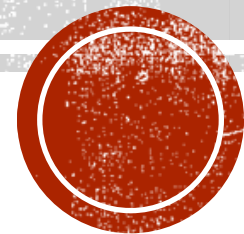


PROCESS SERVICE IN THE DIGITAL AGE

Presented by Attorney Kelsey Mullins, JD, MSW
and Ryan Geary, Racine CO Sheriff's Office Records Coordinator



INTRODUCTIONS

- What is your name?
- What county are you from?
- What is your role?
- Roughly, how many cases do you receive for service each day?





**Wisconsin Stat. 801- Civil
Procedure**

**AKA Everything You Ever Wanted
to Know About Civil Action**

**Court Requirements Update as
Court Changes**

**Case Law
or “Whose Logic Was Better?”**

**Paper Requirement Step by Step
Into...**

**Prototype Electronic
Requirements**

WISCONSIN CIVIL PROCEDURE (ALMOST REDUCTIVE)

- Petitioner takes the paperwork to the Sheriff's Office to be served
- Clerical Staff enters the paperwork into the database and checks what was received
- Deputy grabs the paperwork, take it to the Respondent for service
- Jot down notes about the service, repeat until back at the station
- The notes come back to the Clerical Staff, decipher then entered into database
- Each paper being served (ideally) gets its own entry into the database
- Database prints out an Affidavit of Service/Non-Service, repeat until stack's done
- Clerical Staff preps the Affidavit/Non and copy of served paperwork for mailout
- Mailout gets mailed back to the Petitioner

Please refer to Wisconsin Stat. 801 for all your Process Service needs.

WISCONSIN CIVIL PROCEDURE (HIGHLIGHT THE UPGRADES)

- Petitioner takes the paperwork to the Sheriff's Office to be served
- Clerical Staff enters the paperwork into the database and checks what was received
- Deputy grabs the paperwork, take it to the Respondent for service
- Jot down notes about the service, repeat until back at the station
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WISCONSIN CIVIL PROCESS GROUNDWORK



- Buy-In from the Higher Ups
- Review the basics of your current process
- Show the Higher Ups where the lags are
- Demonstrate the unused tools
- Build the redundancies
- Get Corp Counsel to back you up
- Implement on a (usually) slow day

SMALL AGENCY CONCERNS, LARGE AGENCY ISSUES

- Fewer office workers wearing more hats
 - “Set ways” of local court judiciary
 - Budget limitations
 - Technology infrastructure
 - Community Access and Digital Literacy
 - Legal Team Support
- Bureaucratic Complexity
 - Volume of Service
 - Data Security and CJIS Compliance
 - Training and Management Shifts
 - Integration with Existing Systems
 - IT Cooperation

EITHER WAY, THESE ARE IMPORTANT TO CONSIDER:

- Ambiguity in State Law
 - Proof of Service
- Individual Agency Procedures
 - Interagency Coordination

TOOLS OF THE TRADE

- Network drives and folders
- Your Records Management System
- Updated Forms
- Adobe DC Pro
- Electronic Fillable Forms
- Secured/Encrypted Email
- Smartsheet



REQUESTER'S INFORMATION

REQUESTOR'S NAME: _____

MAILING ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

I WOULD LIKE THE AFFIDAVIT OF SERVICE TO BE (CIRCLE ONE): EMAILED or SENT BY US MAIL

PHONE NUMBER: _____ EMAIL ADDRESS: _____

**ADAPTED INTO
ELECTRONIC SERVICE-
PAPER FORM UPDATES**

- Add an “Opt-In” Option
- Put the owe on the Petitioner
- “Help me help you”
- Getting past “we’ve always done it this way”

Amended

INJUNCTION – Harassment (Order of Protection - 30711)

Case No. 2024CV000835

PETITIONER (PERSON TO BE PROTECTED)

Petitioner (First, Middle, Last)

Date of Birth of Petitioner

RESPONDENT/DEFENDANT

Respondent/Defendant (First, Middle, Last)

Respondent's/Defendant's Street Address, City, State, Zip

53402

SEX	RACE	DOB	HT	WT
				lbs
HAIR COLOR		EYE COLOR		
Respondent's/Defendant's Distinguishing Features (Such as scars, marks or tattoos)				
<input checked="" type="checkbox"/> None known.				

