no personal claim is made against the defendant, the court shall require such proofs, by affidavit or otherwise, as are necessary to show the court's jurisdiction has been invoked over the status, property or thing which is the subject of the action. The court may require such additional proof as the interests of justice require.

(4) In an action on express contract for recovery of a liquidated amount of money only, the plaintiff may file with the clerk proof of personal service of the summons on one or more of the defendants and an affidavit that the defendant is in default for failure to join issue. The clerk shall render and enter judgment against the defendants who are in default for the amount demanded in the complaint. Leaving the summons at the abode of a defendant is not personal service within the meaning of this subsection.

(5) A default judgment may be rendered against any defendant who has appeared in the action but who fails to appear at trial. If proof of any fact is necessary for the court to render judgment, the court shall receive the proof.

History: Sup. Ct. Order, 67 Wis. 2d 585, 716 (1975); Sup. Ct. Order, 73 Wis. 2d xxxi (1976); Sup. Ct. Order, 82 Wis. 2d ix (1978); Sup. Ct. Order, 101 Wis. 2d xi (1981); Sup. Ct. Order, 109 Wis. 2d xiii (1982); 1987 a. 256.

Cross−reference: See s. 801.15 (4) for time required for notice under sub. (2).

Cross−reference: See s. 802.06 (1) for provision giving the state 45 days to respond to a complaint or counterclaim.

Judicial Council Committee's Note, 1976: A clerk of court is permitted under s. 806.06 (2) to render the judgment described in ss. 806.02 (4) and 806.03. [Re Order effective Jan. 1, 1977]

Judicial Council Committee's Note, 1977: Sub. (5) has been modified to allow a judge in a default judgment matter to receive rather than mandatorily hear the proof of any fact necessary for a court to render judgment. This change allows a judge the option of in−chamber consideration of affidavits presented by attorneys. Under the present language the time of the judge may be taken up in open court hearing proof presented by the attorney orally whereas proof submitted by the attorney in the form of affidavits may be just as competent and trustworthy. Under the new language, the judge still retains the option of hearing proof in open court of any fact necessary to render a default judgment. [Re Order effective July 1, 1978]

Judicial Council Note, 1981: Sub. (2) is amended to allow the court to receive proof of facts necessary for default judgment by affidavit rather than hearing. An analogous change was made in sub. (5) in 1977 for the same reasons. [Re Order effective July 1, 1981]

Judicial Council Note, 1982: Sub. (4) is amended by eliminating the requirement that the plaintiff file the complaint in order to receive a default judgment. The complaint will already have been filed with the court when the action was commenced, prior to service of the summons. Section 801.02 (1). [Re Order effective Jan. 1, 1983]

A default judgment entered under sub. (4) that is based on an erroneous determination that the claim was on an express contract for a liquidated sum of money was not necessarily void. Wisconsin Public Service Corporation v. Krist, 104 Wis. 2d 381, 311 N.W.2d 624 (1981).

The trial court properly granted default judgment against a party who failed to appear at the scheduling conference, but the damage amount was not supported by the record. Gaertner v. 880 Corp. 131 Wis. 2d 492, 389 N.W.2d 59 (Ct. App. 1986).

This section provides that the plaintiff may move for default judgment according to the demand of the complaint. Section 802.07 gives no indication that the appellations "plaintiff" and "defendant" may be reversed for purposes of a counterclaim. Pollack v. Calimag, 157 Wis. 2d 222, 458 N.W.2d 591 (Ct. App. 1990).

Only the damages demanded may be awarded in a default judgment. Because the complaint did not contain a specific damage claim in accordance with s. 802.02 (1m), the plaintiff's failure to serve an affidavit setting forth the amount of its claimed damages was grounds for reversing a default judgment. Stein v. Illinois State Assistance Commission, 194 Wis. 2d 775, 535 N.W.2d 101 (Ct. App. 1995).

A default judgment entered as a sanction is not governed by s. 806.02 and does not require a full evidentiary hearing if damages are contested. The proper form of hearing on damages is left to trial court discretion. Chevron Chemical Co. v. Deloitte & Touche LLP, 207 Wis. 2d 43, 557 N.W.2d 775 (1997), 94−2827.

A circuit court entering default judgment on a punitive damages claim must make inquiry beyond the complaint to determine the merits of the claim and the amount to be awarded. Apex Electronics Corp. v. Gee, 217 Wis. 2d 378, 577 N.W.2d 23 (1998), 97−0353.

If proof of damages is necessary, the trial court may hold a hearing, and the defendant has the right to participate and present evidence. Smith v. Golde, 224 Wis. 2d 518, 592 N.W.2d 287 (Ct. App. 1999), 97−3404.

An amended complaint that makes no reference to or incorporates any of the original complaint supersedes the original complaint when the amended complaint is filed in court. When such a complaint was filed prior to the time for answering on the original complaint had run, it was improper to enter a default judgment on the original complaint. Holman v. Family Health Plan, 227 Wis. 2d 478, 596 N.W.2d 358 (1999), 97−1490.

A party in default for failing to answer an original complaint cannot answer an amended complaint, thereby attempting to cure its default, unless the amended complaint relates to a new or additional claim for relief. Ness v. Digital Dial Communications, Inc. 227 Wis. 2d 592, 596 N.W.2d 365 (1999), 96−3436.

The decision to grant default judgment is within the sound discretion of the circuit court. The court properly denies a motion for default judgment if it determines that it would be compelled to reopen the judgment if the party opposing the motion would bring a motion to vacate under s. 806.07 (1). In addition, for the preemptive use of s. 806.07 (1) to apply, the court must find that the party opposing the default judgment must have a meritorious defense to the underlying action. Shirk v. Bowling, Inc. 2001 WI 36, 242 Wis. 2d 153, 624 N.W.2d 375, 98−3634.

That a party may be in default cannot confer a right to judgment upon a claim not recognized by law. The failure of an averment to state a valid claim for relief is fatal to a motion for default judgment. It follows that the failure to aver a claim for relief at all is fatal to a motion for default judgment. Tridle v. Horn, 2002 WI App 215, 257 Wis. 2d. 529, 652 N.W.2d 418, 01−3372.

Because an amended complaint that makes no reference to the original complaint and incorporates no part of the original complaint by reference supplants the original, any previous joining of issue resulting from answering the original complaint is nullified. To join issue, an answer to the amended complaint is required and absent an answer the action is subject to default judgment under sub. (1). Schuett v. Hanson, 2007 WI App 226, 305 Wis. 2d 729, 741 N.W.2d 292, 06−3014.

If a motion to enlarge time to serve is properly denied, a responsive pleading is not joined and effectively is stricken from the record. A motion for default judgment under sub. (2) is properly granted when the court effectively erases any responsive pleading either by granting a motion to strike or by denying a motion to enlarge time. Keene v. Sippel, 2007 WI App 261, 306 Wis. 2d 643, 743 N.W.2d 838, 06−2580.

The timely answer of the codefendant insureds denying the liability of all defendants did not preclude a judgment by default against the insurer on the issue of liability and damages upon the insurer's acknowledged default. Estate of Otto v. Physicians Insurance Company of Wisconsin, Inc. 2008 WI 78, 311 Wis. 2d 84, 751 N.W.2d 805, 06−1566.

It lies within the circuit court's discretion to determine the appropriate procedure for deciding factual issues in default judgment cases and that the defaulting party therefore has no right of trial by jury. The circuit court did not violate the defendant's right of trial by jury under Art. I, s. 5 when it denied the defendant's motion for a jury trial on the issue of damages. The defendant waived its right of trial by jury in the manner set forth in ss. 804.12 and 806.02 by violating the circuit court's discovery order and by incurring a judgment by default. Rao v. WMA Securities, Inc. 2008 WI 73, 310 Wis. 2d 623, 752 N.W.2d 220, 06−0813.

As a result of its failure to timely answer, for purposes of a default judgment motion, the defendant surety admitted the allegations necessary for it to be held liable, including the allegations of its principal's liability. Although the defendant argued its liability was solely derivative of the principal's liability, as a matter of law, the defendant's surety status did not save it from default judgment. Backus Electric, Inc. v. Petro Chemical Systems, Inc. 2013 WI App 35, 346 Wis. 2d 668, 829 N.W.2d 516, 11−3004.

Too Late? Interests of Justice Trump Default Judgments. Nelson. Wis. Law. Nov. 2012.

Cross−reference: See also notes to s. 806.07 for decisions relating to the vacation of default judgments.

806.025 Payment of judgment in cases involving prisoners.

(1) In this section, "prisoner" has the meaning given in s. 801.02 (7) (a) 2.

(2) If a court enters a judgment for a monetary award on behalf of a prisoner, the court shall do all of the following:

(a) Order that the award be used to satisfy any unpaid court order of restitution against the prisoner and any other civil judgment in favor of a victim of a crime committed by the prisoner. If the amount of the monetary award is insufficient to pay all these unpaid orders and judgments, the orders and judgments shall be paid based on the length of time they have existed, the oldest order being paid first.

(am) If money remains after the payment of all unpaid orders and judgments under par. (a), order reimbursement to the department of justice for an award made under subch. I of ch. 949 for which the department is subrogated under s. 949.15.

(at) If money remains after the payment of reimbursement under par. (am), order the payment of any child or family support owed by the prisoner.

(b) If money remains after the payment of child or family support under par. (at), order the payment of court costs or filing fees previously assessed against the prisoner by a state court that remain unpaid, with the oldest costs or fees being paid first.

(c) If money remains after the payment of all court costs or filing fees under par. (b), order the payment of any unpaid litigation loan, as defined in s. 301.328 (1).

(d) If any money remains after the payments under pars. (a) to (c), request that the department of corrections make a reasonable effort to notify any victims of the crime for which the prisoner was convicted and imprisoned, incarcerated or confined of the pending payment of a monetary award to the prisoner. The department

of corrections shall inform the court of whether any victims were notified. The court shall withhold any payment to the prisoner under par. (e) for a reasonable time after the department of corrections notifies the court that a victim was notified so that the victim may have time to petition the court regarding payments to that victim from the remaining money.

(e) Order that any money remaining after all payments are made under pars. (a) to (d) be paid to the prisoner.

History: 1997 a. 133; 2007 a. 20.

806.03 Judgment on admitted claim; order to satisfy.

In an action on an express contract for the recovery of a liquidated sum of money only, if the answer admits any part of the plaintiff's claim or if the answer sets up a counterclaim for an amount less than the plaintiff's claim and contains no other defense to the action, the clerk, on motion of the plaintiff, shall render and enter judgment for the amount so admitted or for the amount claimed in the complaint less the amount of the defendant's counterclaim. When the defendant admits part of the plaintiff's claim to be just, the court, on motion, may order the defendant to satisfy that part of the claim and may enforce the order as it enforces a judgment or provisional remedy.

History: Sup. Ct. Order, 67 Wis. 2d 585, 718 (1975); Sup. Ct. Order, 73 Wis. 2d xxxi (1976).

Judicial Council Committee's Note, 1976: A clerk of court is permitted under s. 806.06 (2) to render the judgment described in ss. 806.02 (4) and 806.03. [Re Order effective Jan. 1, 1977]

806.04 Uniform declaratory judgments act.

(1) SCOPE. Courts of record within their respective jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree, except that finality for purposes of filing an appeal as of right shall be determined in accordance with s. 808.03 (1).

(2) POWER TO CONSTRUE, ETC. Any person interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder. No party shall be denied the right to have declared the validity of any statute or municipal ordinance by virtue of the fact that the party holds a license or permit under such statutes or ordinances.

(3) BEFORE BREACH. A contract may be construed either before or after there has been a breach thereof.

