

**7056 PETITION FOR GUARDIANSHIP OF THE ESTATE: SPENDTHRIFT;
WIS. STAT. § 54.10 (2)**

(Insert Wis JI-Civil 100, Opening)

A petition has been filed to appoint a guardian for the estate of (individual). The petition alleges that (individual) is a spendthrift and needs a guardian appointed for (his) (her) estate. A guardian is a person appointed by a court to manage the income and assets and provide for the essential requirements for health and safety and the personal needs of an individual found to be a spendthrift.

The fact that a petition has been filed is not evidence that (individual) is a spendthrift. The burden of proving (individual) is a spendthrift is upon (petitioner). The evidence must show that (individual) is a spendthrift at the time of this hearing.

This is a civil, not a criminal case. While (individual) is not on trial to be punished for any offense, nevertheless, this trial and your verdict could have a significant impact on (his) (her) life. Therefore, you should approach your task with a sense of serious duty.

Wis JI-Civil 110, Arguments of Counsel

Wis JI-Civil 115, Objections of Counsel

Wis JI-Civil 120, Judge's Demeanor

Wis JI-Civil 130, Stricken Testimony

Wis JI-Civil 215, Credibility of Witnesses; Weight of Evidence

Wis JI-Civil 260, Expert Testimony: General

Wis JI-Civil 265, Expert Testimony: Hypothetical Question

At the end of the trial, you will be given a special verdict consisting of two questions. You must answer them according to the evidence and to the instructions I will give you.

Wis JI-Civil 205, Burden of Proof: Middle

Wis JI-Civil 145, Special Verdict Questions: Interrelationship

Question 1 in the verdict reads: Is (individual) aged 18 years at the time of this hearing?

Question 2 in the verdict reads: Is (individual) a spendthrift at the time of this hearing? A spendthrift is a person who, because of the use of alcohol or other drugs or because of gambling or other wasteful course of conduct, is unable to manage effectively (his) (her) financial affairs or is likely to affect the health, life, or property of (himself) (herself) or others so as to endanger (his) (her) support and the support of (his) (her) dependents, if any, or to expose the public to responsibility for (his) (her) support.

Wis JI-Civil 180, Five-Sixths Verdict

Wis JI-Civil 190, Closing

SPECIAL VERDICT

Question 1: Is (individual) aged at least 18 years?

Answer: _____

Yes or No

Question 2: Is (individual) a spendthrift?

Answer: _____

Yes or No

COMMENT

This instruction and comment were approved in 2009. This instruction is for a hearing on a petition that an individual is a spendthrift.

The middle burden of proof (clear, satisfactory, and convincing) applies. Wis. Stat. § 54.44(2).

In jury trials under Chapter 54 and Chapter 55, the court or guardian ad litem may tell the jury that the guardian ad litem represents the best interests of the proposed ward or ward. Wis. Stat. § 54.40(5).