

430 A PARTY'S PRESENCE NOT REQUIRED AT TRIAL

(Name of party)'s personal appearance in this action is not required. Instead, (he) (she) may appear through (his) (her) attorney.

COMMENT

This instruction and comment were approved by the Committee in May 2023.

Wisconsin Supreme Court Rule 11.02 (2002) governs appearances by attorneys on behalf of their clients. It provides:

(1) Authorized. Every person of full age and sound mind may appear by attorney in every action or proceeding by or against the person in any court except felony actions, or may prosecute or defend the action or proceeding in person.
SCR 11.02(1) (2002).

Under SCR 11.02, a party in a civil action does “‘appear’ at trial by the fact that ... counsel appeared.” Sherman v. Heiser, 85 Wis.2d 246, 254-55, 270 N.W.2d 397 (1978).

A party is entitled to appear by counsel in a civil matter pursuant to WIS. CONST. art. I, § 21, which governs the rights of suitors. Section 21 provides:

“In any court of this state, any suitor may prosecute or defend his suit either in his own proper person or by an attorney of the suitor’s choice.” Id., § 21(2).