(4) REPRESENTATIVES, ETC. Any person interested as or through a personal representative, trustee, guardian, or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust in the administration of a trust, or of the estate of a decedent, infant, individual adjudicated incompetent, or insolvent, may have a declaration of rights or legal relations in respect to the administration of the trust or estate for any of the following purposes:

(a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others; or

(b) To direct the personal representatives or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

(5) ENUMERATION NOT EXCLUSIVE. The enumeration in subs. (2), (3) and (4) does not limit or restrict the exercise of the general powers conferred in sub. (1) in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

(6) DISCRETIONARY. The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

(7) REVIEW. All orders, judgments and decrees under this section may be reviewed as other orders, judgments and decrees.

(8) SUPPLEMENTAL RELIEF. Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application be deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.

(9) JURY TRIAL. When a proceeding under this section involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.

(10) COSTS. In any proceeding under this section the court may make such award of costs as may seem equitable and just.

(11) PARTIES. When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration may prejudice the right of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, the municipality shall be made a party, and shall be entitled to be heard. If a statute, ordinance or franchise is alleged to be unconstitutional, the attorney general shall also be served with a copy of the proceeding and be entitled to be heard. In any proceeding under this section in which the constitutionality, construction or application of any provision of ch. 227, or of any statute allowing a legislative committee to suspend, or to delay or prevent the adoption of, a rule as defined in s. 227.01 (13) is placed in issue by the parties, the joint committee for review of administrative rules shall be served with a copy of the petition and, with the approval of the joint committee on legislative organization, shall be made a party and be entitled to be heard. In any proceeding under this section in which the constitutionality, construction or application of any provision of ch. 13, 20, 111, 227 or 230 or subch. I, III or IV of ch. 16 or s. 753.075, or of any statute allowing a legislative committee to suspend, or to delay or prevent the adoption of, a rule as defined in s. 227.01 (13) is placed in issue by the parties, the joint committee on legislative organization shall be served with a copy of the petition and the joint committee on legislative organization, the senate committee on organization or the assembly committee on organization may intervene as a party to the proceedings and be heard.

(12) CONSTRUCTION. This section is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations; and is to be liberally construed and administered.

(13) WORDS CONSTRUED. The word "person" wherever used in this section, shall be construed to mean any person, partnership, joint stock company, unincorporated association or society, or municipal or other corporation of any character whatsoever.

(14) PROVISIONS SEVERABLE. The several subsections and provisions of this section except subs. (1) and (2) are declared independent and severable, and the invalidity, if any, of any part or feature thereof shall not affect or render the remainder of the statute invalid or inoperative.

(15) UNIFORMITY OF INTERPRETATION. This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it, and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgments and decrees.

(16) SHORT TITLE. This section may be cited as the "Uniform Declaratory Judgments Act".

History: Sup. Ct. Order, 67 Wis. 2d 585, 718 (1975); 1975 c. 218; Sup. Ct. Order, 82 Wis. 2d ix (1978); 1977 c. 449; 1979 c. 38, 89, 175; 1979 c. 330 s. 13; 1979 c. 352, 355; 1981 c. 96 s. 67; 1981 c. 187 s. 10; 1981 c. 390 s. 252; 1983 a. 255 s. 6; 1985 a. 182 s. 57, Sup. Ct. Order, 166 Wis. 2d xix (1992); 2001 a. 102, 109; 2005 a. 177, 387.

Judicial Council Committee's Note, 1977: Sub. (3m), as created by ch. 263, laws of 1973, is added. Sub. (3m), which was created during the time the rules of civil procedure were in the process of being adopted, was inadvertently not included in new s. 806.04 along with the other provisions of former s. 269.56. The only intent of the Judicial Council during the preparation of the Rules of Civil Procedure in regard to old s. 269.56 was to renumber it to s. 806.04. [Re Order effective July 1, 1978]

Judicial Council Note, 1991: Sub. (1) is amended to clarify that a declaratory judgment is not appealable as of right unless it disposes of the entire matter in litigation as to one or more of the parties. [Re Order effective July 1, 1992]

A hospital's action for declaratory judgment to define a law enforcement officer's right to demand that doctors take blood samples for intoxication tests did not lie when the complaint did not cite a statute under which the doctors were threatened with prosecution or sufficient facts to determine the application of a particular statute. Waukesha Memorial Hospital v. Baird, 45 Wis. 2d 629, 173 N.W.2d 700 (1970).

In most cases a court may not know that a declaratory judgment would not terminate a controversy giving rise to the proceeding until it has heard the evidence, but a court need not go through trial to arrive at a foregone conclusion when it appears on the face of the complaint that a declaratory judgment will not terminate the controversy. (Language in *Miller v. Currie*, 208 Wis. 199 intimating otherwise, is modified.) American Medical Services Inc. v. Mutual Federal Savings & Loan, 52 Wis. 2d 198, 188 N.W.2d 529 (1971).

Sub. (5) qualifies the specific powers enumerated in subs. (1) to (4) and the discretionary power in sub. (6) applies to all cases. Even if a complaint states a cause of action for declaratory relief, it may be dismissed if a declaratory judgment would not terminate the controversy. American Medical Services Inc. v. Mutual Federal Savings & Loan, 52 Wis. 2d 198, 188 N.W.2d 529 (1971).

In an action for declaratory judgment, the complaint should not be dismissed when the judgment declares the rights on the complaint or the merits are decided. Dismissal is proper when for a valid reason the merits are not reached and the suit should not be entertained. Kenosha v. Unified School District No. 1, 55 Wis. 2d 642, 201 N.W.2d 66 (1972).

A declaratory judgement action was an appropriate vehicle for a putative father seeking a determination of his paternity. Slawek v. Stroh, 62 Wis. 2d 295, 215 N.W.2d 9 (1973).

A request for declaratory judgment to declare the proper procedure to be followed in an administrative proceeding could not be entertained because the purpose of the statute was to expedite justice and to avoid long and complicated litigation, not to interrupt legal proceedings presently in operation. State v. WERC, 65 Wis. 2d 624, 223 N.W.2d 543 (1974).

The service of a copy of the proceedings upon the attorney general under sub. (11) is not only mandatory but goes to the jurisdiction of the court to hear the action in the first instance. Bollhoffer v. Wolke, 66 Wis. 2d 141, 223 N.W.2d 902 (1974).

A declaratory judgment to effect dissolution of a corporation did not lie because: 1) the determination of the corporation's right to exist would affect members not before the court as parties; 2) sub. (11) required that all persons who "would be affected by the declaration" shall be made parties; and 3) a corporation may only be dissolved by voluntary act of its shareholders or involuntary proceedings initiated by the attorney general. Rudolph v. Indian Hills Estates, Inc. 68 Wis. 2d 768, 229 N.W.2d 671 (1975).

Hospitals are "direct objects" of s. 70.11 (4m) for purposes of standing to bring a declaratory judgment action seeking a tax exemption for medical equipment leased by the hospital from a commercial lessor. Madison General Hospital Association v. City of Madison, 71 Wis. 2d 259, 237 N.W.2d 750 (1976).

The use of the declaratory judgment act to attempt to fix the state's responsibility to respond to a monetary claim is not authorized. Lister v. Board of Regents, 72 Wis. 2d 282, 240 N.W.2d 610 (1976).

In a declaratory judgment action by taxpayers against a school board, legal conclusions in the complaint challenging the constitutionality of a taxing statute were permissible. Declaratory judgment actions are discussed. Tooley v. O'Connell, 77 Wis. 2d 422, 253 N.W.2d 335.

Service on the attorney general is a jurisdictional prerequisite under sub. (11) even when the constitutional issue is collateral to or a preliminary step in the determination of the rights sought to be declared. O'Connell v. Board of Education, Jt. District #10 of Mukwonago, 82 Wis. 2d 728, 264 N.W.2d 561 (1978).

Service under sub. (11) on the attorney general is timely if made in time to permit a defense against a claim of unconstitutionality. Town of Walworth v. Fontana−on−Geneva Lake, 85 Wis. 2d 432, 270 N.W.2d 442 (Ct. App. 1978).

If the constitutionality of a statute is challenged in an action other than a declaratory judgment action, the attorney general must be served, but the failure to do so at the trial court level was cured by service at the appellate level. In Matter of Estate of Fessler, 100 Wis. 2d 437, 302 N.W.2d 414 (1981).

The trial court did not abuse its discretion by declaring rights that would be created if a proposed release agreement were executed. Loy v. Bunderson, 107 Wis. 2d 400, 320 N.W.2d 175 (1982).

Attorney fees are not recoverable as "costs" under sub. (10). Kremers−Urban Co. v. American Employers Ins. 119 Wis. 2d 722, 351 N.W.2d 156 (1984).

Under sub. (11), the plaintiff must serve the joint committee for review of administrative rules within the time limits under s. 893.02. Richards v. Young, 150 Wis. 2d 549, 441 N.W.2d 742 (1989).

The declaratory judgments act is singularly suited to test the validity of legislative action prior to enforcement. Weber v. Town of Lincoln, 159 Wis. 2d 144, 463 N.W.2d 869 (Ct. App. 1990).

Declaratory judgment is appropriate if: 1) there is a controversy in which a claim is asserted against a party with an interest in contesting it; 2) the controversy is between adverse parties; 3) the party seeking relief has a legally protectible interest; and 4) the issue in controversy is ripe for determination. Miller Brands−Milwaukee v. Case, 162 Wis. 2d 684, 470 N.W.2d 290 (1991).

Supplemental relief under sub. (8) may include attorney fees incurred by an insured in establishing coverage under a policy. Elliott v. Donahue, 169 Wis. 2d 310, 485 N.W.2d 403 (1992).

If the issue of insurance coverage involves a party not a party to the underlying lawsuit, coverage may be determined by either a bifurcated trial or a separate declaratory judgment action. The plaintiff and any other party asserting a claim in the underlying suit must be named and consolidation with the underlying action may be required. Fire Insurance Exchange v. Basten, 202 Wis. 2d 74, 549 N.W.2d 690 (1996), 94−3377.

By definition, ripeness required in a declaratory judgment is different from ripeness required in other actions. A plaintiff seeking a declaratory judgment need not actually suffer an injury before seeking relief under sub. (2). Nonetheless, a matter is not ripe unless the facts are sufficiently developed to allow a conclusive adjudication. Milwaukee District Council 48 v. Milwaukee County, 2001 WI 65, 244 Wis. 2d 333, 627 N.W.2d 866, 98−1126.

To have standing to bring an action for declaratory judgment, a party must have a personal stake in the outcome and must be directly affected by the issues in controversy. A party's status as a taxpayer, property owner, or one who disagrees with municipal decisions does not confer standing. Lake Country Racquet & Athletic Club, Inc. v. Village of Hartland, 2002 WI App 301, 259 Wis. 2d 107, 655 N.W.2d 189.

Sub. (2) does not address the application of the exhaustion of administrative remedies doctrine. The doctrine may apply even though a party seeks relief that falls within sub. (2). Although administrative agencies do not have the power to declare statutes unconstitutional and the lack of authority has been a basis for not applying the exhaustion doctrine, if the agency has the authority to provide the relief requested without invalidating the rule, a constitutional basis for the claim does not in itself support an exception to the exhaustion rule. Metz v. Veterinary Examining Board, 2007 WI App 220, 305 Wis. 2d 788, 741 N.W.2d 244, 06−1611.

Sub. (11) does not require that when a declaratory judgment as to the validity of a statute or ordinance is sought, every person whose interests are affected by the statute or ordinance must be made a party to the action. If the statute were so construed, the remedy would be rendered impractical and indeed often worthless for determining the validity of legislative enactments, either state or local, since such enactments commonly affect the interests of large numbers of people. Helgeland v. Wisconsin Municipalities, 2008 WI 9, 307 Wis. 2d 1, 745 N.W.2d 1, 05−2540.

