

2001 DRAFTING REQUEST

Bill

Received: 12/06/2000

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Tim Hoven (608) 267-2369

By/Representing:

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Addl. Drafters:

Subject: Courts - civil procedure

Extra Copies:

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Time period to answer summons and complaint

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	nelsorp1 12/14/2000	gilfokm 12/15/2000	jfrantze 12/20/2000	_____	grctskl 12/20/2000		
				_____	lrb_docadmin 03/09/2001		
/1	nelsorp1 10/11/2001	gilfokm 10/23/2001	haugeca 10/24/2001	_____	lrb_docadmin 10/31/2001	lrb_docadmin 11/26/2001	
		gilfokm 10/25/2001	kfollet 10/31/2001	_____			
		gilfokm 10/30/2001		_____			

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

none needed

<END>

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/1	nelsorp1 10/11/2001	gilfokm 10/23/2001 gilfokm 10/25/2001 gilfokm 10/30/2001	haugeca 10/24/2001 kfollet 10/31/2001	_____	lrb_docadmin 10/31/2001		

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10/00 M. Ke - ready, so add analysis & make 11 draft.

Drafting History:

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/P1	nelsorp1 12/14/2000	gilfokm ✓ 12/15/2000	jfrantze 12/20/2000	_____	gretskl 12/20/2000		

FE Sent For:

1 - 10/29 KMG
KJL 10/30
KJL 10/31
<END>

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Subject: Courts - civil procedure

Extra Copies: KMG

Pre Topic:

No specific pre topic given

Topic:

Time period to answer summons and complaint

99 Act 187
(97-3293)

Instructions:

See Attached

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1?	nelsorp1	P1-12/14 KMG	12/20	12/20 KMG			

FE Sent For:

<END>

Please draft legislation that would "roll back" from 45 days to 20 days the time period allowed to answer Summons and Complaint. Excluded from this "roll back" would be tort and insurance litigation. The following case classifications would be subject to the "roll back" to 20 days:

- money judgement
- other contracts
- other debtor actions
- foreclosure of mortgage
- other real estate

Please feel free to contact Dave Chartier at (414) 962-5100 if you have any specific questions concerning drafting instructions.

See 99-Act 76
97 Act 787

LEGISLATIVE REFERENCE BUREAU

BILL REQUEST FORM

Legal Section, 5th Floor, 100 N. Hamilton St.
(608) 266-3561

Use of this form is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill.
Use this form only for **BILL** drafts. Attach more pages if necessary.

Date of request: 06 DEC 2000	Legislator or agency requesting this draft: REP. HOVEN
Name/phone number of person submitting request: REP. HOVEN 267-2369	
Persons to contact for questions about this draft (names and phone numbers please): Michael Welsh @ 267-2370	
Describe the problem, including any helpful examples. How do you want to solve the problem?	
If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy.	

Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

Requests are confidential unless stated otherwise.

May we tell others that we are working on this for you? YES NO

If yes, anyone who asks? YES NO

Any legislator? YES NO ONLY the following persons:

Do you consider this urgent? YES NO If yes, please indicate why:

Is this request of higher priority than other pending request(s) you have made?

YES NO If yes, please sign your name here:

1999 ASSEMBLY BILL 385

1 **AN ACT to amend** 601.73 (2) (c) of the statutes; **relating to:** time limits on the
 2 service of process on the commissioner of insurance (suggested as remedial
 3 legislation by the office of the commissioner of insurance).

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the office of the commissioner of insurance and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

4 **SECTION 1.** 601.73 (2) (c) of the statutes is amended to read:
 5 601.73 (2) (c) *Default judgment.* No plaintiff or complainant is entitled to a
 6 judgment by default in any proceeding in which process is served under this section
 7 and s. 601.72 until the expiration of 20 45 days ~~from~~ after the date of mailing of the
 8 process under par. (b).

*leave
at
45 days*

ASSEMBLY BILL 385

NOTE: 1997 Wisconsin Act 187 changed from 20 to 45 days the period of time which the defendant has, after receipt of a complaint, to answer the complaint. However, it did not make a corresponding change in current law under which the commissioner of insurance is the attorney to receive service of a summons, orders or other legal proceedings for an insurer who does not have a registered agent for receipt of service of process in this state. This provision amends the provision under which a default judgment may not be entered against a defendant who has been served with legal process by substituted service on the commissioner of insurance to provide that the judgment may not be entered until the expiration of 45 days after the date on which the commissioner mails a copy of the legal documents to the defendant.

1 **SECTION 9326. Initial applicability; insurance.**

2 (1) SUBSTITUTED SERVICE. The treatment of section 601.73 (2) (c) of the statutes
3 first applies to service of process made on the commissioner of insurance on the
4 effective date of this subsection.

NOTE: This provision provides that the change in the entering of a default judgment from 20 to 45 days after the date of mailing will first apply to any service of process made on the commissioner on the effective date of the provision.

5

(END)



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen. Cat.
1 AN ACT *Gen. Cat.*; relating to: the time period for service of a responsive pleading.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 66.0413 (2) (c) 1. of the statutes is amended to read:

3 66.0413 (2) (c) 1. If an owner fails to remedy or improve the defect in accordance
4 with the written notice under par. (b) within the 30-day period specified in the
5 written notice, the building inspector or other designated officer shall apply to the
6 circuit court of the county in which the building is located for an order determining
7 that the building constitutes a public nuisance. As a part of the application for the
8 order from the circuit court the building inspector or other designated officer shall
9 file a verified petition which recites the giving of written notice, the defect in the
10 building, the owner's failure to comply with the notice and other pertinent facts. A

1 copy of the petition shall be served upon the owner of record or the owner's agent if
2 an agent is in charge of the building and upon the holder of any encumbrance of
3 record under sub. (1) (d). The owner shall reply to the petition within 45 20 days
4 following service upon the owner. Upon application by the building inspector or other
5 designated officer the circuit court shall set promptly the petition for hearing.
6 Testimony shall be taken by the circuit court with respect to the allegations of the
7 petition and denials contained in the verified answer. If the circuit court after
8 hearing the evidence on the petition and answer determines that the building
9 constitutes a public nuisance, the court shall issue promptly an order directing the
10 owner of the building to remedy the defect and to make such repairs and alterations
11 as may be required. The court shall set a reasonable period of time in which the
12 defect shall be remedied and the repairs or alterations completed. A copy of the order
13 shall be served upon the owner as provided in sub. (1) (d). The order of the circuit
14 court shall state in the alternative that if the order of the court is not complied with
15 within the time fixed by the court, the court will appoint a receiver or authorize the
16 building inspector or other designated officer to proceed to raze the building under
17 par. (d).