Petitioner's relationship(s) to Respondent/Defendant:

- cousin
- sibling
- parent
- step parent
- adoptive parent
- grandparent
- child(biological/adoptive/step)

Other baby Mother

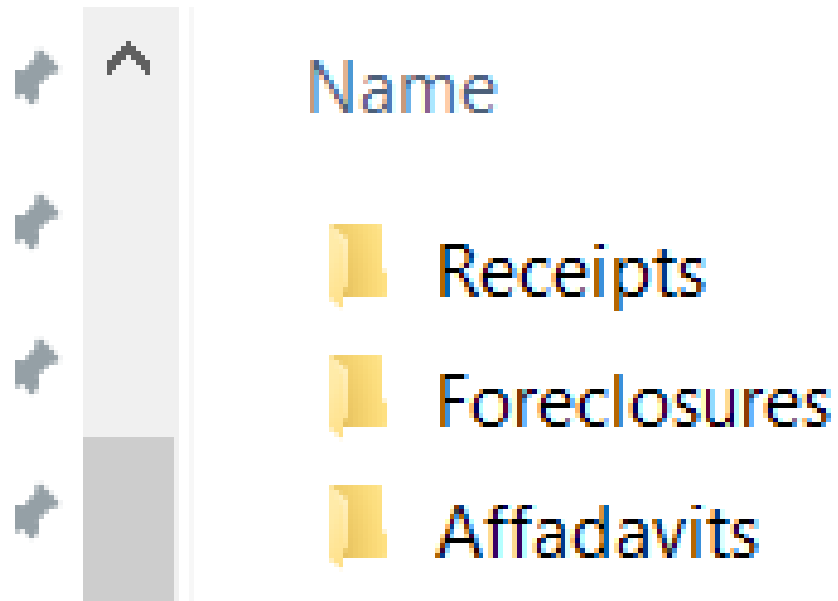
- Respondent/Defendant has access to weapon(s). Type of weapon(s): Gun
Location of weapon(s): Home
- Weapon(s) were involved in an incident [past or present] involving the petitioner.

ADAPTED INTO ELECTRONIC SERVICE- PAPER FORM UPDATES

- Add an "Opt-In" Option
- Put the owe on the Petitioner
- "Help me help you"
- Getting past "we've always done it this way"
- Every box is a potential electronic fillable field

ADAPTED INTO ELECTRONIC SERVICE- DIGITAL SORT AND STORE

> This PC > LECRecords (\\Super)



- Dedicated Network Storage Areas
- Folders and Subfolders
- Electronic Protections
- Multiple Locations = Redundancies

ADAPTED INTO ELECTRONIC SERVICE-TRACKING AND ORGANIZING

- Keep it simple

- RMS Modules

Petitioner	Court Case Number	Log Number	Email Address	Sent On	Receipt Confirmed On
John Smith	25SC0001	00001	john.smith@fakeemail.com	2/15/2025	2/16/2025
Joan Johnsen	25SC0001	00002	jjinthehouse@fakeemail.com	2/15/2025	2/16/2025
William Williams	24SC123456	10001	doublew1999@fakeemail.com	2/17/2025	2/17/2025

- Smartsheet form/table

- Dedicated program

- Clear, concise steps

START SMALL, SCALE UP

- Where are your current system's trouble spots?
- What options are at your disposal for improving them?
- What are YOU familiar with?
- WHO will be doing WHAT for setup and use?
- Is it EASIER or just NEW?

SCALE-UP EXAMPLE

Paper Form, Two Copies of Serving Paper



Fillable Paper Form, One Copy of Serving Paper



Online Form, Confirm Receipt, Bring In Serving Paper



Online Form, Drag-and-Drop Attachment, Auto Email Receipt

BREAK AND REFLECT

What questions do you have so far?



APPLICABLE SCENARIOS

Person A wants to serve *Person B* a Summons to Small Claims Court for Money Owed and Property Damaged during a Civil Trouble incident between them.

Person A provides *Person B's* physical address, their phone number, and their email address.

Person B's address is across the county, near the edge of the SO's jurisdiction.

Person B answers their phone for the LEO, positively IDs themselves as *Person B*, confirms their email address, and states they will accept service of this paperwork digitally.

LEO sends the digital paperwork in a pdf from their official agency email and asks for a confirmation reply when received and opened.

Person B responds to the email saying "Yes, I have received and opened the PDF."

Person C is starting the eviction process of *Person D*.