Ripeness, as it pertains to declaratory judgments, is a legal conclusion subject to de novo review. Olson v. Town of Cottage Grove, 2008 WI 51, 309 Wis. 2d 365, 749 N.W.2d 211, 05−2257.

Parties to written instruments may seek a declaration of the construction or validity of the instrument, and a contract may be construed either before or after a breach. Thus, the plaintiffs did not need to allege a breach of obligations regarding the construction of a driveway over an easement granted in a recorded instrument in order to seek a declaration of those obligations. Mnuk v. Harmony Homes, Inc. 2010 WI App 102, 329 Wis. 2d_182, 790 N.W.2d 514, 09−1178.

This section should be construed together with the statute on class actions, s. 803.08, and therefore it does not exclude the procedure of representative defense of the interests of a class from an action for declaratory relief. Ewer v. Lake Arrowhead Association, Inc. 2012 WI App 64, 342 Wis. 2d 194, 817 N.W.2d 465, 11−0113.

A matter is justiciable if the party seeking declaratory relief has a legal interest in the controversy, that is to say a legally protectable interest, which is often expressed in terms of standing. The plaintiffs' request for declaratory judgment interpreting a newly enacted statute was not justiciable when the plaintiffs failed to show how they possibly could be in violation of the statute. Planned Parenthood of Wisconsin, Inc. v. Van Hollen, 2016 WI App 19, 367 Wis. 2d 712, 877 N.W.2d 604, 14−2085.

Lake Country stands for the proposition that the successful invocation of taxpayer standing requires an allegation of either direct harm to the plaintiff's property or a risk of pecuniary loss or substantial injury. The alleged unlawful expenditure of public funds, if otherwise sufficient to survive a motion to dismiss, is sufficient to support taxpayer standing. Voters with Facts v. City of Eau Claire, 2017 WI App 35, 376 Wis. 2d 479, 899 N.W.2d 706, 15−1858.

There is no authority for the proposition that a governmental entity provided notice of a constitutional challenge to one of its statutes in the context of private litigation must intervene or suffer the consequences. While the attorney general may have a general duty to defend Wisconsin statutes against constitutional attack, this does not mandate intervention and justify the application of preclusion principles. Intervention is a strategic decision left to the better judgment of the attorney general. Flying J, Inc. v. Van Hollen, 597 F. Supp. 2d 848 (2009).

806.05 Declaratory judgments against obscene matter.

(1) GROUNDS FOR AND COMMENCEMENT OF ACTION. Whenever there is reasonable cause to believe that any book, magazine, or other written matter, or picture, sound recording or film, which is being sold, loaned, or distributed in any county, or is in the possession of any person who intends to sell, loan or distribute the same in any county, is obscene, the district attorney of such county, in the name of the state, as plaintiff, may file a complaint in the circuit court for such county directed against such matter by name. Upon the filing of such complaint, the court shall make a summary examination of such matter. If it is of the opinion that there is reasonable cause to believe that such matter is obscene, it shall issue an order, directed against said matter by name, to show cause why said matter should not be judicially determined to be obscene. This order shall be addressed to all persons interested in the publication, production, sale, loan, exhibition and distribution thereof, and shall be returnable within 30 days. The order shall be published as a class 2 notice, under ch. 985. A copy of such order

shall be sent by certified mail to the publisher, producer, and one or more distributors of said matter, to the persons holding the copyrights, and to the author, in case the names of any such persons appear on such matter or can with reasonable diligence be ascertained by said district attorney. Such publication shall commence and such notices shall be so mailed within 72 hours of the issuance of the order to show cause by the court.

(1m) INTERLOCUTORY ADJUDICATION. After the issuance of the order to show cause under sub. (1), the court shall, on motion of the district attorney, make an interlocutory finding and adjudication that said book, magazine or other written matter or picture, sound recording or film is obscene, which finding and adjudication shall be of the same effect as the final judgment provided in sub. (3) or (5), but only until such final judgment is made or until further order of the court.

(2) RIGHT TO DEFEND; JURY TRIAL. Any person interested in the publication, production, sale, loan, exhibition or distribution of such matter may appear and file an answer on or before the return day named in said notice. If in such answer the right to trial by jury is claimed on the issue of the obscenity of said matter, such issue shall be tried to a jury. If no right to such trial is thus claimed, it shall be deemed waived, unless the court shall, for cause shown, on motion of an answering party, otherwise order.

(3) DEFAULT. If no person appears and answers within the time allowed, the court may then, without notice, upon motion of the plaintiff, if the court finds that the matter is obscene, make an adjudication against the matter that the same is obscene.

(4) SPEEDY HEARING; RULES OF EVIDENCE. If an answer is filed, the case shall be set down for a speedy hearing, but an adjudication of default and order shall first be entered against all persons who have not appeared and answered in the manner provided in sub. (3). If any person answering so demands, the trial shall not be adjourned for a period of longer than 72 hours beyond the opening of court on the day following the filing of the answer. At such hearing, subject to chs. 901 to 911, the court shall receive the testimony of experts and evidence as to the literary, cultural or educational character of said matter and as to the manner and form of its production, publication, advertisement, distribution and exhibition. The dominant effect of the whole of such matter shall be determinative of whether said matter is obscene.

(5) FINDINGS AND JUDGMENT. If, after the hearing, the court or jury, unless its finding is contrary to law or to the great weight and clear preponderance of the evidence, determines that the matter is obscene, the court shall enter judgment that the matter is obscene. If it is determined that the matter is not obscene, the court shall enter judgment dismissing the complaint, and a total of not more than $100 in costs, in addition to taxable disbursements, may be awarded to the persons defending the matter, which shall be paid from the county treasury. Any judgment under this subsection may be appealed to the court of appeals under chs. 808 and 809 by any person adversely affected, and who is either interested in the publication, production, sale, loan, exhibition or distribution of the matter, or is the plaintiff district attorney.

(6) ADMISSIBILITY IN CRIMINAL PROSECUTIONS. In any trial for a violation of s. 944.21, the proceeding under this section and the final judgment of the circuit court under sub. (3) or (5) or the interlocutory adjudication under sub. (1m), shall be admissible in evidence on the issue of the obscenity of said matter and on the issue of the defendant's knowledge that said matter is obscene, provided, that if the judgment of the court sought to be introduced in evidence is one holding the matter to be obscene, it shall not be admitted unless the defendant in said criminal action was served with notice of the judgment of the court hereunder, and the criminal prosecution is based upon conduct by said defendant occurring more than 18 hours after such service or such appearance, whichever is earlier.

History: Sup. Ct. Order, 67 Wis. 2d 585, 721 (1975); 1975 c. 218; 1977 c. 187, 272.

The provision of sub. (1m) that permit an interlocutory judgment prior to an adversary adjudication and of sub. (6) that permits admission of the interlocutory judgment in evidence in a criminal trial are unconstitutional. State v. I, A Woman — Part II, 53 Wis. 2d 102, 191 N.W.2d 897 (1971).

The notice procedures under sub. (1) meet due process requirements. State v. Erotomic, 87 Wis. 2d 536, 275 N.W.2d 160 (Ct. App. 1979).

806.06 Rendition, perfection and entry of judgment.

(1) (a) A judgment is rendered by the court when it is signed by the judge or by the clerk at the judge's written direction.

(b) A judgment is entered when it is filed in the office of the clerk of court.

(c) A judgment is perfected by the taxation of costs and the insertion of the amount thereof in the judgment.

(d) A judgment is granted when given orally in open court on the record.

(2) The judge or the clerk upon the written order of the judge may sign the judgment. The judgment shall be entered by the clerk upon rendition.

(3) After an order or judgment is entered, either party may serve upon the other a written notice of entry containing the date of entry.

(4) A judgment may be rendered and entered at the instance of any party either before or after perfection. If the party in whose favor the judgment is rendered causes it to be entered, the party shall perfect the judgment within 30 days of entry or forfeit the right to recover costs. If the party against whom the judgment is rendered causes it to be entered, the party in whose favor the judgment is rendered shall perfect it within 30 days of service of notice of entry of judgment or forfeit the right to recover costs. If proceedings are stayed under s. 806.08, judgment may be perfected at any time within 30 days after the expiration of the stay. If the parties agree to settle all issues but fail to file a notice of dismissal, the judge may direct the clerk to draft an order dismissing the action. No execution shall issue until the judgment is perfected or until the expiration of the time for perfection, unless the party seeking execution shall file a written waiver of entitlement to costs.

(5) Notice of entry of judgment or order must be given within 21 days after the entry of judgment or order to constitute notice under s. 808.04 (1).

History: Sup. Ct. Order, 67 Wis. 2d 585, 724 (1975); 1975 c. 218; Sup. Ct. Order, 83 Wis. 2d xiii (1978); Sup. Ct. Order, 92 Wis. 2d xiii (1979); Sup. Ct. Order, 104 Wis. 2d xi (1981).

Judicial Council Committee's Note, 1979: Sub. (5) is amended by adding a reference to the entry of an order so as to conform with s. 808.04 (1), which establishes appeal time periods from the entry of a judgment "or" order. [Re Order effective Jan. 1, 1980]

Judicial Council Committee's Note, 1981: Subs. (3) and (5) are amended to clarify what constitutes a sufficient notice of entry to reduce the appeal time. The notice of entry must be a written document, other than the judgment or order, containing the date of entry and served after the entry of the judgment or order. The notice must accurately and completely inform the opposing party as to the date of entry. [Re Order effective Jan. 1, 1982]

Notice of entry of judgment was "given" within meaning of sub. (5) when it was mailed. Section 801.15 (5) was inapplicable. Bruns v. Muniz, 97 Wis. 2d 742, 295 N.W.2d 11 (Ct. App. 1980).

The last document in litigation should indicate on its face that for purposes of appeal it is a final order or judgment and that no subsequent document is contemplated. Radoff v. Red Owl Stores, Inc. 109 Wis. 2d 490, 326 N.W.2d 240 (1982).

Under s. 808.04 (1), notice of entry of judgment must be given within 21 days of the entry of judgment, not of signing, consistent with s. 806.06 (5). Linnmar, Inc. v. First Enterprises, 161 Wis. 2d 706, 468 N.W.2d 741 (Ct. App. 1991).

Sub. (4) governs the timeliness of an application for attorney fees in a federal civil rights action. Hartman v. Winnebago County, 216 Wis. 2d 419, 574 N.W.2d 222 (1998), 96−0596.

No statute authorizes a clerk of court's office to correct a clerical error in the sentence portion of a judgment of conviction. The circuit court, and not the clerk's office, must determine the merits of a request for a change in the sentence portion of a written judgment because of an alleged clerical error. State v. Prihoda, 2000 WI 123, 239 Wis. 2d 244, 618 N.W.2d 857, 98−2263.

An action to enforce a contractual agreement to pay attorney fees in the event of a suit between the parties to the contract was subject to the time limit under sub. (4). Purdy v. Cap Gemini America, Inc. 2001 WI App 270, 248 Wis. 2d 804, 637 N.W.2d 763, 00−3544.

Sub. (4) governs time limits when a judgment has been rendered. An order for consolidation is not a judgment and cannot trigger the time limits under sub. (4). Forman v. McPherson, 2004 WI App 145, 275 Wis. 2d 604, 685 N.W.2d 603, 03−2505.

