

**ROCK COUNTY CIRCUIT COURT RULES (Sept. 2022)**

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## GENERAL RULES

### **100: General Section**

These rules were promulgated by the 5th Judicial District Chief Judge at the request of the Rock County Circuit Judges and shall supersede all other rules.

### **101: Case Filings**

**A.** All civil, criminal and juvenile guardianship of person actions filed in Rock County shall be filed at the Clerk of Courts Office in Janesville except as provided in section (B).

**B.** All probate, guardianship (except juvenile guardianship of person), conservatorship, or mental or drug dependent commitment cases carrying case designations PR, GN, or ME shall be filed in the office of the Register in Probate.

### **102: Court Organization**

Effective June 1, 2022, the Circuit Court of Rock County shall be organized with six branches on a general assignment of all case types, except for those types assigned to the seventh branch, which shall be assigned juvenile matters.

**A.** General Assignment. The six branches of the Rock County Circuit Court on a general assignment shall hear all case types not assigned to the Juvenile Branch. Each branch with a general assignment shall receive 1/6 of all new cases not assigned to the Juvenile Branch. All case assignments shall be made pursuant to Rule 112.

**B.** Juvenile Branch. The Juvenile Branch shall consist of one Branch of the Circuit Court (See Rule 103, regarding a backup Juvenile Court). The Juvenile Court shall hear all cases carrying the file designation JV, JO, JC, AD, and TP and all CHIPS cases converted to guardianship actions. All case assignments shall be made pursuant to Rule 112. The Judge assigned to the Juvenile Division shall assume the supervisory and oversight responsibilities related to the Rock County Juvenile Detention Center and the Juvenile Probation Department. In order to facilitate the *in camera* review of juvenile records in non-juvenile proceedings, the assignment of judges to cover juvenile matters during periods of vacation or illness of the judge assigned to the Juvenile Division, and to permit all branches of the Circuit Court to perform juvenile matters, all branches of the Circuit Court shall be designated as Juvenile Courts.

**C.** Cases are to be randomly assigned among the General Assignment Branches as they are filed. The intent is to assign cases equally among the General Assignment Branches. Cases are reassigned using the same random system upon disqualification and substitution. Case load for further assignment will be adjusted based upon disqualification, substitution, and reassignment.

### **103: Substitution of Judge**

**A.** All approved judicial disqualifications and substitutions among the general assignment branches shall be assigned to another general assignment branch. If for any reason this is not possible, the Chief Judge shall assign the case to an appropriate court.

**B.** For disqualifications and substitutions within the Juvenile Branch, the Presiding Judge shall designate a branch on general assignment as the backup Juvenile Court. All disqualifications and substitutions of the judge assigned to the Juvenile Branch shall be transferred to the backup Juvenile Court upon approval of the disqualification or substitution. All juvenile cases thereafter involving the same juvenile shall be assigned to the backup juvenile court to ensure both consistency in handling of the juvenile dispositions and to achieve judicial efficiency and economy. Upon entry of the final disposition order, the case assigned to the backup Juvenile Court shall be returned to the Juvenile Branch and the judge of the Juvenile Branch shall hear all matters relating to post disposition order.

### **104: Cameras and Electronic Media in the Courtroom**

**A.** A notice of intent to bring cameras or recording equipment into the courtroom or other hearing chamber, pursuant to SCR 61.02(2), shall be made orally or in writing through the Media Coordinator or, if the Media Coordinator is unavailable, through the Deputy Media Coordinator to the office of the judicial officer conducting the hearing or trial. If possible, this notice shall be made at least three (3) days in advance of the hearing/trial. The court may waive this requirement if good cause is demonstrated. A notice by one media representative shall be sufficient for all subsequent hearings and trials in the case. Each media organization must provide an individual notice; one notice shall not suffice for all other media representatives.

**B.** The judicial assistant of the judicial officer conducting the hearing or trial shall make a diligent effort to notify the attorneys and any unrepresented parties as soon as reasonably possible of the notice.