History: Sup. Ct. Order, 67 Wis. 2d 750; 1977 c. 187; 1979 c. 323; 1981 c. 341; 1983 a. 108, 192, 219; 1983 a. 275 s. 15 (2); 1987 a. 395; 1989 a. 347; 1991 a. 39, 316; 1993 a. 213, 246, 267, 382, 491; 1995 a. 225; 1997 a. 187; 1999 a. 67; 1999 a. 150 ss. 98 to 108, 134 to 149; Stats. 1999 s. 66.0413.

18 **SECTION 2.** 102.23 (1) (c) of the statutes is amended to read:

19 102.23 (1) (c) The Except as provided in par. (cm), the commission shall serve
20 its answer within 45 20 days after the service of the complaint, and, within the like
21 time, the adverse party may serve an answer to the complaint, which answer may,
22 by way of counterclaim or cross complaint, ask for the review of the order or award

1 referred to in the complaint, with the same effect as if the party had commenced a
2 separate action for the review thereof.

History: 1973 c. 150; 1975 c. 199; Sup. Ct. Order, 73 Wis. 2d xxxi (1976); 1977 c. 29; 1977 c. 187 ss. 59, 135; 1977 c. 195, 272, 447; Sup. Ct. Order, 83 Wis. 2d xiii (1978); 1979 c. 278; 1981 c. 390 s. 252; 1983 a. 98, 122, 538; 1985 a. 83; 1997 a. 187.

3 **SECTION 3.** 102.23 (1) (cm) of the statutes is created to read:

4 102.23 (1) (cm) If an adverse party to the proceeding brought under par. (a) is
5 an insurance company, the insurance company may serve an answer to the complaint
6 within 45 days after the service of the complaint.

7 **SECTION 4.** 102.835 (14) of the statutes is amended to read:

8 102.835 (14) ANSWER BY 3RD PARTY. Within 45 20 days after the service of the
9 levy upon a 3rd party, the 3rd party shall file an answer with the department stating
10 whether the 3rd party is in possession of or obligated with respect to property or
11 rights to property of the uninsured employer, including a description of the property
12 or the rights to property and the nature and dollar amount of any such obligation.
13 If the 3rd party is an insurance company, the insurance company shall file an answer
14 with the department within 45 days after the service of the levy.

History: 1993 a. 81; 1995 a. 117; 1997 a. 187, 283.

15 **SECTION 5.** 108.225 (14) of the statutes is amended to read:

16 108.225 (14) ANSWER BY 3RD PARTY. Within 45 20 days after the service of the
17 levy upon a 3rd party, the 3rd party shall file an answer with the department stating
18 whether the 3rd party is in possession of or obligated with respect to property or
19 rights to property of the debtor, including a description of the property or the rights
20 to property and the nature and dollar amount of any such obligation. If the 3rd party
21 is an insurance company, the insurance company shall file an answer with the
22 department within 45 days after the service of the levy.

History: 1989 a. 77; 1997 a. 187, 283.

23 **SECTION 6.** 125.12 (2) (d) of the statutes is amended to read:

1 125.12 (2) (d) *Judicial review.* The action of any municipal governing body in
 2 granting or failing to grant, suspending or revoking any license, or the failure of any
 3 municipal governing body to revoke or suspend any license for good cause, may be
 4 reviewed by the circuit court for the county in which the application for the license
 5 was issued, upon application by any applicant, licensee or resident of the
 6 municipality. The procedure on review shall be the same as in civil actions instituted
 7 in the circuit court. The person desiring review shall file pleadings, which shall be
 8 served on the municipal governing body in the manner provided in ch. 801 for service
 9 in civil actions and a copy of the pleadings shall be served on the applicant or licensee.
 10 The municipal governing body, applicant or licensee shall have 45 20 days to file an
 11 answer to the complaint. Following filing of the answer, the matter shall be deemed
 12 at issue and hearing may be had within 5 days, upon due notice served upon the
 13 opposing party. The hearing shall be before the court without a jury. Subpoenas for
 14 witnesses may be issued and their attendance compelled. The decision of the court
 15 shall be filed within 10 days after the hearing and a copy of the decision shall be
 16 transmitted to each of the parties. The decision shall be binding unless it is appealed
 17 to the court of appeals.

18 *Insert* *4-17* *→* History: 1981 c. 79; 1983 a. 516; 1987 a. 93; 1993 a. 98; 1995 a. 27 s. 9126 (19); 1995 a. 417, 448; 1997 a. 27, 35, 166, 187; 1999 a. 9.

18 **SECTION 7. 801.09 (2) (a) of the statutes is amended to read:**

19 801.09 (2) (a) ~~Within~~ Except as ^{Further} provided in ~~s. 801.09 (2) (a)~~, ^{this paragraph} within 20 days, or within
 20 45 days if the defendant is the state or an officer, agent, employee, or agency of the
 21 state in an action or special proceeding brought within the purview of s. 893.82 or
 22 895.46, exclusive of the day of service, after the summons has been served personally

1 upon the defendant or served by substitution personally upon another authorized to
2 accept service of the summons for the defendant ~~or~~ *or*

History: Sup. Ct. Order, 67 Wis. 2d 585, 598 (1975); Sup. Ct. Order, 67 Wis. 2d viii; 1975 c. 218; Sup. Ct. Order, 112 Wis. 2d xi; Sup. Ct. Order, 171 Wis. 2d xxv; 1993 a. 365, 486; 1997 a. 133, 187.