The prevailing party's claim for an award of attorney fees due under a contract does not affect the finality of a judgment or order that disposes of the entire matter in litigation as to one or more of the parties. There is no distinction between a claim for attorney fees based on a contract as opposed to one based on a statute. When the recovery of attorney fees is authorized by a statute or a contract, the attorney fees are litigation

"disbursements and fees allowed by law" as set forth in s. 814.04 (2). McConley v. T. C. Visions, Inc. 2016 WI App 74, 371 Wis. 2d 658, 885 N.W.2d 816, 16−0671.

How to Collect on a Judgment After the Demise of the Creditor's Lien. Stelljes. Wis. Law. July/Aug. 2016.

806.07 Relief from judgment or order. (1) On motion and upon such terms as are just, the court, subject to subs. (2) and (3), may relieve a party or legal representative from a judgment, order or stipulation for the following reasons:

(a) Mistake, inadvertence, surprise, or excusable neglect;

(b) Newly−discovered evidence which entitles a party to a new trial under s. 805.15 (3);

(c) Fraud, misrepresentation, or other misconduct of an adverse party;

(d) The judgment is void;

(e) The judgment has been satisfied, released or discharged;

(f) A prior judgment upon which the judgment is based has been reversed or otherwise vacated;

(g) It is no longer equitable that the judgment should have prospective application; or

(h) Any other reasons justifying relief from the operation of the judgment.

(2) The motion shall be made within a reasonable time, and, if based on sub. (1) (a) or (c), not more than one year after the judgment was entered or the order or stipulation was made. A motion based on sub. (1) (b) shall be made within the time provided in s. 805.16. A motion under this section does not affect the finality of a judgment or suspend its operation. This section does not limit the power of a court to entertain an independent action to relieve a party from judgment, order, or proceeding, or to set aside a judgment for fraud on the court.

(3) A motion under this section may not be made by an adoptive parent to relieve the adoptive parent from a judgment or order under s. 48.91 (3) granting adoption of a child. A petition for termination of parental rights under s. 48.42 and an appeal to the court of appeals shall be the exclusive remedies for an adoptive parent who wishes to end his or her parental relationship with his or her adoptive child.

History: Sup. Ct. Order, 67 Wis. 2d 585, 726 (1975); 1975 c. 218; 1997 a. 114.

There was no abuse of discretion in finding no excusable mistake when the movant had answered a complaint by business letter, was an experienced business person, was well−educated, and had undergone a nearly identical experience in a former case. Hansher v. Kaishian, 79 Wis. 2d 374, 255 N.W.2d 564 (1977).

A lawyer's failure to answer a complaint due to misplacing a client's papers while moving an office did not relieve the client from the resulting default judgment. Dugenske v. Dugenske, 80 Wis. 2d 64, 257 N.W.2d 865 (1977).

The trial court abused its discretion in refusing to consider whether the defendant, in sending a letter to plaintiff's counsel purporting to be an answer, had committed an excusable mistake. Maier Construction, Inc. v. Ryan, 81 Wis. 2d 463, 260 N.W.2d 700 (1977).

Section 805.17 (3) does not limit a trial court's discretionary power to grant relief under sub. (1) (h) when reasons justifying relief are apparent to the court. In Matter of Estate of Smith, 82 Wis. 2d 667, 264 N.W.2d 239 (1978).

A motion filed over 6 months after the entry of judgment was not filed within a "reasonable time" under sub. (2). Rhodes v. Terry, 91 Wis. 2d 165, 280 N.W.2d 248 (1979).

A postjudgment order of the circuit court denying a motion during the pendency of an appeal is not reviewable on an appeal from the judgment. Chicago & North Western Railroad v. LIRC, 91 Wis. 2d 462, 283 N.W.2d 603 (Ct. App. 1979).

Sub. (1) (h) is to be liberally construed to allow relief from judgments whenever appropriate to accomplish justice. Conrad v. Conrad, 92 Wis. 2d 407, 284 N.W.2d 674 (1979).

Neglect by both a lawyer and client was not "excusable." Charolais Breeding Ranches v. Wiegel, 92 Wis. 2d 498, 285 N.W.2d 720 (1979).

The trial court did not abuse its discretion in setting aside a judicial sale when the buyer based its bid on incorrect figures in the judgment of foreclosure. Family Savings and Loan Association v. Barkwood Landscaping Co., Inc. 93 Wis. 2d 190, 286 N.W.2d 581 (1980).

Relief from a judgment entered in a ch. 227 review may not be granted under this section. Charter Manufacturing Co. v. Milwaukee River Restoration Council, 102 Wis. 2d 521, 307 N.W.2d 322 (Ct. App. 1981).

A judgment entered based on an erroneous determination by the court of its own powers is not necessarily void. Wisconsin Public Service Corporation v. Krist, 104 Wis. 2d 381, 311 N.W.2d 624 (1981).

New testing methods to establish paternity cannot be used to affect the finality of a long−decided paternity determination. State ex rel. R. A. S. v. J. M. 114 Wis. 2d 305, 338 N.W.2d 851 (Ct. App. 1983).

Sub. (1) (h) allows relief even if the claim sounds in par. (a), (b), or (c) if extraordinary circumstances justify relief. State ex rel. M.L.B. v. D.G.H. 122 Wis. 2d 536, 363 N.W.2d 419 (1985).

The "reasonable time" requirement of sub. (2) does not apply to void judgments. Neyland v. Vorwald, 124 Wis. 2d 85, 368 N.W.2d 648 (1985).

An order granting a motion under sub. (1) (a) is not appealable as of right. Wellens v. Kahl Ins. Agency, Inc. 145 Wis. 2d 66, 426 N.W.2d 41 (Ct. App. 1988).

An order vacating a judgment arises in the context of an underlying action and is not appealable as of right because additional proceedings will follow. Wellens v. Kahl Insurance Agency, Inc. 145 Wis. 2d 66, 426 N.W.2d 41 (Ct. App. 1988).

A court may not use sub. (1) (h) purely as a vehicle to extend the time period for appeal. Eau Claire County v. Employers Insurance of Wausau, 146 Wis. 2d 101, 430 N.W.2d 579 (Ct. App. 1988).

A finding that there are grounds to reopen a divorce judgment under sub. (1) does not require reopening it. The trial court may exercise discretion in determining whether there are factors militating against reopening the judgment. Johnson v. Johnson, 157 Wis. 2d 490, 460 N.W.2d 166 (Ct. App. 1990).

A change in the judicial view of an established rule of law is not an extraordinary circumstance justifying relief under sub. (1) (h). Schwochert v. American Family Ins. Co. 166 Wis. 2d 97, 479 N.W.2d 190 (Ct. App. 1991). See also Schwochert v. American Family Insurance Co. 172 Wis. 2d 628, 494 N.W.2d 201 (1992).

A property division may be modified under s. 806.07, however the supremacy clause prevents a property division to be modified after a debt thereunder is discharged in bankruptcy. Spankowski v. Spankowski, 172 Wis. 2d 285, 493 N.W.2d 737 (Ct. App. 1992).

Sub. (1) (g) applies only to equitable actions. Nelson v. Taff, 175 Wis. 2d 178, 499 N.W.2d 685 (Ct. App. 1993).

A "reasonable time" to bring a motion under sub. (1) (h) can only be determined after a thorough review of all relevant factors. Cynthia M.S. v. Michael F.C. 181 Wis. 2d 618, 511 N.W.2d 868 (Ct. App. 1994).

A bank that failed to file an answer due to mislaying papers was not held to the same standard for excusable neglect as an attorney or insurance company. Baird Contracting, Inc. v. Mid Wisconsin Bank, 189 Wis. 2d 321, 525 N.W.2d 271 (Ct. App. 1994).

In determining whether to overturn a default judgment, the court must consider that the statute regarding vacation is remedial and should be liberally construed and that giving people their day in court is favored while default judgment is not. Prompt response to the default is also considered. Baird Contracting, Inc. v. Mid Wisconsin Bank, 189 Wis. 2d 321, 525 N.W.2d 271 (Ct. App. 1994).

A successor judge in a circuit court has the authority to modify or reverse rulings of a predecessor judge if the predecessor judge was empowered to make the modification or reversal. Dietrich v. Elliot, 190 Wis. 2d 816, 528 N.W.2d 17 (Ct. App. 1995).

Case law is not a "prior judgment" under sub. (1) (f). Relief from a judgment will not be granted because the law relied on in adjudicating a case has been overruled in unrelated proceedings. Schauer v. DeNeveu Homeowners Ass'n, 194 Wis. 2d 62, 533 N.W.2d 470 (1995).

The one−year time limit in sub. (2) cannot be tolled or extended under any circumstances for purposes of relief under sub. (1) (a). Miro Tool & Manufacturing, Inc. v. Midland Machinery, 205 Wis. 2d 650, 556 N.W.2d 437 (Ct. App. 1996), 95−3266.

An independent action for equitable relief from judgments or final orders procured by fraud is not prevented by this section. As sub. (2) does not prescribe a time limit for bringing an independent action, only laches applies. Walker v. Tobin, 209 Wis. 2d 72, 561 N.W.2d 810 (Ct. App. 1997), 96−0827.

When the record demonstrates the circuit court's intention to send notice of an order, but it failed to do so and acknowledged the mistake, the court could effectively extend the time to appeal by vacating and reinstating the order. Edland v. Wisconsin Physicians Service Insurance Corp. 210 Wis. 2d 638, 563 N.W.2d 519 (1997), 96−1883.

To obtain relief under sub. (2) from a judgment obtained as the result of fraud on a court, the complaining party must have responded without inexcusable neglect, which includes unexplained delay in responding to the original action. Dekker v. Wergin, 214 Wis. 2d 17, 570 N.W.2d 861 (Ct. App. 1997), 96−3258.

To vacate a default judgment under sub. (1) (a), the moving party must set forth a meritorious defense, which is a defense good at law that would survive a motion for judgment on the pleadings. J.L. Phillips & Associates v. E&H Plastic Corp. 217 Wis. 2d 348, 577 N.W.2d 13 (1998), 96−3151.

It was error to define inadvertence under sub. (1) (a) so that virtually any failure on the part of an attorney to predict and appreciate the potential collateral legal consequences of his her own proposed settlement language would have been at least in part from inadvertence. Milwaukee Women's Medical Service, Inc. v. Scheidler, 228 Wis. 2d 514, 598 N.W.2d 588 (Ct. App. 1999), 98−1139.

A circuit court properly denies a motion for default judgment if it determines that it would be compelled to reopen the judgment if the party opposing the motion would bring a motion to vacate under s. 806.07 (1). In addition, for the preemptive use of s. 806.07 (1) to apply, the court must find that the party opposing the default judgment must have a meritorious defense to the underlying action. Shirk v. Bowling, Inc. 2001 WI 36, 242 Wis. 2d 153, 624 N.W.2d 375, 98−3634.

The existence of a postsentencing contradictory psychiatric report, based on old information, does not constitute a new factor for purposes of sentence modification. A contradictory report merely confirms that mental health professionals will sometimes disagree on matters of diagnosis. State v. Williams, 2001 WI App 155, 246 Wis. 2d 722, 631 N.W.2d 623, 00−2365.

Orders and judgments subject to this section encompass all the findings of fact and conclusions of law the court makes in arriving at the order or judgment. Estate of Persha, 2002 WI App 113, 255 Wis. 2d 767, 649 N.W.2d 661, 01−1132.

A court may act on its own motion under this section. When it does so, the parties must have notice and the opportunity to be heard. Gittel v. Abram, 2002 WI App 113, 255 Wis. 2d 767, 649 N.W.2d 661, 01−1132. See also Larry v. Harris, 2008 WI 81, 311 Wis. 2d 326, 752 N.W.2d 279, 05−2935.