**C.** Notice to have cameras or recording equipment at Initial Appearances is not required.

**D.** A party moving to close any judicial proceeding to the media that is required by law to be open must notify the Court and the Media Coordinator at least three (3) days prior to the hearing/trial if possible. The court may waive this requirement if good cause is demonstrated. The motion will be heard before the commencement of the hearing. The burden shall be upon the moving party to show why sec. 757.14 Wis. Stats. should not apply.

**E.** The name of the Media Coordinator and Deputy Media Coordinator will be on file in the office of the Presiding Judge.

### **105: Assignment of Ancillary Proceedings Growing Out of Previously Assigned Cases**

**A.** All general assignment case files, if the judge that entered the original order or judgment is no longer serving the matter shall be assigned to the successor judge.

**B.** Where a defendant is brought in on outstanding bench warrants after bind over, the hearings on the bench warrants shall be assigned to the judge who issued the bench warrant. Where the judge that issued the bench warrant is no longer serving, the matter shall be assigned to the successor judge. In felony cases where the warrant was issued prior to bind over, any bail matters will be heard by the judicial court commissioner, and the preliminary hearing will be heard by the judicial court commissioner or duty judge.

**C.** All files carrying the designation JV, JO, JC, or TP shall remain assigned to either the Juvenile Branch or the court designated the backup Juvenile Court.

### **106: Writs of Certiorari, Habeas Corpus, Prohibition, Mandamus, and Other Writs**

All writs will be filed in the office of the Clerk of Court, will be given a CV number and assigned pursuant to the normal practice for general assignment. If the assigned judge determines that the writ is an action challenging the underlying conviction, sentence or order the case will be administratively reassigned to the judge who entered the sentence or order or to the successor judge.

### **107: Demeanor of Counsel**

**A.** All witness examinations shall be conducted from counsel table unless otherwise permitted by the judicial official hearing the matter.

**B.** During jury trials, all opening statements or closing argument may be made either from the counsel table or from the podium.

**C.** During jury trials, objections to questions or evidence shall only be made by stating "objection" and then by providing a succinct legal ground therefore (i.e., relevancy, competency, hearsay, etc.) without argument or elucidation. Responses from opposing counsel are to be made only upon a request of the judicial officer hearing the matter.

### **108: Specificity of Motions**

No orders shall be signed by the court without proper motions or stipulations filed with the Clerk of Court. All motions must state with specificity the grounds and factual basis therefore. General assertions of violations of Constitutional Rights will not be considered specific. General assertions of insufficiency will not be considered specific. Such non specific motions may be denied sua sponte by the court with notice to the parties of such denial and with leave to renew the motion in a timely manner.

### **109: Withdrawal of Counsel**

Attorneys will not be allowed to withdraw from a case without the consent of the assigned judge. Consent will be given only upon a proper showing of cause and the presentation of a written order allowing said withdrawal.

### **110: Removing Files from the Clerk of Courts Office**

Files predating e-filing shall be reviewed by the public, parties, or attorneys only in the Clerk of Court's office. Files may not be removed from the Clerk of Courts' office.

### **112: Mechanics of Judicial Rotation**

**A.** From June 1, 2022, through July 31, 2022, Branch 5 is assigned as the Juvenile Branch and the remaining six branches of the Rock County Circuit Court shall be on a general assignment. Beginning on August 1, 2022, and for a term of two years, Branch 5 is assigned as the Juvenile Branch and the remaining six branches of the Rock County Circuit Court shall be on a general assignment. Each succeeding rotation term shall begin on August 1, in even numbered years and continue for two years.

**B.** In January of rotation years, the Presiding Judge shall solicit from each judge their preference for assignment during the next rotation term. Every effort will be made to accommodate each judge's first choice. If rotation cannot be accomplished by agreement or by volunteers, the judge with the longest tenure since serving on the primary Juvenile Court will be the judge reassigned to the Juvenile Branch; the remaining branches will be on general assignment. The Presiding Judge shall have the final decision in the area of judicial rotation and judicial assignment.

**C.** When a new judge assumes assignment in the Juvenile Branch, that judge shall assume the open and post-disposition caseload of all case types assigned to the Juvenile Branch on August 1, of the even year beginning the new rotation term. On that same date, the judge rotating out of the Juvenile Branch shall assume the pending caseload of the judge who rotated to the Juvenile Branch.

