

150 WITNESS: ABSENCE

If a party fails to call a material witness within (his) (her) control, or whom it would be more natural for that party to call than the opposing party, and the party fails to give a satisfactory explanation for not calling the witness, you may infer that the evidence which the witness would give would be unfavorable to the party who failed to call the witness.

COMMENT

The instruction was approved in 2017. It was adapted from Wis JI-Civil 410. See the commentary in that instruction for case law on instructing a jury on missing witnesses. Previously, Wis JI-Children 150 was entitled "Composite Instruction at the Conclusion of Evidence." That instruction was eliminated by the Committee in 2017.