A circuit court may properly invoke this section to open the property division provisions of a divorce judgment incorporating a confirmed arbitrated award. Franke v. Franke, 2004 WI 8, 268 Wis. 2d 360, 674 N.W.2d 832, 01−3316.

The competing interests of finality and fairness coalesce when considering sub. (1) (h) and principles of res judicata. Res judicata and collateral estoppel are founded on principles of fundamental fairness and should not deprive a party of the opportunity to have a full and fair determination of an issue. When the record demonstrated that an adjudicated father never had an opportunity for a full and fair determination of the

question of paternity, res judicata should not have barred relief. Shanee Y. v. Ronnie J. 2004 WI App 58, 271 Wis. 2d 242, 677 N.W.2d 684, 03−1228.

Lack of competency is not jurisdictional and does not result in a void judgment. Accordingly, it is not true that a motion for relief from judgment on grounds of lack of circuit court competency may be made at any time. If a judgment is entered by a circuit court lacking competency and a competency challenge has been waived, sub. (1) (h) may provide an avenue for relief in an extraordinary case. Village of Trempealeau v. Mikrut, 2004 WI 79, 273 Wis. 2d 76, 681 N.W.2d 190, 03−0534.

In determining whether the party seeking relief from a default judgment has proven excusable neglect, the court should consider whether the moving party has acted promptly to remedy the default judgment, whether the default judgment imposes excessive damages, and whether vacatur of the judgment is necessary to prevent a miscarriage of justice. The court must also consider that the law favors the finality of judgments, and the reluctance to excuse neglect when too easy a standard for the vacatur of default judgments would reduce deterrence to litigation−delay. Mohns, Inc. v. TCF National Bank, 2006 WI App 65, 292 Wis. 2d 243, 714 N.W.2d 245, 05−0705.

The burden of proof is on the party seeking to set aside or vacate a default judgment when the question of proper service is involved. The evidence necessary to set aside the judgment is evidence sufficient to allow a reviewing court to determine that the circuit court's findings of fact were contrary to the great weight and clear preponderance of the credible evidence. Richards v. First Union Securities, Inc. 2006 WI 55, 290 Wis. 2d 620, 714 N.W.2d 913, 04−1877.

The discretionary authority afforded the circuit courts by sub. (1) (h) to vacate final judgments is to be used sparingly. The court should consider several factors, including whether: 1) the judgment was the result of the conscientious, deliberate, well−informed choice of the claimant; 2) the claimant received the effective assistance of counsel; 3) relief is sought from a judgment to which there has been no judicial consideration of the merits and the interest of deciding the particular case on the merits outweighs the finality of judgments; 4) there is a meritorious defense to the claim; and 5) there are intervening circumstances making it inequitable to grant relief. Allstate Insurance v. Brunswick Corporation, 2007 WI App 221, 305 Wis. 2d 400, 740 N.W.2d 888, 06−1705.

The vigor with which the supreme court denounces a previous decision is not a crucial consideration and itself does not demonstrate unique and extraordinary circumstances under sub. (1) (h). While a circuit court should consider factors bearing upon the equities of the case, the mind set of the supreme court is not such a factor. Allstate Insurance v. Brunswick Corporation, 2007 WI App 221, 305 Wis. 2d 400, 740 N.W.2d 888, 06−1705.

Sub. (1) (h) does not require a finding of excusable neglect. A circuit court is to consider the 5 interest of justice factors in determining whether extraordinary circumstances are present under sub. (1) (h) such that relief from a judgment, including a default judgment, is appropriate. Miller v. The Hanover Insurance Co. 2010 WI 75, 326 Wis. 2d 640, 785 N.W.2d 493, 08−1494.

A circuit court may not award a new trial to a convicted criminal defendant in the interest of justice under sub. (1) (g) or (h). Sections 974.02 and 974.06 were written to provide the primary statutory means of postconviction, appeal, and post−appeal relief for convicted criminal defendants. State v. Henley, 2010 WI 97, 328 Wis. 2d 544, 787 N.W.2d 350, 08−0697.

When the circuit court's clear and acknowledged mistake deprives a party of its right to appeal, this section may provide a basis for vacating and reentering the order or judgment. Werner v. Hendree, 2011 WI 10, 331 Wis. 2d 511, 795 N.W.2d 423, 08−2045.

Sub. (1) can be used to reopen judgments confirming arbitration awards. Under s. 788.14 (3), a judgment confirming an arbitration award shall "have the same force and effect, in all respects, as, and be subject to all the provisions of law relating to, a judgment in an action." Sands v. Menard, Inc. 2013 WI App 47, 347 Wis. 2d 446, 831 N.W.2d 805, 12−0286.

The fact that a party later regretted her stipulated bargain because her appellate attorney thought of arguments neither she nor her trial attorney considered before the stipulation was signed is not a "mistake." If anything, it is hindsight. But hindsight does not make a stipulation invalid under sub. (1). Ronald J. R. v. Alexis L. A., 2013 WI App 79, 348 Wis. 2d 552, 834 N.W.2d 437, 12−1300.

Too Late? Interests of Justice Trump Default Judgments. Nelson. Wis. Law. Nov. 2012.

806.08 Stay of proceedings to enforce a judgment. **(1)** Unless otherwise ordered by the court, an interlocutory or final judgment in an action for an injunction or in a receivership action shall not be stayed during the period after its entry and until an appeal is taken or during the pendency of an appeal. Subsection (3) governs the suspending, modifying, restoring, or granting of an injunction during the pendency of an appeal.

(2) In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial, or to alter or amend a judgment, or of a motion for relief from a judgment or order.

(3) When an appeal is taken from an interlocutory or final judgment or appealable order granting, dissolving or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party.

(4) When an appeal is taken, the appellant may obtain a stay in accordance with s. 808.07.

(5) This section does not limit any power of an appellate court or of a judge or justice thereof to stay proceedings during the pendency of an appeal or to suspend, modify, restore, or grant an injunction during the pendency of an appeal or to make any order appropriate to preserve the existing state of affairs or the effectiveness of the judgment subsequently to be entered.

(6) When a court has rendered a final judgment under the conditions stated in s. 806.01 (2), the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered.

History: Sup. Ct. Order, 67 Wis. 2d 585, 726 (1975); Sup. Ct. Order, 67 Wis. 2d vii (1975); 1977 c. 187 s. 135; 1979 c. 110 s. 60 (9).

806.09 Restitution in case of reversed judgment; purchaser for value. **(1)** If any judgment or part of a judgment is collected and such judgment is afterwards set aside or reversed, the trial court shall order the same to be restored with interest from the time of the collection, but in case a new trial is ordered the party who has collected the judgment may retain the same pending the new trial, upon giving a bond in such sum and with such sureties as the court shall order, conditioned for the restoration of the amount collected with interest from the time of collection. The order of restitution may be obtained upon proof of the facts upon notice and motion and may be enforced as a judgment. Nothing herein shall affect or impair the right or title of a purchaser for value in good faith without notice.

(2) Whenever in a civil action on appeal to the court of appeals or the supreme court the appellant fails to stay execution and pending the appeal the sheriff or other officer collects all or any part of the judgment appealed from, the officer collecting the judgment shall deposit the amount collected, less the officer's fees, with the clerk of the court out of which execution issued. In case of reversal on the appeal, restitution may be made in accordance with sub. (1). In case of affirmance the clerk shall pay over the deposit to the judgment creditor on the filing of the remittitur from the court of appeals or the supreme court.

History: Sup. Ct. Order, 67 Wis. 2d 585, 728 (1975); 1975 c. 218; 1977 c. 187.

806.10 Judgment and lien docket. **(1)** At the time of entry of a judgment directing in whole or in part the payment of money, or a judgment naming a spouse under s. 806.15 (4), and upon payment of the exact amount of the fee prescribed in s. 814.61 (5) (b), the clerk of circuit court shall enter the judgment in the judgment and lien docket, arranged alphabetically, including all of the following:

(a) The full name and place of residence of each judgment debtor and of the spouse or former spouse of the judgment debtor if the spouse is named in a judgment described under s. 806.15 (4). If the judgment or judgment and lien docket fails to give the place of residence of the judgment debtor or the judgment debtor's spouse or former spouse, the validity of the judgment is not affected thereby, but the judgment creditor may at any time file with the clerk of circuit court an affidavit stating, on knowledge or information and belief, the information. The clerk of circuit court shall thereupon enter the facts according to the affidavit in the judgment and lien docket, noting the date and time of the entry.

(b) The name of the judgment creditor, in like manner.

(c) The name of the attorney for the judgment creditor, if stated in the record.

(d) The date of the entry of the judgment.

(e) The day and time of entry.

(f) The amount of the debt, damages or other sum of money recovered, with the costs.

(1m) If a judgment is against several persons, the clerk of circuit court shall enter the judgment, in accordance with the procedure under sub. (1) in the judgment and lien docket under the name of each person against whom the judgment was rendered.

(2) Whenever any judgment entered in the judgment and lien docket is reversed and the remittitur filed, the clerk of circuit court shall enter "reversed on appeal" on the judgment and lien docket.

(3) Every clerk of circuit court who enters a judgment or decree and enters upon the judgment and lien docket a date or time other than that of its actual entry or neglects to enter the same at the proper time shall be liable to the party injured.

History: Sup. Ct. Order, 67 Wis. 2d 585, 729 (1975); 1975 c. 218; 1983 a. 303; 1987 a. 151, 393; 1991 a. 134; 1995 a. 224; 1997 a. 27.

Neglect to docket a judgment at the proper time under sub. (3) means to neglect to enter judgment immediately upon the entry of the judgment. An action against a clerk of court for incorrectly docketing a judgment under sub. (3) is subject to the 6−year statute of limitations under s. 893.93 (1) (a). South Milwaukee Savings Bank v. Barrett, 2000 WI 48, 234 Wis. 2d 733, 611 N.W.2d 448, 97−3759.

Sub. (1) does not impose a ministerial duty on a clerk of circuit court to include the address of a judgment debtor on the judgment docket when the judgment does not include that information. Commercial Mortgage & Finance Co. v. Clerk of the Circuit Court, Walworth County, 2004 WI App 203, 276 Wis. 2d 846, 689 N.W.2d 74, 03−3338.

The clerk of court did not violate sub. (1) by failing to docket a foreclosure judgment. The ensuing deficiency judgment, not the foreclosure judgment, constitutes the only judgment eligible for docketing under sub. (1). Commercial Mortgage & Finance Co. v. Clerk of the Circuit Court, Walworth County, 2004 WI App 203, 276 Wis. 2d 846, 689 N.W.2d 74, 03−3338.

806.11 Delinquent income or franchise tax lien. (1) At the time of filing the warrant provided by s. 71.74 (14), 71.91 (5), or 71.93 (8) (b) 5., the clerk of circuit court shall enter the warrant in the judgment and lien docket, including:

(a) The name of each delinquent income or franchise tax debtor, with place of residence if it is stated in the warrant.

(b) The date of the warrant.

(c) The day and time of entry.

(d) The amount of delinquent income or franchise taxes with interest, penalties and costs as set forth in the warrant.

(2) If a warrant provided by s. 71.74 (14), 71.91 (5), or 71.93 (8) (b) 5. is against several persons, the warrant shall be entered, in accordance with the procedure under sub. (1), in the judgment and lien docket under the name of each person against whom the warrant was issued.

History: Sup. Ct. Order, 67 Wis. 2d 585, 730 (1975); 1975 c. 218; 1985 a. 145; 1987 a. 312 s. 17; 1991 a. 39; 1995 a. 224; 2009 a. 28.