3 **SECTION 8.** 801.09 (2) (b) of the statutes is amended to read:

4 801.09 (2) (b) Within ~~45~~ 40 days after a date stated in the summons, exclusive
5 of such date, if no such personal or substituted personal service has been made, and
6 service is made by publication. The date so stated in the summons shall be the date
7 of the first required publication.

History: Sup. Ct. Order, 67 Wis. 2d 585, 598 (1975); Sup. Ct. Order, 67 Wis. 2d viii; 1975 c. 218; Sup. Ct. Order, 112 Wis. 2d xi; Sup. Ct. Order, 171 Wis. 2d xxv; 1993 a. 365, 486; 1997 a. 133, 187.

8 **SECTION 9.** 801.09 (2m) of the statutes is created to read:

9 ~~801.09 (2m)~~ *is* If a party to the action is an insurance company, or if any of the
10 causes of action raised in the complaint ~~are~~ *is* founded in tort, the time period for service
11 of the answer or demand for a copy of the complaint under ~~sub (2)(b)~~ *this paragraph* is 45 days *in*

↓
insert
5-11

12 **SECTION 10.** 802.06 (1) of the statutes is amended to read:

13 802.06 (1) WHEN PRESENTED. Except when a court dismisses an action or special
14 proceeding under s. 802.05 (3), a defendant shall serve an answer within ~~45~~ 20 days
15 after the service of the complaint upon the defendant. If a guardian ad litem is
16 appointed for a defendant, the guardian ad litem shall have ~~45~~ 20 days after
17 appointment to serve the answer. A party served with a pleading stating a
18 cross-claim against the party shall serve an answer thereto within ~~45~~ 20 days after
19 the service upon the party. The plaintiff shall serve a reply to a counterclaim in the
20 answer within ~~45~~ 20 days after service of the answer. The state or an agency of the
21 state or an officer, employee or agent of the state shall serve an answer to the
22 complaint or to a cross-claim or a reply to a counterclaim within 45 days after service
23 of the pleading in which the claim is asserted. If any pleading is ordered by the court,
24 it shall be served within 45 days after service of the order, unless the order otherwise

1 directs. If a party to the action is an insurance company, or if any cause of action
2 raised in the original pleading, cross-claim, or counterclaim is founded in tort, the
3 periods of time to serve a reply or answer shall be 45 days. The service of a motion
4 permitted under sub. (2) alters these periods of time as follows, unless a different
5 time is fixed by order of the court: if the court denies the motion or postpones its
6 disposition until the trial on the merits, the responsive pleading shall be served
7 within 10 days after notice of the court's action; or if the court grants a motion for a
8 more definite statement, the responsive pleading shall be served within 10 days after
9 the service of the more definite statement.

History: Sup. Ct. Order, 67 Wis. 2d 585, 623 (1975); 1975 c. 218; Sup. Ct. Order, 73 Wis. 2d xxxi; Sup. Ct. Order, 82 Wis. 2d ix; 1977 c. 260; 1977 c. 447 ss. 196, 210; 1979 c. 110 ss. 51, 60 (7); 1979 c. 323 s. 33; 1981 c. 390 s. 252; Sup. Ct. Order, 112 Wis. 2d xi (1983); 1983 a. 228 s. 16; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 256; 1993 a. 213; Sup. Ct. Order No. 95-04, 191 Wis. 2d xxi (1995); 1995 a. 225, 411; 1997 a. 133, 187; 1999 a. 32.

10 SECTION 11. 802.06 (6) of the statutes is amended to read:

11 802.06 (6) MOTION TO STRIKE. Upon motion made by a party before responding
12 to a pleading or, if no responsive pleading is permitted upon motion made by a party
13 within 45 20 days after the service of the pleading upon the party or upon the court's
14 own initiative at any time, the court may order stricken from any pleading any
15 insufficient defense or any redundant, immaterial, impertinent, scandalous or
16 indecent matter. If a party to the action is an insurance company, or if any cause of
17 action raised in the original pleading, cross-claim, or counterclaim is founded in tort,
18 the 20-day time period under this subsection is increased to 45 days.

History: Sup. Ct. Order, 67 Wis. 2d 585, 623 (1975); 1975 c. 218; Sup. Ct. Order, 73 Wis. 2d xxxi; Sup. Ct. Order, 82 Wis. 2d ix; 1977 c. 260; 1977 c. 447 ss. 196, 210; 1979 c. 110 ss. 51, 60 (7); 1979 c. 323 s. 33; 1981 c. 390 s. 252; Sup. Ct. Order, 112 Wis. 2d xi (1983); 1983 a. 228 s. 16; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 256; 1993 a. 213; Sup. Ct. Order No. 95-04, 191 Wis. 2d xxi (1995); 1995 a. 225, 411; 1997 a. 133, 187; 1999 a. 32.

19 SECTION 12. 802.09 (1) of the statutes is amended to read:

20 802.09 (1) AMENDMENTS. A party may amend the party's pleading once as a
21 matter of course at any time within 6 months after the summons and complaint are
22 filed or within the time set in a scheduling order under s. 802.10. Otherwise a party
23 may amend the pleading only by leave of court or by written consent of the adverse

: AΔ a)

; or b)

1 party; and leave shall be freely given at any stage of the action when justice so
 2 requires. A party shall plead in response to an amended pleading within 45 20 days
 3 after service of the amended pleading unless ~~(a)~~ the court otherwise orders ~~or (b)~~ no
 4 responsive pleading is required or permitted under s. 802.01 (1). If a party to the
 5 action is an insurance company, or if any cause of action raised in the original
 6 pleading, cross-claim, or counterclaim is founded in tort, the 20-day time period
 7 under this subsection is increased to 45 days.

History: Sup. Ct. Order, 67 Wis. 2d 585, 632 (1975); 1975 c. 218; Sup. Ct. Order, 82 Wis. 2d ix (1978); Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1997 a. 187.