**D.** Post-Judgment matters, except those in the Juvenile Branch, shall remain with the initially assigned judge despite any rotation. If the judge that originally decided the matter has retired or is no longer an active circuit court judge, that Post-Judgment matter will be assigned to the successor judge.

### **113: Amendment of Rules**

No court rule may be amended, repealed, or created except upon a majority vote of the sitting Rock County Circuit Judges and concurrence of the District Chief Judge.

### **114: Appointment of Advocacy Counsel/County Reimbursement**

**A.** When the court appoints advocacy counsel at county expense, at the time the appointment is made the defendant will be required to sign a statement acknowledging that, at the end of the case, when the total cost is known, he or she shall be ordered to reimburse the county for all or part of the counsel fees through a wage assignment or by other means.

**B.** The court may order immediate partial payment of fees or establish a payment schedule of fees as a condition of appointment, and this schedule shall be included in the signed agreement.

### **115: Facsimile Filing Rule**

**A.** The party transmitting the facsimile is solely responsible for ensuring the timely and complete receipt of the document. No document will be considered filed where:

1. There are errors or material omissions that result from errors in transmission causing missing, incomplete, or illegible documents.

Or;

2. The document is not received because of periods when the facsimile machine is not operational for any reason.

**B.** Papers filed by facsimile transmission are considered filed when transmitted. Any papers filed by facsimile transmission after the close of clerk of court's office regular business hours are considered filed on a particular day if the submission is completed by 11:59 p.m. Central Time, as recorded by the court facsimile machine, so long as it is subsequently accepted by the

clerk upon review. Documents filed after 11:59 p.m. Central Time are considered filed the next business day the clerk's office is open.

**C.** No transmission shall exceed fifteen (15) pages in length, inclusive of any cover sheet, unless the assigned judge or commissioner has by order, in advance, permitted a greater length. The first page of any document filed by facsimile transmission that is greater than 15 pages in length shall certify on the first page of such document that an exception has been ordered by the applicable judge or commissioner.

**D.** The Clerk of Courts for Rock County shall maintain the official facsimile machine and all documents filed by facsimile transmission shall be filed with the Clerk of Courts for Rock County. Documents sent by facsimile transmission to facsimile machines other than the Clerk of Courts facsimile machine will not be accepted as being properly filed pursuant to this rule.

#### **116: Videoconferencing Rule**

**A.** The court may permit the use of videoconferencing technology in accordance with the requirements of ch. 885, Stat.

**B.** Any person participating in a court proceeding via videoconferencing technology must use a device that will provide for clear video and audio transmission and a stable connection. Videoconferencing participants shall be dressed appropriately for court, standing or seated upright, and in a quiet place free from distractions and other responsibilities (such as work, pets, children, etc). Videoconferencing participants must login for their hearing on time and act as if they are in a courtroom (no driving, smoking, or eating during the hearing). Technical difficulties are not an excuse for the failure to appear timely or with a good connection throughout the hearing.

#### **117: Electronic Devices**

**A.** Unless authorized by the Court, all spectators and visitors to public sessions of the Rock County Circuit Court must turn off any electronic devices. This rule applies to all electronic devices that are capable of receiving and sending any form of communication to include cell phones, pagers, "smart phones", tablet computers, or any other device that can connect to either the internet or a telephone cell network. This list is not intended to be exclusive.

**B.** Any person who is called to jury duty shall not use any of the electronic devices identified in section (A) above without permission of the court.

## **118: De Novo Hearings**

**A.** Any party who was present at a Court Commissioner hearing, and who has not entered into a stipulation for an order, has the right to have the assigned judge hold a new hearing by filing a written request within 15 days of the hearing with the Clerk of Courts' Office, with a copy sent immediately to the opposing party. Small Claims De Novo hearings follow Chapter 799 Wis. Stats. Family Court Commissioner hearings follow Chapter 767.

**B.** The matter shall be referred to the assigned judge for hearing. The Court Commissioner's order shall remain in effect until modified by the assigned judge after the De Novo hearing.