They want to serve the Summons and Complaint, have all the required paperwork, and provide it to the Sheriff's Office.

When filling out the Eviction Form for the Sheriff's Office, they note a box that states

"I would like to receive this Affidavit of Service electronically", then signs their initials next to the box.

Under the box is a line where *Person C* can write down their email address that states "Clearly write your email to confirm you would like the Affidavit of Service sent to your email". *Person C* writes their email down and provides the form to the Clerk.

When service is completed, the Clerk generates a PDF of the Affidavit of Service and emails it to *Person C* with a digital copy of the served paperwork.

LAWFUL REQUIREMENTS FOR SERVICE

FOR THE SERVICE - Wis. Stat. [801.11](#)

- Authorized to serve by court
- Served within a set timeframe, in a timely manner
- **PERSONALLY** served to the Respondent or appropriately subserved
 - Phone call and email will likely NOT qualify as personal service under statute
- Reasonable diligence is required

BUT WHAT IF...?

Wis. Stat. 801.10(4) *Proof if service challenged.* If the defendant appears in the action and challenges the service of summons upon the defendant, proof of service shall be as follows:

- (c) The written admission of the defendant, whose signature or the subscription of whose name to such admission shall be presumptive evidence of genuineness.

We just don't know. The law has not caught up with technology yet.



LAWFUL REQUIREMENTS AFTER SERVICE

Wis. Stat. 801.10(3) Proof of service.

The person making service shall make and deliver proof of service to the person on whose behalf service was made who shall promptly file such proof of service. Failure to make, deliver, or file proof of service shall not affect the validity of the service.

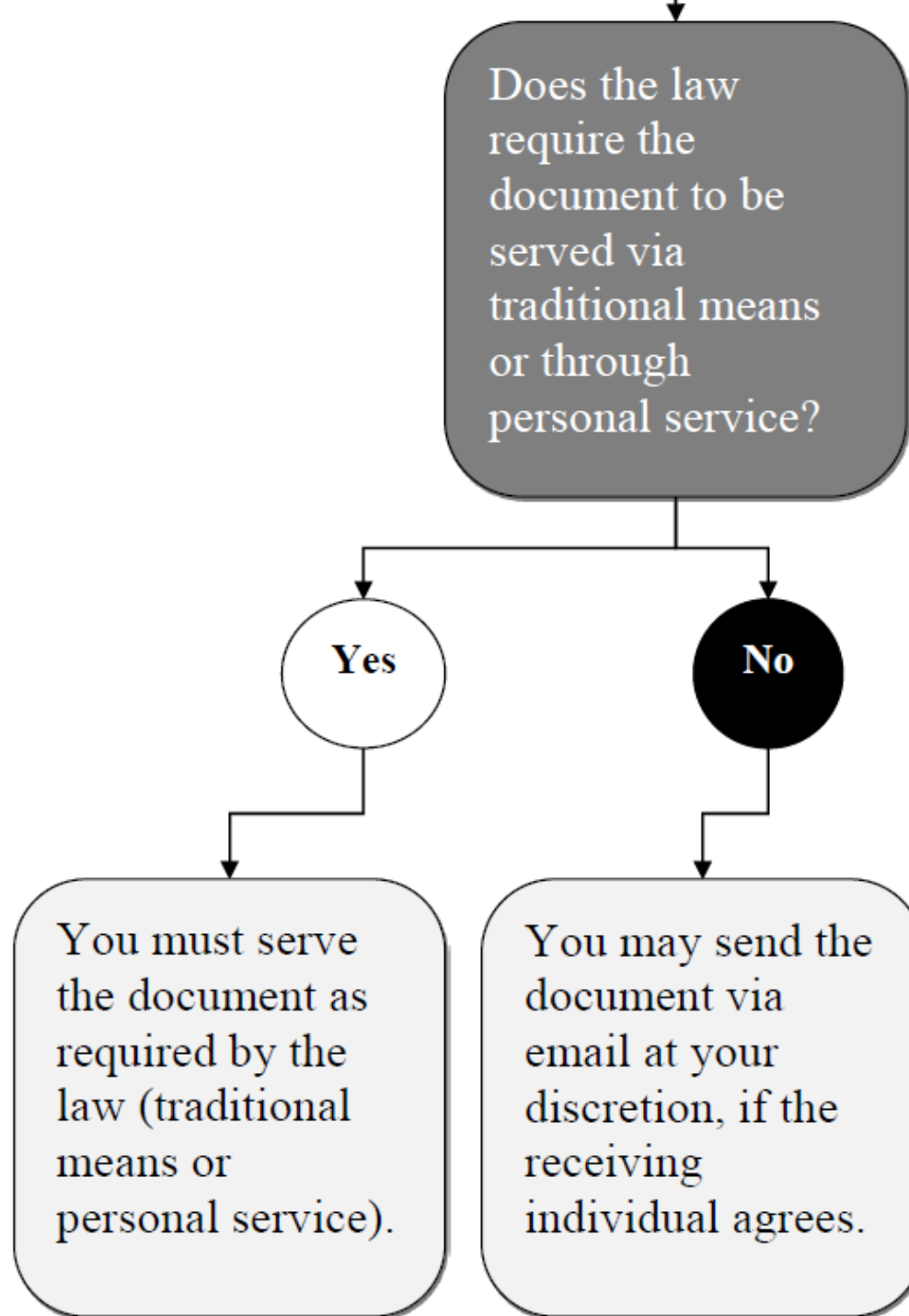
- Petitioner is notified service was complete PROMPTLY upon completion of service
- Must be given date, time, address, id'd person served
- Invoice for the service (where applicable)