8 **SECTION 13. Initial applicability.**

9 (1) This act first applies to actions commenced on the effective date of this
10 subsection.

11 **SECTION 14. Effective date.**

12 (1) This act takes effect on the first day of the 4th month beginning after
13 publication.

14 (END)

Jasert 4-19

Section #. 801.09 (2) (intro.) of the statutes is amended to read:

801.09 (2) (intro.) A direction to the defendant summoning and requiring defendant to serve upon the plaintiff's attorney, whose address shall be stated in the summons, either an answer to the complaint if a copy of the complaint is served with the summons or a demand for a copy of the complaint. The summons shall further direct the defendant to serve the answer or demand for a copy of the complaint: within the following periods

History: Sup. Ct. Order, 67 Wis. 2d 585, 598 (1975); Sup. Ct. Order, 67 Wis. 2d viii; 1975 c. 218; Sup. Ct. Order, 112 Wis. 2d xi; Sup. Ct. Order, 171 Wis. 2d xxv; 1993 a. 365, 486; 1997 a. 133, 187.

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1350/P1ins
RPN:kmg:kmg

INSERT

5-11 ✓

SECTION 1. 801.095 (1) of the statutes is amended to read
801.095 (1) PERSONAL SERVICE; COMPLAINT ATTACHED.

LPS: See
Kmg if you
have any ques-
tions on these
forms.

STATE OF WISCONSIN

CIRCUIT COURT

A. B.

Address

City, State Zip Code

File No.

, Plaintiff

vs.

S U M M O N S

C. D.

Address (Case Classification Type): (Code No.)

City, State Zip Code

, Defendant

THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within 45 ~~(20)~~ (45) days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is, and to, Plaintiff's attorney, whose address is, You may have an attorney help or represent you.

If you do not provide a proper answer within 45 (20) (45) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated:, (year)

Signed:

A. B., Plaintiff

or

E. F., Plaintiff's Attorney

State Bar No.:

Address:

City, State Zip Code:

Phone No:

History: 1983 a. 323; Sup Ct. Order, 171 Wis. 2d xix (1992); 1997 a. 187, 250; 1999 a. 32, 186.

SECTION 2. 801.095 (2) of the statutes is amended to read:

801.095 (2) PERSONAL SERVICE; NO COMPLAINT ATTACHED.

STATE OF WISCONSIN

CIRCUIT COURT : COUNTY

A. B.

Address

City, State Zip Code

File No.

, Plaintiff

vs.

S U M M O N S

C. D.

Address (Case Classification Type): (Code No.)

City, State Zip Code

, Defendant

THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you.

Within ~~45~~ (20) (45) days of receiving this summons, you must respond with a written demand for a copy of the complaint. The demand must be sent or delivered to the court, whose address is, and to, Plaintiff's attorney, whose address is You may have an attorney help or represent you.

If you do not demand a copy of the complaint within ~~45~~ (20) (45) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated:, (year)

Signed:

A. B., Plaintiff

or

E. F., Plaintiff's Attorney

State Bar No.:

Address:

City, State Zip Code:

Phone No.:

History: 1983 a. 323; Sup Ct. Order, 171 Wis. 2d xix (1992); 1997 a. 187, 250; 1999 a. 32, 186.

SECTION 3. 801.095 (3) of the statutes is amended to read:

801.095 (3) NO PERSONAL SERVICE; COMPLAINT SERVED AT THE SAME TIME.

STATE OF WISCONSIN

CIRCUIT COURT : COUNTY

A. B.

Address

City, State Zip Code

File No.

, Plaintiff

vs.

S U M M O N S

C. D.

Address (Case Classification Type): (Code No.)

City, State Zip Code

, Defendant

THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is also served upon you, states the nature and basis of the legal action.

Within ~~45~~ 40 days after, (year), you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is, and to, Plaintiff's attorney, whose address is, You may have an attorney help or represent you.

If you do not provide a proper answer within ~~45~~ 40 days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated:, (year)

Signed:

A. B., Plaintiff

or

E. F., Plaintiff's Attorney

State Bar No.:

Address:

City, State Zip Code:

Phone No:

SECTION 4. 801.095 (4) of the statutes is amended to read:

801.095 (4) NO PERSONAL SERVICE; COMPLAINT NOT SERVED AT THE SAME TIME.

STATE OF WISCONSIN

CIRCUIT COURT : COUNTY

A. B.

Address

City, State Zip Code

File No.

, Plaintiff

vs.

S U M M O N S

C. D.

Address (Case Classification Type): (Code No.)

City, State Zip Code

, Defendant

THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the plaintiff named above has filed a lawsuit or other legal action against you.

Within ~~45~~ 40 days after, (year), you must respond with a written demand for a copy of the complaint. The demand must be sent or delivered to the court, whose address is, and to, Plaintiff's attorney, whose address is, You may have an attorney help or represent you.

If you do not demand a copy of the complaint within ~~45~~ 40 days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A

judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated:, (year)

Signed:

A. B., Plaintiff

or

E. F., Plaintiff's Attorney

State Bar No.:

Address:

City, State Zip Code:

Phone No:

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1350/P1dn

RPN.....

king

Wisconsin

Before passage of 1997 Act 187 (which changed most time periods to answer a complaint from 20 days to 45 days) if the state or its officers or employees were involved in an action brought against them for injury or damages under s. 893.82 or 895.46 of the statutes, the state had 45 days to answer or reply. I did not change those time periods to 20 days.

Section 801.09 (2) (b) of the statutes, related to service of a summons by publication, had a ~~20-day~~ period for responding to the service before the passage of 1997 Act 187. I have made that period 40 days under this bill, for all actions, including torts and insurance-related actions.

Wisconsin

40-day

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1350/P1dn
RPN:kmgjf

December 20, 2000

Before passage of 1997 Wisconsin Act 187 (which changed most time periods to answer a complaint from 20 days to 45 days) if the state or its officers or employees were involved in an action brought against them for injury or damages under s. 893.82 or 895.46 of the statutes, the state had 45 days to answer or reply. I did not change those time periods to 20 days.