**C.** Notices requesting a hearing De Novo will not stay the order unless the judge specifically grants a stay of the order.

## **119: Digital Evidence / Exhibits**

**A.** Unless otherwise allowed, when parties submit digital evidence as exhibits, the exhibits should be prepared as follows:

- 1.** Video/Audio: each separate video or audio file shall be saved to a single CD, DVD, or memory drive and marked as a single exhibit.
- 2.** Pictures: each separate picture offered only for its graphical representation (not offered for issues related to the data associated with the picture file) shall be printed in color and marked as a single exhibit.
- 3.** Other digital files: each digital file shall be saved to a single CD, DVD, or memory drive and marked as a single exhibit.

**B.** Publication: Parties may, with the approval of the court, publish a digital copy of an exhibit without the need to mark such a copy as a separate exhibit. Any party intending to publish a digital copy of an exhibit must notify any other party of such intention and provide the proposed digital copy to any other party at least three business days prior to hearing or trial. The intent of this rule is to allow parties to verify the accuracy of digital copies used for publication prior to hearing or trial. If the parties cannot agree on the accuracy of a digital copy of an exhibit, the offering party should be prepared to offer it as a separate exhibit.

## **RULES FOR CIVIL CASES**

### **201: Trial Briefs, Verdicts, and Instructions**

**A.** All trial briefs, requested jury instructions, and proposed verdict forms shall be prepared by the attorney for a party and shall be filed with the court no later than ten (10) days prior to the first day of trial. The trial judge may modify this requirement by pre-trial or scheduling order.

**B.** All trial briefs, requested instructions, and proposed verdict forms, and all other documents that are filed with the court shall be exchanged between counsels.

**C.** Counsel may request jury instructions by providing a letter to the court and opposing counsel listing the Civil Jury Instruction numbers of the instructions requested. If counsel substantively amends a stock jury instruction, counsel shall submit to the court and opposing counsel the amended instruction.

**D.** Trial briefs shall be limited to twenty (20) pages unless prior approval by the judge presiding in the case.

### **202: Continuance of Trial Date**

All stipulated requests for continuance of a trial date shall require the consent of all parties to the action either in writing or on the record, and will only be approved for good cause shown. Non-stipulated requests for continuance must be on motion and hearing, and will only be approved upon a showing of good cause. All requests for continuance are subject to the approval of the court.

### **203: Default Judgment Hearings**

**A.** In all actions where personal service was obtained upon the defendant, no notice to the defendant is required prior to the entry of judgment except as provided by law.

**B.** In all actions where the defendant is served by substituted service, the notice of motion and motion for default judgment shall be sent to the defendant by mailing said motion to the defendant's last known address by regular U.S. mail. The mailing shall include notice that a default judgment shall be entered against the defendant unless the defendant files a written request for a hearing within fifteen (15) days of the date the notice is postmarked.

**C.** In actions where damages are not liquidated, a hearing shall be conducted by the court to determine the amount of the judgment as provided by statute.

## **204: Motions for Summary Judgment or Going to the Merits**

**A.** All motions going to the merits may be addressed in the Court's Pre-Trial Order that will provide a date for the filing thereof.

**B.** All motions for Summary Judgment shall be accompanied by supporting affidavits and brief. Unless addressed in the Pre-Trial Order, the parties must comply with §802.08 Wis. Stats.

**C.** The court may schedule a hearing for oral argument and decision, and the scheduling of this hearing shall be the responsibility of the moving party unless the court has provided a hearing date in the Pre-Trial Order.

**D.** The Court may decide the motion going to the merits or summary judgment motion without the necessity of oral argument by preparing a written decision, and shall establish this by Pre-Trial Order.

**E.** The Summary Judgment briefing schedule may be addressed in the court's Pre-Trial Order and may be amended at the discretion of the court.

## **205: Small Claims**

**A.** In all Small Claims actions, the Defendant must appear in person at the time and place indicated on the Summons unless the Defendant files a written Answer or Counterclaim prior to the date of the initial hearing with a duplicate copy sent to the Plaintiff. If this procedure is not complied with, a judgment may be granted in favor of the Plaintiff.