HOW DO WISCONSIN COURTS APPROACH ELECTRONIC COMMUNICATION?

- "It is still the policy of the Director's Office that clerks and judges should not accept circuit court documents for filing by email. However, there are a number of situations where email may be used for other kinds of information exchange."
- "There are very few circumstances where incoming documents may be received by clerks via email."

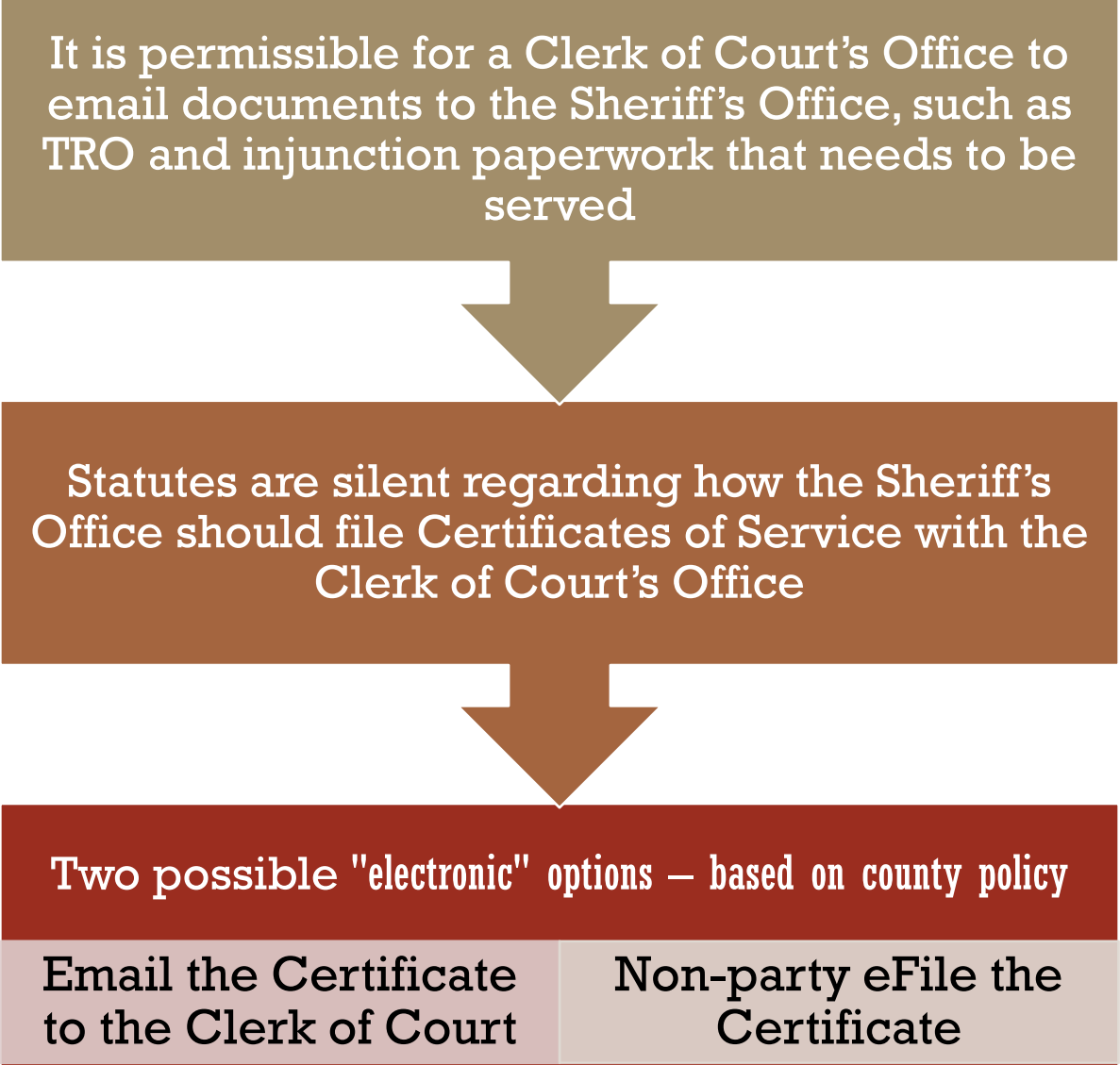
Informational Bulletin 19-02





Informational
Bulletin 19-02

**ELECTRONIC
COMMUNICATION
AND RESTRAINING
ORDERS**



IF YOUR COURT ACCEPTS EMAILS...

Determine what your county's local practice is and consider the following:

- Does the Clerk of Courts Office have one dedicated email address to receive documents?
- Does your Department have one dedicated email address to send and receive documents?



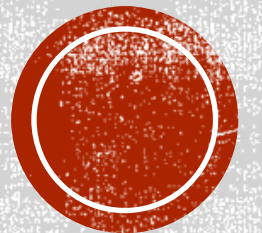
Filing & viewing

Q. Can non-parties upload information to a case?

Yes, additional documents may be filed on a case by a person who is not a party or attorney on the case. Non-party filers do not have access to the case information and are not able to see case documents.

EFILING ASSISTANCE

<https://www.wicourts.gov/ecourts/efilecircuit/faq.htm>



COURT REQUIREMENTS UPDATE AS COURT CHANGES

- 72 Counties, 72 Perspectives
- No Standardization – Risk of Litigation
- Constitutional Concerns – Due Process is Key
- Judicial Interpretation (Circuit Level, Appellate Level, Supreme Level)
- What the Court Wants, the Court Gets
- Privacy Concerns – Demonstrate the Guarantee
- Get It In Writing – Standard Operating Procedures



BREAK AND REFLECT

*What questions do
you have so far?*