Section 801.09 (2) (b) of the statutes, related to service of a summons by publication, had a 40-day period for responding to the service before the passage of 1997 Wisconsin Act 187. I have made that period 40 days under this bill, for all actions, including torts and insurance-related actions.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1350/21
RPN:kmg:jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

In 10/11

Jen. Cat.

1 AN ACT to amend 66.0413 (2) (c) 1., 102.23 (1) (c), 102.835 (14), 108.225 (14),
2 125.12 (2) (d), 801.09 (2) (intro.), 801.09 (2) (a), 801.09 (2) (b), 801.095 (1),
3 801.095 (2), 801.095 (3), 801.095 (4), 802.06 (1), 802.06 (6) and 802.09 (1); and
4 to create 102.23 (1) (cm) of the statutes; relating to: the time period for service
5 of a responsive pleading.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

125
209
209

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 SECTION 1. 66.0413 (2) (c) 1. of the statutes is amended to read:
7 66.0413 (2) (c) 1. If an owner fails to remedy or improve the defect in accordance
8 with the written notice under par. (b) within the 30-day period specified in the
9 written notice, the building inspector or other designated officer shall apply to the
10 circuit court of the county in which the building is located for an order determining

1 that the building constitutes a public nuisance. As a part of the application for the
2 order from the circuit court the building inspector or other designated officer shall
3 file a verified petition which recites the giving of written notice, the defect in the
4 building, the owner's failure to comply with the notice and other pertinent facts. A
5 copy of the petition shall be served upon the owner of record or the owner's agent if
6 an agent is in charge of the building and upon the holder of any encumbrance of
7 record under sub. (1) (d). The owner shall reply to the petition within ~~45~~ 20 days
8 following service upon the owner. Upon application by the building inspector or other
9 designated officer the circuit court shall set promptly the petition for hearing.
10 Testimony shall be taken by the circuit court with respect to the allegations of the
11 petition and denials contained in the verified answer. If the circuit court after
12 hearing the evidence on the petition and answer determines that the building
13 constitutes a public nuisance, the court shall issue promptly an order directing the
14 owner of the building to remedy the defect and to make such repairs and alterations
15 as may be required. The court shall set a reasonable period of time in which the
16 defect shall be remedied and the repairs or alterations completed. A copy of the order
17 shall be served upon the owner as provided in sub. (1) (d). The order of the circuit
18 court shall state in the alternative that if the order of the court is not complied with
19 within the time fixed by the court, the court will appoint a receiver or authorize the
20 building inspector or other designated officer to proceed to raze the building under
21 par. (d).

22 **SECTION 2.** 102.23 (1) (c) of the statutes is amended to read:

23 102.23 (1) (c) The Except as provided in par. (cm), the commission shall serve
24 its answer within ~~45~~ 20 days after the service of the complaint, and, within the like
25 time, the adverse party may serve an answer to the complaint, which answer may,

1 by way of counterclaim or cross complaint, ask for the review of the order or award
2 referred to in the complaint, with the same effect as if the party had commenced a
3 separate action for the review thereof.

4 **SECTION 3.** 102.23 (1) (cm) of the statutes is created to read:

5 102.23 (1) (cm) If an adverse party to the proceeding brought under par. (a) is
6 an insurance company, the insurance company may serve an answer to the complaint
7 within 45 days after the service of the complaint.

8 **SECTION 4.** 102.835 (14) of the statutes is amended to read:

9 102.835 (14) ANSWER BY 3RD PARTY. Within 45 20 days after the service of the
10 levy upon a 3rd party, the 3rd party shall file an answer with the department stating
11 whether the 3rd party is in possession of or obligated with respect to property or
12 rights to property of the uninsured employer, including a description of the property
13 or the rights to property and the nature and dollar amount of any such obligation.
14 If the 3rd party is an insurance company, the insurance company shall file an answer
15 with the department within 45 days after the service of the levy.

16 **SECTION 5.** 108.225 (14) of the statutes is amended to read:

17 108.225 (14) ANSWER BY 3RD PARTY. Within 45 20 days after the service of the
18 levy upon a 3rd party, the 3rd party shall file an answer with the department stating
19 whether the 3rd party is in possession of or obligated with respect to property or
20 rights to property of the debtor, including a description of the property or the rights
21 to property and the nature and dollar amount of any such obligation. If the 3rd party
22 is an insurance company, the insurance company shall file an answer with the
23 department within 45 days after the service of the levy.

24 **SECTION 6.** 125.12 (2) (d) of the statutes is amended to read:

1 125.12 (2) (d) *Judicial review.* The action of any municipal governing body in
2 granting or failing to grant, suspending or revoking any license, or the failure of any
3 municipal governing body to revoke or suspend any license for good cause, may be
4 reviewed by the circuit court for the county in which the application for the license
5 was issued, upon application, by any applicant, licensee or resident of the
6 municipality. The procedure on review shall be the same as in civil actions instituted
7 in the circuit court. The person desiring review shall file pleadings, which shall be
8 served on the municipal governing body in the manner provided in ch. 801 for service
9 in civil actions and a copy of the pleadings shall be served on the applicant or licensee.
10 The municipal governing body, applicant or licensee shall have 45 20 days to file an
11 answer to the complaint. Following filing of the answer, the matter shall be deemed
12 at issue and hearing may be had within 5 days, upon due notice served upon the
13 opposing party. The hearing shall be before the court without a jury. Subpoenas for
14 witnesses may be issued and their attendance compelled. The decision of the court
15 shall be filed within 10 days after the hearing and a copy of the decision shall be
16 transmitted to each of the parties. The decision shall be binding unless it is appealed
17 to the court of appeals.