**B.** All Small Claims proceedings will be in person or by electronic media at the discretion of the Judge/Court Commissioner.

**C.** The Plaintiff must appear on the scheduled date and if not, the case may be dismissed.

1. Service may be made by mail as authorized by 799.12(2) and (3) subject to the procedures set forth in this rule.
2. Regular Mail: Service may be made by regular mail if the defendant lives in Rock County and the claim is for money only.
3. Mail service must be performed by the Clerk of Court's Office. The litigant requesting mail service shall leave the original summons and complaint form and one copy for each defendant being served by mail, along with a \$2.00 per defendant mail fee. Service is considered complete when it is mailed unless the envelope containing the summons and complaint is returned unopened to the

clerk's office by the US Postal Service. If this occurs, the Court will notify the Plaintiff/Attorney with a new court date so that service can be tried again. This will be done one (1) week prior to the return (court) date by letter.

4. Personal service: Evictions, replevins, contempt and out-of-county claims must be accomplished by personal service or by other authorized statutory provision.

**D.** All contested eviction actions will be referred to the assigned judge. The judge shall have the discretion to schedule the eviction hearing up to the statutory limit of 30 days from the return date. The same judge or court commissioner will try any contested damage hearing at a date to be scheduled by the court after the eviction hearing.

### **206: Duty Judge**

**A.** The judges with a general assignment shall rotate as Duty Judge on a weekly basis. The presiding judge shall make an annual roster of assignment.

**B.** The Duty Judge shall be available during normal business hours of the Rock County Court House to review and issue temporary restraining orders in Domestic Abuse, Child Abuse, Vulnerable Adult, and Harassment Actions.

**C.** The Duty Judge shall hear all Child Abuse and Vulnerable Adult Actions filed during the judge's duty week.

### **207: Guardianship Proceedings**

**A.** Guardianships shall be commenced by petition in accordance with Wisconsin statutes. The petition shall list the names and post office addresses of all interested parties, including parents of a minor, if known. The petitioner shall exercise reasonable diligence to comply with this requirement.

**B.** Initial hearings shall be held before the Circuit Court Commissioner. The Circuit Court Commissioner may perform all duties outlined in §757.69 Wis. Stats..

**C.** CHIPS cases converted to guardianship actions shall proceed in the Juvenile Branch of the Rock County Circuit Court.

**D.** The proposed ward's appearance shall be excused by the Circuit Court if the guardian ad litem, after personal interview with the ward, certifies to the court the specific reasons why the proposed ward is unable to attend.

## **208: Petitions for Approval of Minor Settlements**

**A.** A petition for approval of a minor settlement shall concisely state the age of the minor, the nature and extent of the injury giving rise to the claim and whether the injury is permanent, the cause of the injury and the circumstances in which the injury was suffered, and the proposed distribution of the settlement funds.

**B.** The court shall presume that sums distributed for the payment of attorney fees will not exceed 25% of the settlement but may approve a larger portion if extraordinary circumstances so justify.

**C.** Unless the court orders otherwise, the minor, his or her attorney, and at least one of the parents or guardians shall attend in person for the hearing on the petition.

**D.** Proceeds of a minor settlement to be deposited or invested for the benefit of the minor shall be paid into a restricted account that will not permit any withdrawal from the account until the minor's 18th birthday or upon further order of the court. The court shall not approve a settlement that proposes to deposit the settlement funds into a bank account that does not bear interest.

**E.** No guardian ad litem may be relieved of responsibility on any case until he or she files with the court written confirmation that the funds have been deposited or invested as provided in the court's order.

## **RULES FOR CRIMINAL, FORFEITURE AND TRAFFIC CASES**

### **301: Defendant's Demeanor and Dress**

**A.** The defendant shall be seated at counsel table at all times unless leave of court is obtained prior to any hearing.

**B.** Incarcerated defendants shall be permitted to dress in "street clothes" for all court and jury trials. Dress at sentencing will be handled on a case-by-case basis.