The background of the slide is a blurred image of a map with several colorful pushpins (blue, orange, green, red, black) pinned to it. A semi-transparent grey rectangular box is centered over the map, containing the main text.

WHAT ARE OTHER STATES DOING?



State	Electronic Service of Process
Alaska <i>Rule of Civil Procedure 4(e)(3)</i>	Allows service by publication; service of the notice to the absent party's e-mail account; posting of the notice to the absent party's social networking account; physically posting a copy of the notice and complaint on a public bulletin board or on the front door of the absent party's place of residence; or any method the court determines to be reasonable and appropriate.
Illinois <i>Supreme Court Rule 102</i>	Allows service of summons and complaints via electronic means, including social media, email, and text messages. To utilize this method, a party must obtain court permission and demonstrate that the recipient has the capability to access and read the documents electronically. Additionally, electronic copies must be provided with clear notice, and a return of service detailing the method used, including a screenshot as evidence, is required.
D.C. <i>Supreme Court Rule 4</i>	Allows service by email if the party requesting alternative service can show "that the party to be served used this method for successful communication within the past 6 months." If a person serves by email, they must also mail a copy to the defendant's last known address.
Kansas <i>Statute 60-303(f)</i>	Allows service by first class mail (not registered or certified), fax, or email in garnishment cases only.
Maine <i>Supreme Court Rule 4</i>	Allows alternative service "electronically or by other means."