806.115 Filing of duplicate copy of warrant. The department of revenue may file in any county a duplicate copy of a warrant filed under s. 71.74 (14), 71.91 (5), or 71.93 (8) (b) 5. and the clerk of circuit court shall enter the duplicate copy on the judgment and lien docket as provided in s. 806.11. When so entered, the duplicate copy shall have the same legal effect as the warrant filed under s. 71.91 (5).

History: 1975 c. 224; 1987 a. 312 s. 17; 1987 a. 403 s. 256; 1995 a. 224; 2009 a. 28.

806.12 Transcript of municipal judge's judgment. (1) The clerk of circuit court shall, upon the production of a duly certified transcript of a judgment for more than $10, exclusive of costs, rendered by any municipal judge in the county, enter the judgment in the judgment and lien docket of the court in the manner prescribed in s. 806.10. When the transcript shows that execution was stayed in the municipal court, with the name of the surety thereof, the clerk of circuit court shall enter the judgment against the surety as well as the judgment debtor, and the surety shall be bound thereby as a judgment debtor and the surety's property shall be subject to lien and be liable on the lien to the same extent as the surety's principal.

(2) Every judgment entered in the judgment and lien docket under sub. (1), from the time of the filing of the transcript of the judgment, shall be considered the judgment of the circuit court. The judgment shall be equally under the control of the circuit court and municipal court. The judgment shall be carried into execution, both as to the principal judgment debtor and the debtor's surety, if any, in the same manner and with like effect as judgments of the circuit court, except that no action can be brought upon the judgment as a judgment of the circuit court nor execution issued on that judgment after the expiration of the period of the lien of the judgment on real estate provided by s. 806.15.

History: Sup. Ct. Order, 67 Wis. 2d 585, 731 (1975); 1975 c. 218; 1977 c. 305 s. 64; 1995 a. 224.

806.13 Judgments entered in other counties. When a judgment is entered as provided in ss. 806.10, 806.12 and 806.24, or a warrant is entered as provided in s. 108.22 (2) (a), it may be entered in any other county, upon filing with the clerk of circuit court of that county a transcript from the original judgment and lien docket, certified to be a true copy by the clerk of the original circuit court.

History: Sup. Ct. Order, 67 Wis. 2d 585, 731 (1975); 1975 c. 224; 1987 a. 38 s. 136; 1995 a. 224.

806.14 Enforcement of real estate judgment in other counties. If a judgment affecting real property is rendered in any county other than that in which the property is situated, the clerk of circuit court of the county where the property is situated shall, upon production of a duly certified copy of the judgment and payment of the fee specified by s. 814.61 (5) (b), file and enter the judgment in the judgment and lien docket. The judgment may be enforced in the circuit court for either county.

History: Sup. Ct. Order, 67 Wis. 2d 585, 732 (1975); Sup. Ct. Order, 109 Wis. 2d xiii (1982); 1995 a. 224.

Judicial Council Note, 1982: This section is amended by deleting provision for a trial court to order the transfer of all papers, entries, orders and minutes in an action affecting real property to the clerk of circuit court for the county in which the property is situated. The revised statute retains provision for the docketing of a certified copy of the judgment by the clerk of circuit court for the county where the property is situated, giving that court concurrent jurisdiction to enforce the judgment. [Re Order effective Jan. 1, 1983]

806.15 Lien of judgment; priority; statute may be suspended. (1) Every judgment properly entered in the judgment and lien docket showing the judgment debtor's place of residence shall, for 10 years from the date of entry, be a lien on all real property of every person against whom the judgment is entered which is in the county where the judgment is rendered, except homestead property that is exempt from execution under s. 815.20, and which the person has at the time of the entry or which the person acquires thereafter within the 10−year period.

(2) (a) When the collection of the judgment or the sale of the real estate upon which the judgment is a lien shall be delayed by law, and the judgment creditor shall have caused to be entered on the judgment and lien docket "enforcement suspended by injunction" or otherwise, as the case may be, and that entry is dated, the time period of the delay after the date of the entry shall not be considered part of the 10−year period under sub. (1).

(b) Whenever an appeal from any judgment shall be pending and the bond or deposit requisite to stay execution has been given or made, the trial court may, on motion, after notice to the judgment creditor, on such terms as the trial court shall see fit, direct the clerk of circuit court to enter on the judgment and lien docket that the judgment is "secured on appeal" and the judgment shall cease, during the pendency of the appeal, to be a lien.

(3) If the judgment is affirmed on appeal or the appeal is dismissed the clerk of circuit court shall, on the filing of the remittitur, enter on the judgment and lien docket "lien restored by affirmance" or "lien restored by dismissal of appeal" with the date of the entry, and the lien shall be restored. Similar entries may be made with like effect upon the judgment and lien docket of the judgment in any other county upon filing with the clerk of circuit court a transcript from the original judgment and lien docket.

(4) A lien under this section does not attach to property that is held, as defined in s. 766.01 (9), by a person who is the spouse or former spouse of a judgment debtor and that is not held by the judgment debtor, unless the spouse of the judgment debtor is a named defendant in the action for which judgment is rendered, the spouse of the judgment debtor is named in the judgment itself, the obligation is determined an obligation described in s. 766.55 (2) and any of the following applies:

(a) With respect to property held by the spouse of the judgment debtor when the judgment is entered in the judgment and lien docket, the property is expressly determined available under s. 766.55 to satisfy the obligation.

(b) The property is acquired after the judgment is entered in the judgment and lien docket.

(5) If a judgment lien has attached under sub. (4) (b) to property that is exempt under s. 815.205 (1) from execution on the judgment lien and execution has not been issued in connection with the enforcement of the judgment lien, a person with an ownership interest in the property may proceed under s. 806.04 for declaratory relief if, within 10 days after demand, the owner of the judgment fails to execute a recordable release of the property from the judgment lien.

History: 1973 c. 211; Sup. Ct. Order, 67 Wis. 2d 585, 732 (1975); 1975 c. 200; 1985 a. 37, 135, 137, 145, 332; 1987 a. 393; 1991 a. 301; 1995 a. 224.

NOTE: 1991 Wis. Act 301 contains legislative council notes.

A judgment creditor who obtains a lien on land by docketing a judgment is not a purchaser for value, and the fact that a judgment creditor may be without notice of a prior equitable interest when the judgment is docketed is not sufficient to give the lien priority over that of a prior equitable mortgagee. The failure of notice does not inure to the benefit of a subsequent judgment creditor as he or she does not part with any value in reliance on the misleading state of the debtor's title. IFC Collateral Corp. v. Commercial Units, Inc. 51 Wis. 2d 41, 186 N.W.2d 214 (1971).

By entering a judgment in the judgment and lien docket, a judgment creditor obtains a 10−year statutory lien on real property of the debtor located in the county in which the judgment was docketed, but does not create a statutory lien on the debtor's personal property. Instead, a judgment creditor obtains an unsecured, inchoate interest with regard to the debtor's personal property, tangible and intangible, against which to levy. Execution, garnishment, and turnover orders applying property in satisfaction of a judgment are all methods of levying the judgment debtor's personal property. Associated Bank N.A. v. Collier, 2014 WI 62, 355 Wis. 2d 343, 852 N.W.2d 443, 11−2597.

In bankruptcy proceedings, the lien of a judgment obtained before discharge was not extinguished by discharge and could be applied to the proceeds of the bankruptcy sale of the real estate to which the lien attached. Wisconsin statutes do not provide that the lien is automatically extinguished by the discharge in bankruptcy; rather, they require an application by the discharged bankrupt to the court in which the judgment was entered, and the entry by that court of an order of satisfaction. In re Tillman Produce Co., Inc. 396 F. Supp. 500 (1975).

Creditor's rights; after−acquired property. Norman, 56 MLR 137.

Bankruptcy and the Wisconsin judgment lien. Doran. WBB March 1984.

Judgment lien claimants' rights against homestead exemption interests: An equitable distribution of mortgage foreclosure sale proceeds. 1981 WLR 697.

806.16 Appellate court judgment, entry. The clerk of the supreme court, on demand and upon payment of $1, shall furnish a certified transcript of any money judgment of the court of appeals or the supreme court, which transcript may be filed and entered in the judgment and lien docket in the office of any clerk of circuit court in the manner that other judgments are entered and shall then be a lien for the same time as circuit court judgments on the real property in the county where entered. If the court of appeals or supreme court remits its judgment for the recovery of money or for costs to the lower court, the judgment shall be entered by the clerk of the lower court and shall have the like force and effect as judgments of the circuit court that are entered.

History: Sup. Ct. Order, 67 Wis. 2d 585, 734 (1975); 1977 c. 187; 1995 a. 224.

806.17 Entering federal judgments. Every judgment and decree requiring the payment of money rendered in a district court of the United States within this state shall be a lien upon the real property of the judgment debtor situated in the county in which it is entered, the same as a judgment of the state court. A transcript of the judgment may be filed with the clerk of circuit court of any other county and shall be entered in the office of the clerk of circuit court as in the case of judgments and decrees of the state courts and with like effect, on payment of fees as provided in s. 814.61 (5).

History: Sup. Ct. Order, 67 Wis. 2d 585, 734 (1975); 1975 c. 218; 1981 c. 317 s. 2202; 1995 a. 224.

806.18 Assignment of judgment. (1) When a duly acknowledged assignment of a judgment is filed, the clerk of circuit court shall enter the assignment on the judgment and lien docket.

(2) An assignment may be made by an entry on the judgment and lien docket thus: "I assign this judgment to A.B.", signed by the owner, with the date affixed and witnessed by the clerk of circuit court.

History: Sup. Ct. Order, 67 Wis. 2d 585, 734 (1975); 1975 c. 218; 1995 a. 224.

806.19 Satisfaction of judgments. (1) (a) A judgment may be satisfied in whole or in part or as to any judgment debtor by an instrument signed and acknowledged by the owner or, if no assignment has been filed, by the owner's attorney of record, or by an acknowledgment of satisfaction, signed and entered on the judgment and lien docket in the county where first entered, with the date of entry, and witnessed by the clerk of circuit court. Every satisfaction of a part of a judgment or as to some of the judgment debtors shall state the amount paid on the judgment or for the release of the debtors, naming them.

(b) No satisfaction by an attorney shall be conclusive upon the judgment creditor in respect to any person who has notice of revocation of the authority of such attorney, before any payment made thereon or before any purchase of property bound by such judgment has been effected.

(c) On filing a duly executed satisfaction, the clerk of circuit court shall enter the satisfaction on the court record of the case and shall enter a statement of the substance of the satisfaction, including the amount paid, on the judgment and lien docket with the date of filing the satisfaction.

(2) When an execution is returned satisfied in whole or in part the judgment is considered satisfied to the extent of the amount so returned unless the return is vacated. The clerk of circuit court shall enter in the judgment and lien docket that the amount stated in the return has been collected.

(3) For the purpose of paying any money judgment, the debtor may deposit with the clerk of circuit court in which the judgment was entered the amount of liability on the judgment. The clerk of circuit court shall give the debtor a certificate showing the date and amount of the deposit and identifying the judgment. The clerk of circuit court shall immediately note on the judgment and lien docket the amount and date of the deposit. The debtor shall immediately give written notice to the owner of record of the judgment and to the owner's attorney of record, personally, or by registered mail, to the last−known post−office address, stating the amount, date and purpose of the deposit, and that it is held subject to the order of the judgment owner. Ten days after giving the notice, the clerk of circuit court shall, upon filing proof of service, satisfy the judgment of record, unless the trial court otherwise orders. Acceptance by the owner of the sum deposited has the same legal consequences that payment direct by the debtor would have. Payment to the clerk shall include the fee prescribed in s. 814.61 (5).

(4) (a) Any person who has secured a discharge of a judgment debt in bankruptcy and any person interested in real property to which the judgment attaches may submit an application for an order of satisfaction of the judgment and an attached order of satisfaction to the clerk of the court in which the judgment was entered.