18 **SECTION 7.** 801.09 (2) (intro.) of the statutes is amended to read:

19 801.09 (2) (intro.) A direction to the defendant summoning and requiring
20 defendant to serve upon the plaintiff's attorney, whose address shall be stated in the
21 summons, either an answer to the complaint if a copy of the complaint is served with
22 the summons or a demand for a copy of the complaint. The summons shall further
23 direct the defendant to serve the answer or demand for a copy of the complaint within
24 the following periods:

25 **SECTION 8.** 801.09 (2) (a) of the statutes is amended to read:

1 ~~801.09 (2) (a) Within Except as further provided in this paragraph, within 20~~
 2 ~~days, or within 45 days if the defendant is the state or an officer, agent, employee,~~
 3 ~~or agency of the state in an action or special proceeding brought within the purview~~
 4 ~~of s. 893.82 or 895.46, exclusive of the day of service, after the summons has been~~
 5 ~~served personally upon the defendant or served by substitution personally upon~~
 6 ~~another authorized to accept service of the summons for the defendant. If a party to~~
 7 ~~the action is an insurance company, or if any cause of action raised in the complaint~~
 8 ~~is founded in tort, the time period for service of the answer or demand for a copy of~~
 9 ~~the complaint under this paragraph is 45 days; or~~

Insert
5-9

10 SECTION 9. 801.09 (2) (b) of the statutes is amended to read:

11 801.09 (2) (b) Within ~~45~~ 40 days after a date stated in the summons, exclusive
 12 of such date, if no such personal or substituted personal service has been made, and
 13 service is made by publication. The date so stated in the summons shall be the date
 14 of the first required publication.

15 SECTION 10. ~~801.095 (1) of the statutes is amended to read:~~

16 ~~801.095 (1) PERSONAL SERVICE; COMPLAINT ATTACHED.~~

1 STATE OF WISCONSIN CIRCUIT COURT : COUNTY

2 _____

3 A. B.

4 Address

5 City, State Zip Code

File No.

6 , Plaintiff

7 vs.

S U M M O N S

8 C. D.

9 Address (Case Classification Type): (Code No.)

10 City, State Zip Code

11 , Defendant

12 _____

13 THE STATE OF WISCONSIN, To each person named above as a Defendant:

14 You are hereby notified that the Plaintiff named above has filed a lawsuit or
15 other legal action against you. The complaint, which is attached, states the nature
16 and basis of the legal action.

17 Within 45 (20) (45) days of receiving this summons, you must respond with a
18 written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the
19 complaint. The court may reject or disregard an answer that does not follow the
20 requirements of the statutes. The answer must be sent or delivered to the court,
21 whose address is, and to, Plaintiff's attorney, whose address is, You may
22 have an attorney help or represent you.

23 If you do not provide a proper answer within 45 (20) (45) days, the court may
24 grant judgment against you for the award of money or other legal action requested
25 in the complaint, and you may lose your right to object to anything that is or may be

1 incorrect in the complaint. A judgment may be enforced as provided by law. A
2 judgment awarding money may become a lien against any real estate you own now
3 or in the future, and may also be enforced by garnishment or seizure of property.

4 Dated:, (year)

5 Signed:

6 A. B., Plaintiff

7 or

8 E. F., Plaintiff's Attorney

9 State Bar No.:

10 Address:

11 City, State Zip Code:

12 Phone No:

13 **SECTION 11.** 801.095 (2) of the statutes is amended to read:

14 **801.095 (2) PERSONAL SERVICE; NO COMPLAINT ATTACHED.**

1 STATE OF WISCONSIN CIRCUIT COURT : ... COUNTY

2
3 A. B.

4 Address

5 City, State Zip Code File No.

6 , Plaintiff

7 vs. SUMMONS

8 C. D.

9 Address (Case Classification Type): (Code No.)

10 City, State Zip Code

11 , Defendant

12
13 THE STATE OF WISCONSIN, To each person named above as a Defendant:

14 You are hereby notified that the Plaintiff named above has filed a lawsuit or
15 other legal action against you.

16 Within 45 (20) (45) days of receiving this summons, you must respond with a
17 written demand for a copy of the complaint. The demand must be sent or delivered
18 to the court, whose address is, and to, Plaintiff's attorney, whose address is

19 You may have an attorney help or represent you.

20 If you do not demand a copy of the complaint within 45 (20) (45) days, the court
21 may grant judgment against you for the award of money or other legal action
22 requested in the complaint, and you may lose your right to object to anything that
23 is or may be incorrect in the complaint. A judgment may be enforced as provided by
24 law. A judgment awarding money may become a lien against any real estate you own
25 now or in the future, and may also be enforced by garnishment or seizure of property.

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Dated:, (year)

Signed:

A. B., Plaintiff

or

E. F., Plaintiff's Attorney

State Bar No.:

Address:

City, State Zip Code:

Phone No.:

Insert 9-9^d →

as affected by 2001 Wisconsin Act 16,

SECTION 12. 801.095 (3) of the statutes is amended to read:

801.095 (3) NO PERSONAL SERVICE; COMPLAINT SERVED AT THE SAME TIME.

STATE OF WISCONSIN

CIRCUIT COURT : COUNTY

A. B.

Address

City, State Zip Code

File No.

, Plaintiff

vs.

SUMMONS

C. D.

Address (Case Classification Type): (Code No.)

City, State Zip Code

, Defendant

THE STATE OF WISCONSIN, To each person named above as a Defendant:

1 You are hereby notified that the Plaintiff named above has filed a lawsuit or
2 other legal action against you. The complaint, which is also served upon you, states
3 the nature and basis of the legal action.

4 Within ~~(20)~~⁽²⁰⁾⁽⁴⁵⁾ 40 days after, (year), you must respond with a written answer,
5 as that term is used in chapter 802 of the Wisconsin Statutes, to the complaint. The
6 court may reject or disregard an answer that does not follow the requirements of the
7 statutes. The answer must be sent or delivered to the court, whose address is, and
8 to, Plaintiff's attorney, whose address is, You may have an attorney help or
9 represent you.

10 If you do not provide a proper answer within ~~(20)~~⁽²⁰⁾⁽⁴⁵⁾ 40 days, the court may grant
11 judgment against you for the award of money or other legal action requested in the
12 complaint, and you may lose your right to object to anything that is or may be
13 incorrect in the complaint. A judgment may be enforced as provided by law. A
14 judgment awarding money may become a lien against any real estate you own now
15 or in the future, and may also be enforced by garnishment or seizure of property.

