

# SUPREME COURT OF WISCONSIN

NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 10-06

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In the matter the amendment of Supreme Court Rule 71.01, regarding required court reporting, and Wis. Stat. § 885.42, videotape procedure.

**FILED**

**NOV. 5, 2010**

A. John Voelker  
Acting Clerk of Supreme  
Court  
Madison, WI

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On April 14, 2010, the Director of State Courts on the recommendation of the Committee of Chief Judges and District Court Administrators, filed an administrative rule petition proposing amendments to SCR 71.01(2)(e) and Wis. Stat. § 885.42(2) and (4). The petition was filed in response to this court's order dated December 11, 2009. See S. Ct. Order 09-05, 2009 WI 104 (issued Dec. 11, 2009, eff. Jan. 1, 2010).<sup>1</sup>

The December 11, 2009, order addressed an earlier rule petition filed by the same petitioners regarding the interpretation of SCR 71.02(2) (Required Court Reporting) and directed the Committee of Chief Judges and District Court Administrators to collaborate with appellate practitioners and other interested parties to evaluate

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<sup>1</sup> A copy of the court's order dated December 11, 2009, is available on the Web site of the Wisconsin Supreme Court under <http://wicourts.gov/scrules/orders.htm>.

whether amendments to Wis. Stat. § 885.42(4) may be warranted. The pending petition addresses the court's questions about possible conflicting language in § 885.42 by proposing that videotape depositions continue to be reported and transcribed by the court reporter but other audio and audiovisual recordings need not be reported and transcribed unless ordered by the court.

On Friday, November 5, 2010, this court conducted a public hearing on the petition. The Honorable Chief Judge Jeffrey A. Kremers presented the petition to the court. At the ensuing open administrative conference the court voted unanimously to grant the petition.

IT IS ORDERED that, effective January 1, 2011, Supreme Court Rule 71.01(2) and Wis. Stat. §§ 885.42(2) and (4) are amended as follows:

**SECTION 1.** SCR 71.01 (2) (e) of the Supreme Court Rules is amended to read:

SCR 71.01 (2) (e) Audio and audiovisual recordings of any type, if not submitted under par. (d), that are played during the proceeding, marked as an exhibit, and offered into evidence. If only part of the recording is played in court, the part played shall be precisely identified in the record. The court may direct a party or the court reporter to prepare the transcript of a recording submitted under this paragraph.

**SECTION 2.** The Comment to Supreme Court Rule 71.01(2) is deleted.

**SECTION 3.** 885.42(2) of the statutes is amended to read:

885.42 (2) OTHER EVIDENCE. Such other evidence as is appropriate may be recorded by videotape and be presented at a trial. The court

may direct a party or the court reporter to prepare a transcript of an audio or audiovisual recording presented under this subsection in accordance with SCR 71.01 (2) (e).

**SECTION 4.** 885.42(4) of the statutes is amended to read:

885.42 (4) TRIAL RECORD. At trial, videotape depositions ~~and other testimony presented by videotape~~ shall be reported unless accompanied with a certified transcript submitted in accordance with SCR 71.01 (2) (d).

IT IS FURTHER ORDERED that notice of the amendment of Wis. Stat. §§ 885.42(2), 885.42(4) and SCR 71.01(2)(e) shall be given by a single publication of a copy of this order in the official state newspaper and in an official publication of the State Bar of Wisconsin.

Dated at Madison, Wisconsin, this 5th day of November, 2010.

BY THE COURT:

A. John Voelker  
Acting Clerk of Supreme Court