(b) The application and attached order shall be in substantially the following form:

APPLICATION FOR ORDER OF SATISFACTION OF JUDGMENTS DUE TO DISCHARGE IN BANKRUPTCY

TO: Clerk of Circuit Court

....County

1. .... (Name of judgment debtor) has received an order of discharge of debts under the bankruptcy laws of the United States, a copy of which is attached, and .... (Name of judgment debtor or person interested in real property) applies for satisfaction of the following judgments:

.... (List of judgments by case name, case number, date and, if applicable, judgment and lien docket volume and page number.)

2. a. Copies of the schedules of debts as filed with the bankruptcy court showing each judgment creditor for each of the judgments described above are attached; or

b. Each judgment creditor for each of the judgments described above has been duly notified of the bankruptcy case in the following manner: ....(statement of form of notice).

3. The undersigned believes that each judgment listed above has been discharged in bankruptcy, and no inconsistent ruling has been made by, or is being requested by any party from, the bankruptcy court.

Dated this .... day of ...., ... (year)

.... (Signature)
Judgment Debtor,
Person Interested
in Real Property
or Attorney for
Debtor or Person

ORDER OF SATISFACTION

The clerk of circuit court is directed to indicate on the judgment and lien docket that each judgment described in the attached application has been satisfied.

Dated this .... day of ...., ... (year)

.... (Signature)
Circuit Judge

(bm) The copy of the order of discharge that is attached to the application shall be either a certified copy or a photocopy of the order in the form in which it was served on parties in interest by the bankruptcy court.

(c) Any person submitting an application and attached proposed order shall serve a copy of the completed application and attached proposed order on each judgment creditor for each of the judgments described in the application within 5 business days after the date of submission.

(d) Upon receipt of a completed application, the clerk shall submit the attached proposed order for signature by a judge after which the clerk shall satisfy of record each judgment described in the application. Upon satisfaction, a judgment shall cease to be a lien on any real property that the person discharged in bankruptcy owns or later acquires.

History: 1973 c. 211; Sup. Ct. Order, 67 Wis. 2d 585, 735 (1975); 1975 c. 218; 1981 c. 317; 1985 a. 137; 1987 a. 202; 1995 a. 224, 393; 1997 a. 250.

Nothing in sub. (4) requires that the order of satisfaction cover all debts discharged in bankruptcy. EPF Corp. v. Pfost, 210 Wis. 2d 79, 563 N.W.2d 905 (Ct. App. 1997), 96−0006.

When a proper application is received by the clerk and submitted to the judge for signature, the only thing required for satisfaction of a judgment debt and cessation of an associated judgment lien under sub. (4) is that the underlying judgment has been discharged in bankruptcy. Failure to avoid the judgment lien in bankruptcy does not affect the operation of sub. (4). Sub. (4) is not in conflict with, and therefore not preempted by, federal bankruptcy law. Megal Development Corporation v. Shadof, 2005 WI 151, 286 Wis. 2d 105, 705 N.W.2d 645, 04−1594.

In bankruptcy proceedings the lien of a judgment obtained before discharge was not extinguished by discharge and could be applied to the proceeds of the bankruptcy sale of the real estate to which the lien attached. Wisconsin statutes do not provide that the lien is automatically extinguished by the discharge in bankruptcy; rather, they require an application by the discharged bankrupt to the court in which the judgment was entered, and the entry by that court of an order of satisfaction. In re Tillman Produce Co., Inc. 396 F. Supp. 500 (1975).

806.20 Court may direct satisfaction; refusal to satisfy. (1) When a judgment has been fully paid but not satisfied or the satisfaction has been lost, the trial court may authorize the attorney of the judgment creditor to satisfy the judgment or may by order declare the judgment satisfied and direct satisfaction to be entered upon the judgment and lien docket.

(2) If any owner of any judgment, after full payment thereof, fails for 7 days after request and tender of reasonable charges therefor, to satisfy the judgment, the owner shall be liable to the party paying the same, the party's heirs or representatives in the sum of $50 damages and also for actual damages occasioned by such failure.

History: Sup. Ct. Order, 67 Wis. 2d 585, 737 (1975); 1975 c. 218; 1995 a. 224.

806.21 Judgment satisfied not a lien; partial satisfaction. If a judgment is satisfied in whole or in part or as to any judgment debtor and the satisfaction is entered in the judgment and lien docket, the judgment shall, to the extent of the satisfaction, cease to be a lien. Any execution issued after the satisfaction is entered in the judgment and lien docket shall contain a direction to collect only the residue of the judgment, or to collect only from the judgment debtors remaining liable.

History: Sup. Ct. Order, 67 Wis. 2d 585, 737 (1975); 1995 a. 224.

806.22 Filing copy of satisfaction. If a satisfaction of a judgment has been entered on the judgment and lien docket in the county where it was first entered, a certified copy of the satisfaction or a certificate by the clerk of circuit court, under official seal, showing the satisfaction, may be filed with the clerk of circuit court of any county where the judgment has been entered, and that clerk of circuit court shall make a similar entry on the judgment and lien docket of that county.

History: Sup. Ct. Order, 67 Wis. 2d 585, 738 (1975); 1975 c. 218; 1995 a. 224.

806.23 Action on judgment, when brought. No action shall be brought upon a judgment rendered in any court of this state between the same parties, without leave of the court, for good cause shown, on notice to the adverse party.

History: Sup. Ct. Order, 67 Wis. 2d 585, 738 (1975).

The trial court's denial of a petition to sue on a 12−year−old judgment was an abuse of discretion. Anderson v. Kojo, 110 Wis. 2d 22, 327 N.W.2d 195 (Ct. App. 1982).

Nothing in this section, or case law interpreting it, prevents a party who has been unable to enforce a judgment for specific performance by a court−imposed deadline from moving the court for a new order with a new deadline. Chase Lumber and Fuel Company, Inc. v. Chase, 228 Wis. 2d 179, 596 N.W.2d 840 (Ct. App. 1999), 98−0532.

806.24 Uniform enforcement of foreign judgments act. (1) DEFINITION. In this section "foreign judgment" means any judgment, decree or order of a court of the United States or of any other court which is entitled to full faith and credit in this state.

(2) FILING AND STATUS OF FOREIGN JUDGMENTS. A copy of any foreign judgment authenticated in accordance with the act of congress or the statutes of this state may be filed in the office of the clerk of circuit court of any county of this state. The clerk shall treat any foreign judgment in the same manner as a judgment of the circuit court of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating or staying as a judgment of a circuit court of this state and may be enforced or satisfied in like manner.

(3) NOTICE OF FILING. (a) At the time of the filing of the foreign judgment, the judgment creditor or lawyer shall make and file with the clerk of court an affidavit setting forth the name and last−known post−office address of the judgment debtor and the judgment creditor.

(b) Promptly upon the filing of the foreign judgment and affidavit, the clerk of circuit court shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing on the court record. The notice shall include the name and post−office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk of circuit court. Lack of mailing notice of filing by the clerk of circuit court shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

(c) No execution or other process for enforcement of a foreign judgment filed hereunder shall issue until 15 days after the date the judgment is filed.

(4) STAY. (a) If the judgment debtor shows the court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

(b) If the judgment debtor shows the court any ground upon which enforcement of a judgment of any court of this state would

be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this state.

(5) OPTIONAL PROCEDURE. The right of a judgment creditor to bring an action to enforce the judgment instead of proceeding under this section remains unimpaired.

(6) UNIFORMITY OF INTERPRETATION. This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(7) SHORT TITLE. This act may be cited as the "Uniform Enforcement of Foreign Judgments Act".

History: Sup. Ct. Order, 67 Wis. 2d 585, 738 (1975); 1975 c. 218; 1995 a. 224.

Cross−reference: See s. 618.61 for provision for reciprocal enforcement of foreign insurance decrees or orders.

The established constitutional principles that: 1) without proper service of process, no full faith and credit need be accorded a foreign judgment; 2) want of jurisdiction is a matter of legitimate inquiry when enforcement of such a judgment is sought; and 3) mere recital of jurisdiction or jurisdictional facts is not sufficient to bar such inquiry, apply to both actions in rem and quasi in rem as well as to personal judgments. Hansen v. McAndrews, 49 Wis. 2d 625, 183 N.W.2d 1 (1971).

The rate of interest provided by a foreign judgment docketed in Wisconsin controls rather than the s. 815.05 (8) rate. Prof. Office Buildings, Inc. v. Royal Indemnity Co. 145 Wis. 2d 573, 427 N.W.2d 427 (Ct. App. 1988).

806.245 Indian tribal documents: full faith and credit.

(1) The judicial records, orders and judgments of an Indian tribal court in Wisconsin and acts of an Indian tribal legislative body shall have the same full faith and credit in the courts of this state as do the acts, records, orders and judgments of any other governmental entity, if all of the following conditions are met:

(a) The tribe which creates the tribal court and tribal legislative body is organized under 25 USC 461 to 479.

(b) The tribal documents are authenticated under sub. (2).

(c) The tribal court is a court of record.

(d) The tribal court judgment offered in evidence is a valid judgment.

(e) The tribal court certifies that it grants full faith and credit to the judicial records, orders and judgments of the courts of this state and to the acts of other governmental entities in this state.

(1m) The public acts, records, and judicial proceedings of any Indian tribe that are applicable to an Indian child custody proceeding, as defined in s. 48.028 (2) (d), or an Indian juvenile child custody proceeding, as defined in s. 938.028 (2) (b), shall be given full faith and credit by the state as provided in s. 48.028 (3) (f) or 938.028 (3) (f).

(2) To qualify for admission as evidence in the courts of this state:

(a) Copies of acts of a tribal legislative body shall be authenticated by the certificate of the tribal chairperson and tribal secretary.

(b) Copies of records, orders and judgments of a tribal court shall be authenticated by the attestation of the clerk of the court. The seal, if any, of the court shall be affixed to the attestation.

(3) In determining whether a tribal court is a court of record, the circuit court shall determine that:

(a) The court keeps a permanent record of its proceedings.

(b) Either a transcript or an electronic recording of the proceeding at issue in the tribal court is available.

(c) Final judgments of the court are reviewable by a superior court.

(d) The court has authority to enforce its own orders through contempt proceedings.

(4) In determining whether a tribal court judgment is a valid judgment, the circuit court on its own motion, or on the motion of a party, may examine the tribal court record to assure that:

(a) The tribal court had jurisdiction of the subject matter and over the person named in the judgment.

(b) The judgment is final under the laws of the rendering court.

(c) The judgment is on the merits.

(d) The judgment was procured without fraud, duress or coercion.

(e) The judgment was procured in compliance with procedures required by the rendering court.

(f) The proceedings of the tribal court comply with the Indian civil rights act of 1968 under 25 USC 1301 to 1341.

(5) No lien or attachment based on a tribal court judgment may be filed, entered in the judgment and lien docket or recorded in this state against the real or personal property of any person unless the judgment has been given full faith and credit by a circuit court under this section.

(6) A foreign protection order, as defined in s. 813.128 (1g) (c), issued by an Indian tribal court in this state shall be accorded full faith and credit under s. 813.128.

History: 1981 c. 369; 1991 a. 43; 1995 a. 224, 306; 2009 a. 94; 2015 a. 352.

The prior action rule, which provides that when one court assumes jurisdiction, it is reversible error for another court to do so, does not apply to the court of an independent sovereign. In this case principles of comity required state and tribal courts to confer and allocate jurisdiction among themselves. Teague v. Bad River Band of Chippewa Indians, 2000 WI 79, 236 Wis. 2d 384, 612 N.W.2d 709, 98−3150; and 2003 WI 118, 265 Wis. 2d 64, 665 N.W.2d 899, 01−1256.