State	Electronic Service of Process
Nevada <i>Supreme Court Rule</i>	Allows alternative service, but does not specifically list text or email, Forms for family law cases list text and email as alternative service options.
New Hampshire <i>Supreme Court Rule</i>	Allows for electronic service of documents. Registered filers consent to electronic service, and the electronic filing system serves court-issued documents to these filers. Parties granted exceptions or not yet registered receive paper copies, ensuring accessibility for all parties involved.
New York	Allows business entities to opt-in to receive service of process via email . This amendment enables corporations, associations, limited liability companies, and partnerships to choose electronic service, while those not opting in continue to receive service by traditional mail.
Oregon <i>Rules of Civil Procedure</i>	Allows service by email, text message, facsimile transmission, or posting to a social media account
Texas <i>Rules of Civil Procedure 103-117</i>	Allows for alternative service “in any other manner, including electronically by social media, email, or other technology that will reasonably give notice.”
Utah <i>Rules of Civil Procedure 4</i>	Does not specifically address email or other electronic service, forms have options for email, text, and social media.

WHAT HAPPENS IF..?



Case Originates in IL, respondent is in WI

- Petitioner files in IL
- Respondent lives in WI
- IL allows for electronic service (including social media, email, and text messages)
- IL court will be the one to accept proof of service
- IL court will accept proof of electronic service
- WI sheriff can serve electronically pursuant to IL process

Case Originates in WI, respondent is in IL

- Petitioner files in WI
- Respondent lives in IL
- WI law does not allow for electronic service
- WI court will be the one to accept proof of service
- WI court is unlikely to accept proof of electronic service, even though that is permissible in IL actions
- WI sheriff will likely direct petitioner to contact IL sheriff, who should follow WI procedure

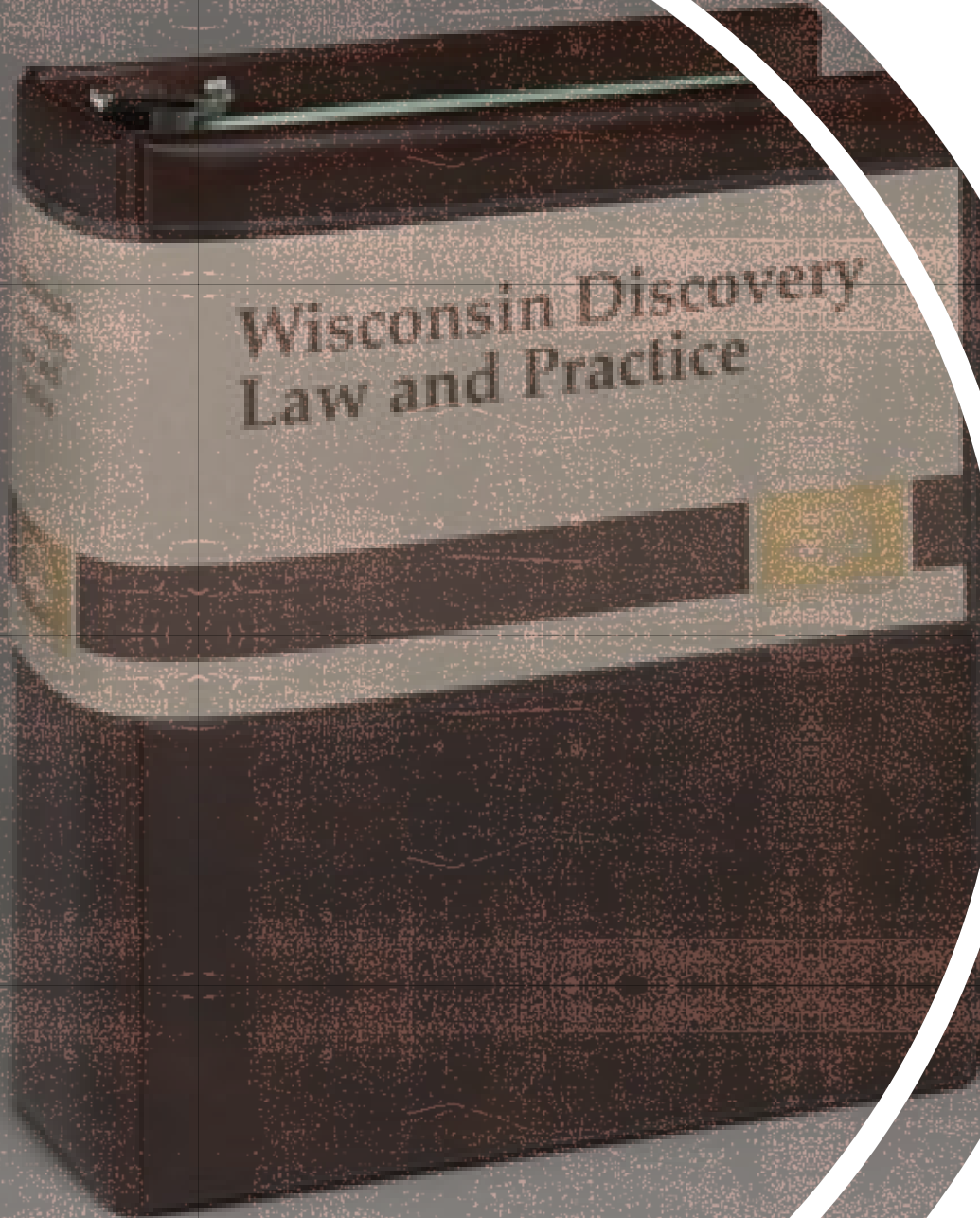
HAS THIS HAPPENED IN YOUR COUNTY?