16 Dated:, (year)

Signed:

A. B., Plaintiff

or

E. F., Plaintiff's Attorney

State Bar No.:

Address:

City, State Zip Code:

Phone No:

24 , as affected by 2001 Wisconsin Act 16,
25 SECTION 13. 801.095 (4) of the statutes is amended to read:

1 801.095 (4) No PERSONAL SERVICE; COMPLAINT NOT SERVED AT THE SAME TIME.

2 STATE OF WISCONSIN CIRCUIT COURT : ... COUNTY

3 _____

4 A. B.

5 Address

6 City, State Zip Code File No.

7 , Plaintiff

8 vs. SUMMONS

9 C. D.

10 Address (Case Classification Type): (Code No.)

11 City, State Zip Code

12 , Defendant

13 _____
14 THE STATE OF WISCONSIN, To each person named above as a Defendant:

15 You are hereby notified that the plaintiff named above has filed a lawsuit or
16 other legal action against you.

17 Within ^{(20) 40}~~10~~ days after, .. (year), you must respond with a written demand
18 for a copy of the complaint. The demand must be sent or delivered to the court, whose
19 address is, and to, Plaintiff's attorney, whose address is, You may have an
20 attorney help or represent you.

21 If you do not demand a copy of the complaint within ^{(20) 40}~~10~~ days, the court may
22 grant judgment against you for the award of money or other legal action requested
23 in the complaint, and you may lose your right to object to anything that is or may be
24 incorrect in the complaint. A judgment may be enforced as provided by law. A

1 judgment awarding money may become a lien against any real estate you own now
2 or in the future, and may also be enforced by garnishment or seizure of property.

3 Dated:, (year)

4 Signed:

5 A. B., Plaintiff

6 or

7 E. F., Plaintiff's Attorney

8 State Bar No.:

9 Address:

10 City, State Zip Code:

11 Phone No:

12 ~~SECTION 14. 802.06 (1) of the statutes is amended to read:~~

13 ~~802.06 (1) WHEN PRESENTED. Except when a court dismisses an action or special~~
14 ~~proceeding under s. 802.05 (3), a defendant shall serve an answer within 45 20 days~~
15 ~~after the service of the complaint upon the defendant. If a guardian ad litem is~~
16 ~~appointed for a defendant, the guardian ad litem shall have 45 20 days after~~
17 ~~appointment to serve the answer. A party served with a pleading stating a~~
18 ~~cross-claim against the party shall serve an answer thereto within 45 20 days after~~
19 ~~the service upon the party. The plaintiff shall serve a reply to a counterclaim in the~~
20 ~~answer within 45 20 days after service of the answer. The state or an agency of the~~
21 ~~state or an officer, employee or agent of the state shall serve an answer to the~~
22 ~~complaint or to a cross-claim or a reply to a counterclaim within 45 days after service~~
23 ~~of the pleading in which the claim is asserted. If any pleading is ordered by the court,~~
24 ~~it shall be served within 45 days after service of the order, unless the order otherwise~~
25 ~~directs. If a party to the action is an insurance company, or if any cause of action~~

1 raised in the original pleading, cross-claim, or counterclaim is founded in tort, the
2 periods of time to serve a reply or answer shall be 45 days. The service of a motion
3 permitted under sub. (2) alters these periods of time as follows, unless a different
4 time is fixed by order of the court. If the court denies the motion or postpones its
5 disposition until the trial on the merits, the responsive pleading shall be served
6 within 10 days after notice of the court's action; or if the court grants a motion for a
7 more definite statement, the responsive pleading shall be served within 10 days after
8 the service of the more definite statement.

9 *Fix* SECTION 15. 802.06 (6) of the statutes is amended to read:

10 802.06 (6) MOTION TO STRIKE. Upon motion made by a party before responding
11 to a pleading or, if no responsive pleading is permitted upon motion made by a party
12 within ~~45~~ 20 days after the service of the pleading upon the party or upon the court's
13 own initiative at any time, the court may order stricken from any pleading any
14 insufficient defense or any redundant, immaterial, impertinent, scandalous or
15 indecent matter. If a party to the action is an insurance company, or if any cause of
16 action raised in the original pleading, cross-claim, or counterclaim is founded in tort,
17 the 20-day time period under this subsection is increased to 45 days.

18 *Fix* SECTION 16. 802.09 (1) of the statutes is amended to read:

19 802.09 (1) AMENDMENTS. A party may amend the party's pleading once as a
20 matter of course at any time within 6 months after the summons and complaint are
21 filed or within the time set in a scheduling order under s. 802.10. Otherwise a party
22 may amend the pleading only by leave of court or by written consent of the adverse
23 party; and leave shall be freely given at any stage of the action when justice so
24 requires. A party shall plead in response to an amended pleading within ~~45~~ 20 days
25 after service of the amended pleading unless (a); a) the court otherwise orders or (b);

1 ~~or b) no responsive pleading is required or permitted under s. 802.01 (1) If a party~~
2 ~~to the action is an insurance company, or if any cause of action raised in the original~~
3 ~~pleading, cross-claim, or counterclaim is founded in tort, the 20-day time period~~
4 ~~under this subsection is increased to 45 days.~~

Insert 14
5 → **SECTION 17. Initial applicability.**

6 (1) This act first applies to actions commenced on the effective date of this
7 subsection.

8 **SECTION 18. Effective date.**

9 (1) This act takes effect on the first day of the 4th month beginning after
10 publication.

11 (END)

insert anl

generally

Under current law, ~~as amended by 1997 Wisconsin Act 187~~ a person responding to a pleading, such as a complaint, in a civil action, has 45 days after the receipt of the pleading to respond. This 45-day time period limitation also applies to a person who is served with a petition by a building inspector that alleges that a building is a public nuisance, to complaints filed in an action to overturn a workers compensation administrative hearing or municipality's decision regarding a license application, and to service of a levy on a party to obtain possession of property related to a worker's compensation or unemployment insurance claim. Before 1997, ~~Wisconsin Act 187~~, the party generally had 20 days after the receipt of a pleading to answer that pleading.