Full faith and credit does not require automatically admitting to the state bar any attorney who was admitted to a tribal court in Wisconsin. Bar Admission of Helgemo, 2002 WI 57, 253 Wis. 2d 82, 646 N.W.2d 912, 01−2611.

806.25 No judgment without action.

Any authorization in a note executed after June 18, 1972, for the creditor, or other person acting on the creditor's behalf, to confess judgment for the debtor shall be void and unenforceable.

History: 1973 c. 261; Sup. Ct. Order, 67 Wis. 2d 585, 740 (1975); 1975 c. 218.

806.30 Definitions.

In ss. 806.30 to 806.44:

(1) "Action" means a judicial proceeding or arbitration in which a money payment may be awarded or enforced with respect to a foreign−money claim.

(1m) "Bank−offered spot rate" means the rate of exchange at which a bank will issue its draft in a foreign money or will cause credit to become available in a foreign money on a next−day basis.

(2) "Conversion date" means the banking day before the date that money is used, under ss. 806.30 to 806.44, for one of the following:

(a) To pay a judgment creditor.

(b) To pay the designated official enforcing a judgment on behalf of the judgment creditor.

(c) To effect a recoupment or setoff of claims in different moneys in an action.

(3) "Distribution proceeding" means a judicial or nonjudicial proceeding for an accounting, an assignment for the benefit of creditors, a foreclosure, a liquidation or rehabilitation of a corporation or other entity or a distribution of an estate, trust or other fund in which or against which a foreign−money claim is asserted.

(4) "Foreign money" means money other than money authorized or adopted by the United States of America.

(5) "Foreign−money claim" means a claim upon an obligation to pay or a claim for recovery of a loss, expressed in or measured by a foreign money.

(6) "Money" means a medium of exchange for the payment of obligations or a store of value authorized or adopted by a government or by intergovernmental agreement.

(8) "Party" means an individual, corporation, government or governmental subdivision or agency, business trust, partnership, or association of 2 or more persons having a joint or common interest, or any other legal or commercial entity asserting or defending against a foreign−money claim.

(9) "Rate of exchange" means the rate at which the money of one country may be converted into money of another country in a free financial market convenient to or reasonably usable by the party obliged to pay or to state a rate of conversion. If separate rates of exchange apply to different kinds of transactions or events, the term means the rate applicable to the particular transaction or event giving rise to the foreign−money claim.

(10) "Spot rate" means the rate of exchange at which foreign money is sold by a bank or other dealer in foreign exchange for settlement by immediate payment, by charge to an account, or by an agreed delayed settlement not exceeding 2 days.

(11) "State" means a state, territory or possession of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico or the United States Virgin Islands.

History: 1991 a. 236.

806.31 Scope. (1) Sections 806.30 to 806.44 apply only to a foreign−money claim in an action or distribution proceeding.

(2) Sections 806.30 to 806.44 apply to foreign−money issues notwithstanding the law applicable under the conflict of laws rules of this state to other issues in the action or distribution proceeding.

History: 1991 a. 236.

806.32 Variation by agreement. (1) The parties may agree to vary from the effects of ss. 806.30 to 806.44 at any time before or after the commencement of an action or distribution proceeding, or the entry of judgment.

(2) The parties may agree upon the money to be used in a transaction giving rise to a foreign−money claim and may use different moneys for different aspects of the transaction. Stating the price in a foreign money for a particular transaction does not require, of itself, the use of that money for other aspects of the transaction.

History: 1991 a. 236.

806.33 Determining the money of the claim. (1) Except as provided in sub. (2), the proper money of the claim is one of the following:

(a) The money regularly used between the parties as a matter of usage or course of dealing.

(b) The money used at the time of a transaction in international trade, by trade usage, or common practice, for valuing or settling transactions in the particular commodity or service involved.

(c) The money in which the loss was ultimately felt or will be incurred by a party.

(2) The money in which the parties have contracted that a payment be made is the proper money of the claim for that payment.

History: 1991 a. 236.

806.34 Determining the amount of the money of certain contract claims. (1) If an amount contracted to be paid in a foreign money is measured by a specified amount of a different money, the amount to be paid is determined on the conversion date.

(2) If an amount contracted to be paid in a foreign money is to be measured by a different money at the rate of exchange prevailing on a date before default, that rate of exchange applies only for payments made a reasonable time after default, not to exceed 30 days. Thereafter, the bank−offered spot rate of exchange on the conversion date applies.

(3) A monetary claim is neither usurious nor unconscionable because the agreement on which it is based provides that the amount of the debtor's obligation to be paid in the debtor's money must, when received by the creditor, equal a specified amount of the foreign money of the country of the creditor. If, because of unexcused delay in payment of a judgment or award, the amount received by the creditor does not equal the amount of the foreign money specified in the agreement, the court or arbitrator shall amend the judgment or award to provide the creditor with the amount of the foreign money specified in the agreement.

History: 1991 a. 236.

806.35 Asserting and defending a foreign−money claim. (1) A claimant may assert a claim in a specified foreign money. If a foreign money is not asserted, the claimant makes a claim for a judgment in U.S. dollars.

(2) An opposing party may allege and prove that the claim is, in whole or in part, for a different money than that asserted by the claimant.

(3) Any party may assert a defense, setoff, recoupment or counterclaim in any money without regard to the money of other claims.

(4) The determination of the proper money of the claim is a question of law.

History: 1991 a. 236.

806.36 Judgments and awards on foreign−money claims; times of money conversion; form of judgment. (1) Except as provided in sub. (3), a judgment or arbitration award on a foreign−money claim must be stated in an amount of the money of the claim.

(2) The judgment or award on a foreign−money claim is payable in that foreign money or, at the option of the debtor, in the amount of U.S. dollars that will purchase that foreign money on the conversion date at a bank−offered spot rate.

(3) Assessed costs must be entered in U.S. dollars.

(4) Each payment in U.S. dollars must be accepted and credited on the judgment or award in the amount of the foreign money that could be purchased by U.S. dollars at a bank−offered spot rate of exchange at or near the close of business on the conversion date of that payment.

(5) Judgments or awards made in an action on both a defense, setoff, recoupment or counterclaim and on the adverse party's claim must be netted by converting the money of the smaller into the money of the larger and subtracting the smaller from the larger, and must specify the rate of exchange used.

(6) A judgment substantially in the following form complies with sub. (1):

IT IS ADJUDGED AND ORDERED, that defendant .... (insert name) pay to plaintiff .... (insert name) the sum of .... (insert amount in the foreign money) plus interest on that sum at the rate of ....% (insert rate − see Section 806.38 of the Wisconsin Statutes) per year or, at the option of the judgment debtor, the number of U.S. dollars that will purchase the .... (insert name of foreign money) with interest due, at a bank−offered spot rate at or near the close of business on the banking day before the day of payment, together with assessed costs of $.... (insert amount) U.S. dollars.

(7) If a contract claim is of the type covered by s. 806.34 (1) or (2), the judgment or award for the amount of the money stated to measure the obligation to be paid shall be entered in the money specified for payment or, at the option of the debtor, in the number of U.S. dollars that will purchase the computed amount of the money of payment on the conversion date at a bank−offered spot rate.

(8) A judgment shall be filed with the clerk of circuit court and entered in the judgment and lien docket in foreign money in the same manner and shall have the same effect as other judgments.

History: 1991 a. 236; 1995 a. 224; 2017 a. 365 s. 111.

806.37 Conversions of foreign money in a distribution proceeding. The rate of exchange prevailing at or near the closing of business on the day the distribution proceeding is initiated shall govern all exchanges of foreign money in the proceeding. A foreign−money claimant in a distribution proceeding must assert its claim in the named foreign money and show the amount of U.S. dollars resulting from a conversion as of the date the proceeding was initiated.

History: 1991 a. 236.

806.38 Prejudgment and judgment interest. (1) With respect to a foreign−money claim, recovery of prejudgment interest and the rate of interest to be applied in the action or distribution proceeding are matters of the substantive law governing the right to recovery under the conflict of laws rules of this state.

(2) Notwithstanding sub. (1), an increase or decrease in the amount of prejudgment interest otherwise payable may be made

in a foreign−money judgment to the extent required by s. 802.05, 805.03 or 807.01.

(3) A judgment on a foreign−money claim bears interest at the same rate applicable to other judgments of this state.

History: 1991 a. 236.

806.39 Enforcement of foreign judgments. (1) Subject to subs. (2) and (3), if an action is brought to enforce a judgment of another jurisdiction expressed in a foreign money and the judgment is recognized in this state as enforceable, the enforcing judgment must be entered as provided in s. 806.36 whether or not the foreign judgment confers an option to pay in an equivalent amount of U.S. dollars. A satisfaction or partial payment made upon the foreign judgment must be credited against the amount of foreign money specified in the judgment, notwithstanding the entry of judgment in this state.

(2) Notwithstanding sub. (1), a foreign judgment may be filed and entered in the judgment and lien docket under s. 806.24.

(3) A judgment entered on a foreign−money claim only in U.S. dollars in another state must be enforced in this state in U.S. dollars only.

History: 1991 a. 236; 1995 a. 224.

806.40 Temporarily determining the U.S. dollar value of foreign−money claims for limited purposes. (1) For the limited purpose of facilitating the enforcement of provisional remedies in an action, the value in U.S. dollars of assets to be seized or restrained pursuant to a writ of attachment, garnishment, execution or other legal process, the amount of U.S. dollars at issue for assessing costs, or the amount of U.S. dollars involved for a surety bond or other court−required undertaking shall be ascertained as provided in subs. (2) and (3).

(2) The party seeking the process, costs, bond or other undertaking must compute the U.S. dollar amount of the foreign money claimed from a bank−offered spot rate of exchange prevailing at or near the close of business on the banking day preceding the day of the filing of a request or application for the issuance of process or for the determination of costs, or the filing of an application for a bond or other court−required undertaking.

(3) The party seeking the process, costs, bond or other undertaking shall file with each request or application an affidavit or certificate executed in good faith by its counsel or a bank officer, stating the market quotation used, how obtained, and setting forth the calculation. Affected court officials incur no liability, after a filing of the affidavit or certificate, for acting as if the judgment was in the amount of U.S. dollars stated in the affidavit or certificate.

(4) Computations under this section are for the limited purposes of the section and do not affect computation of the U.S. dollar equivalent of the money of the judgment for payment purposes.

History: 1991 a. 236.

806.41 Effect of currency revalorizations. (1) If, after an obligation is expressed or a loss is incurred in a foreign money, the country issuing or adopting that money substitutes a new money in place of that money, the obligation or the loss is treated as if expressed or incurred in the new money at the rate of conversion the issuing country establishes for the payment of like obligations or losses denominated in the former money.

(2) If substitution under sub. (1) occurs after a judgment or award is entered on a foreign−money claim, the court or arbitrator shall amend the judgment or award by the rate of conversion of the former money.

History: 1991 a. 236.

806.42 Supplementary general principles of law. Unless displaced by ss. 806.30 to 806.44, the principles of law and equity, including the law relative to the capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy or other validating or invalidating causes supplement the provisions under ss. 806.30 to 806.44.

History: 1991 a. 236.

806.43 Uniformity of application and construction. Sections 806.30 to 806.44 shall be applied and construed to effectuate the general purpose of making uniform the law with respect to the subject of ss. 806.30 to 806.44 among states enacting it.

History: 1991 a. 236.

806.44 Short title. Sections 806.30 to 806.44 may be cited as the "Uniform Foreign−Money Claims Act".

History: 1991 a. 236.