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Proposed changes to MCR 3.210; ADM 2110-32

Despite the comments of respected family law council leaders supporting these proposed rule changes, I find this proposed rule quite confusing and somewhat disquieting. It seems that there is no purpose in pursuing a default as it does little or nothing to prevent the other side from participating, while keeping the movant in the dark as to answers or defenses. One section says the defaulted party cannot file a motion but the very next says they can. 2(c) and (d). 2(e) goes further - there is absolutely no reason for a party to file an answer if the defaulted party can participate in all proceedings while the other party(ies) has/have no idea what their answer is or the defenses might be. It's like fighting a no holds barred opponent with one hand tied behind your back.

Under paragraph 5 the rule concerns family law cases (see comments) and seriously suggests that family court judges are tired of civil procedure and the rules of evidence, making our family courts second class courts. Looking at 5(d): when it comes to children the proofs can include "other evidence not otherwise admissible from either party." This seems to go a bit far. The rule may mean to allow in hearsay evidence (why?) but it is not limited to that at all. Privileged information? Confidential business information? I don't understand the need for such a change and fear the broad consequences.

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