Under the bill

However,

Under this bill, the time to respond to most ~~pleading~~ is ~~changed back to~~ 20 days. If the responding party is an insurance company, the time period remains at 45 days. In addition, if the defendant is the state, an office, agent or employee of the state, or a state agency, and the action involves a claim for damages resulting from actions of a public employee or official acting in his or her official capacity, the response time is 45 days. ~~Finally~~, if the cause of action raised in the original pleading is a tort, the time period for responding to a pleading is 45 days.

pleadings

2001

In Wisconsin Act 16, the budget act, this time period was reduced to 20 days if the proceeding was to foreclose or otherwise enforce a lien or security interest.

Finally, if the service of a summons is made by publication, the bill requires the response to be made within 40 days of the publication of the ^{m m}summons.

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1350/lins
RPN.kmg:jf

1 insert 5-9:

2 SECTION 1. 801.09 (2) (a) of the statutes, as affected by 2001 Wisconsin Act 16,
3 is amended to read:

4 801.09 (2) (a) Except as provided in ~~par.~~^{par.s.} (c) and (d), within 20 days, or within
5 45 days if the defendant is the state or an officer, agent, employee, or agency of the
6 state in an action or special proceeding brought under s. 893.82 or 895.46, exclusive
7 of the day of service, after the summons has been served personally upon the
8 defendant or served by substitution personally upon another authorized to accept
9 service of the summons for the defendant; or

10
11 insert 9-9:

History: 2001 a. 16.

12 SECTION 2. 801.09 (2) (d) of the statutes is created to read:

13 801.09 (2) (d) Within 45 days if a party to the action is an insurance company,
14 or if any cause of action raised in the complaint is founded in tort.

15
16 insert 14-4:

17 SECTION 3. 802.06 (1) of the statutes, as affected by 2001 Wisconsin Act 16, is
18 amended to read:

19 802.06 (1) WHEN PRESENTED. Except as provided in sub. (1~~m~~) or when a court
20 dismisses an action or special proceeding under s. 802.05 (3), a defendant shall serve
21 an answer within 45 20 days after the service of the complaint upon the defendant.
22 Except as provided in sub. (1~~m~~), if If a guardian ad litem is appointed for a defendant,
23 the guardian ad litem shall have 45 20 days after appointment to serve the answer.

1 A party served with a pleading stating a cross-claim against the party shall serve
2 an answer thereto within 45 [✓]20 days after the service upon the party. The plaintiff
3 shall serve a reply to a counterclaim in the answer within 45 [✓]20 days after service
4 of the answer. The state or an agency of the state or an officer, employee, or agent of
5 the state shall serve an answer to the complaint or to a cross-claim or a reply to a
6 counterclaim within 45 [✓]20 days after service of the pleading in which the claim is
7 asserted. If any pleading is ordered by the court, it shall be served within 45 [✓] days
8 after service of the order, unless the order otherwise directs. If a party to the action
9 is an insurance company, or if any cause of action raised in the original pleading,
10 cross-claim, or counterclaim is founded in tort, the periods of time to serve a reply
11 or answer shall be 45 [✓] days. The service of a motion permitted under sub. (2) alters
12 these periods of time as follows, unless a different time is fixed by order of the court:
13 if the court denies the motion or postpones its disposition until the trial on the merits,
14 the responsive pleading shall be served within 10 days after notice of the court's
15 action; or if the court grants a motion for a more definite statement, the responsive
16 pleading shall be served within 10 days after the service of the more definite
17 statement.

History: 2001 a. 16.

18 **SECTION 4.** 802.06 (1m) of the statutes, as created by 2001 Wisconsin Act 16,
19 is repealed.

20 **SECTION 5.** 802.06 (6) of the statutes, as affected by 2001 Wisconsin Act 16, is
21 amended to read:

22 802.06 (6) MOTION TO STRIKE. Upon motion made by a party before responding
23 to a pleading or, if no responsive pleading is permitted upon motion made by a party
24 within 45 [✓]20 days after the service of the pleading upon the party, ~~or within 20 days~~

1 after the service if the proceeding is to foreclose or otherwise enforce a lien or security
 2 interest, or upon the court's own initiative at any time, the court may order stricken
 3 from any pleading any insufficient defense or any redundant, immaterial,
 4 impertinent, scandalous, or indecent matter. If a party to the action is an insurance
 5 company, or if any cause of action raised in the original pleading, cross-claim, or
 6 counterclaim is founded in tort, the 20-day time period under this subsection is
 7 increased to 45 days.

History: 2001 a. 16

8 **SECTION 6.** 802.09 (1) of the statutes, as affected by 2001 Wisconsin Act 16, is
 9 amended to read:

10 802.09 (1) AMENDMENTS. A party may amend the party's pleading once as a
 11 matter of course at any time within 6 months after the summons and complaint are
 12 filed or within the time set in a scheduling order under s. 802.10. Otherwise a party
 13 may amend the pleading only by leave of court or by written consent of the adverse
 14 party; and leave shall be freely given at any stage of the action when justice so
 15 requires. A party shall plead in response to an amended pleading within 45 20 days
 16 after service of the amended pleading, ~~or within 20 days after the service if the~~
 17 ~~proceeding is to foreclose or otherwise enforce a lien or security interest,~~ unless (a): ~~44~~
 18 a) the court otherwise orders or (b); or b) no responsive pleading is required or
 19 permitted under s. 802.01 (1). If a party to the action is an insurance company, or
 20 if any cause of action raised in the original pleading, cross-claim, or counterclaim is
 21 founded in tort, the 20-day time period under this subsection is increased to 45 days.

History: 2001 a. 16.



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

October 31, 2001

MEMORANDUM

To: Representative Hoven

From: Robert P. Nelson, Senior Legislative Attorney

Re: LRB-1350/1 Time period to answer summons and complaint

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-7511 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.