- Have you had to serve Illinois court documents to a respondent in Wisconsin?
- Have you been asked to do so "digitally"?
- What if you had a copy of the court granting permission for the digital service?

WHAT WOULD YOU DO?

CASE LAW 101

- “Is this legal? No one’s tried it yet.”
- Option A: “Based on similar or parallel situations”
- Option B: “Based on current best practice”
- Option C: “Based on logic”



WHERE IT CAN COME UP IN COURT

Is actual notice sufficient to overcome lack of personal service?

WHERE IT CAN COME UP IN COURT

WI Court of Appeals 2014AP2207

Michael Lenz v. Mary Nelson, Alberto Ciarletta, and Richard Chandler (L.C. # 2014CV342)

Attempting service at work + emailing each defendant at their known work address to set up service as the only effort prior to publication does not constitute reasonable diligence.

WHERE IT CAN COME UP IN COURT

WI Court of Appeals 2014AP1800

Norman D. Stapleton v. James J. Dickman, M.D. and Black River Memorial Hospital, Inc. (L.C. # 2013CV166)

Mailing documents via USPS is NOT personal service... even if it does notify the defendants. We can guess that it is thus unlikely email is personal service either.



TEMPORARY RESTRAINING ORDERS AS AN ELECTRONIC SERVICE MODEL

Urgency, Sensitivity, and Requirement for Verifiable Delivery to Respondent

- Petitioner Opt-In to Digital Consent
- Respondent Contact-Verification Prior to Service
- Court Review and Authorization
- Audit Trail and Proof of Delivery
- Fallback Requirements
- Data Security and Confidentiality
- Buildable Framework from here



VPO – VINE PROTECTIVE ORDER

Provided by DOC's Office of Victim Services and Programs (OVSP) in partnership with local law enforcement agencies and Clerk of Courts' offices throughout the state.

Receive automated telephone or email notifications when a Temporary Restraining Order (TRO) has been served by law enforcement. To register, petitioners need the 12-digit CCAP case number, county where the TRO was filed, and respondent's first and last name.

Two ways to enroll for WI VINE Protective Order:

1. Online: [WI VINE Protective Order](#)
2. Phone: 1-855-WI VPO 4U (1-855-948-7648)

WISCONSIN CIVIL PROCEDURE (WHERE WE CAN IMPROVE)

- Petitioner takes the paperwork to the Sheriff's Office to be served **DIGITAL PAPER RECEIVING**
- Clerical Staff enters the paperwork into the database and checks what was received
- Deputy grabs the paperwork, take it to the Respondent for service **PHONE CALL AND EMAIL**
- Jot down notes about the service, repeat until back at the station **FROM YOUR DESK NOT SQUAD**
- The notes come back to the Clerical Staff, decipher then entered into database
- Each paper being served (ideally) gets its own entry into the database
- Database prints out an Affidavit of Service/Non-Service, repeat until stack's done **EMAIL**
- Clerical Staff preps the Affidavit/Non and copy of served paperwork for mailout **CLOSE ENTRY**
- Mailout gets mailed back to the Petitioner **CLOSE COMPUTER**

FINAL TIPS AND POINTERS

Write down the current standard operating procedure before making changes

Draft what changes you're looking to make and where they would go in the SOP

Always keep your Corp. Counsel in the loop with whatever you're doing

Test the waters before diving in

Ask for feedback from different sources

Adjust procedures as you need to

Redundancies make Upper Command comfortable

Review how efficient the changes make things



DISCUSSION + Q&A