### **302: Case Assignments**

**A.** When an action is filed in Criminal Traffic (CT), Misdemeanor (CM) and Felony (CF) cases, a judge shall be assigned to the case and the defendant shall be notified of the name of the assigned judge at the initial appearance. All preliminary examinations shall be assigned to a judicial court commissioner unless a substitution request is filed which precludes the court

commissioner from hearing the matter. A judge that hears a preliminary examination is not automatically eliminated from assignment to the case.

**B.** Should a defendant have more than one type of criminal case at the initial appearance, one judge shall be assigned to the case with the most serious offense and all filed cases shall be assigned to that judge. If a defendant has more than one pending felony, all felony cases shall be assigned to the judge with the earliest pending felony, or earliest pending misdemeanor in the case of multiple misdemeanor cases without a pending felony case. The intent of this rule is to assign to one judge all cases involving a specific defendant.

**C.** When the criminal complaint lists more than one defendant, one judge shall be assigned for all cases arising from that complaint. (See also Rule 307)

**D.** It shall be the responsibility of the District Attorney to notify the Clerk of Courts that a specific defendant has other pending criminal matters at the time a new criminal complaint is filed and which judge is assigned to the pending matters.

### **303: Appearance in Court**

**A.** Calendar calls are to be attended by counsel with authority to resolve the case and the defendant, who must attend unless specifically excused by the court.

**B.** A written authorization by the defendant permitting defense counsel to appear on the defendant's behalf does not excuse a defendant's appearance at calendar call.

**C.** Unless ordered otherwise by the court, any attorney or party may attend court hearings listed as a/an initial appearance, intake, status conference, or pre-trial conference by videoconferencing. This does not apply to final pre-trial conferences, which shall be in-person, unless otherwise permitted for videoconferencing by the court.

### **304: Bail Hearings**

Except where the prosecution and defendant otherwise agree, bail hearings before the judges will not be held within 72 hours of bail being previously set and will only be scheduled upon written notice.

### **305: Arraignment Procedure**

**A.** Arraignment will be conducted by the preliminary examination judge or court commissioner at the conclusion of the preliminary examination if there is a bind over or after a waiver of the preliminary examination is accepted.

**B.** The trial judge will be assigned and the parties notified at or before the initial appearance.

**C.** Substitution of the judge or court commissioner assigned to the preliminary examination must be made at the initial appearance or five (5) days prior to the preliminary examination, unless the preliminary examination judge or court commissioner otherwise permits. If possible, another circuit judge, reserve judge, or court commissioner will be assigned to conduct the preliminary examination at the scheduled time. After bind over or waiver of the preliminary examination, if the preliminary examination judge is also the assigned trial judge, and the defendant does not file a substitution of the trial judge, the judge shall conduct arraignment pursuant to Wis. Stats.971.20 (9).

### **306: Motions**

Motions must be in writing and shall state with particularity the grounds thereof and the order or relief sought pursuant to Wis. Stats. 971.30(2), and Local Rule 108.

### **307: Administrative Joinder/Severance**

**A.** When several defendants are charged or could be charged in a single complaint, then all defendants, whether charged in a single complaint or charged in separate complaints, shall be assigned to one judge for trial. In the case of felonies, all defendants charged as a result of a single incident or course of conduct shall be joined for purposes of preliminary examination where possible. The intent of this rule is to assign to a one judge all cases and defendants arising from a single incident or course of conduct.

**B.** The first defendant in a multiple defendant complaint to appear for initial appearance shall be assigned a trial judge through random assignment and all other defendants charged on the same complaint shall be assigned to the same trial judge when they make their initial appearance. It shall be the responsibility of the District Attorney to notify the Clerk of Courts at the time of filing of the criminal complaint in multiple defendant cases that this is a multiple defendant case to ensure that one judge is assigned to all related cases. If multiple defendant cases are inadvertently assigned to different trial courts, they will be administratively transferred to the trial judge having the lowest numbered case.

### **308: Scheduling Orders**

Individual judges may establish, by order at arraignment or thereafter, a timetable for future progress of the case (i.e., discovery motion time limits, dates and subjects of pretrial or status conferences, trial, etc.)

### **309: Withdrawal of Counsel**

All requests by counsel to withdraw from criminal traffic, misdemeanor, and felony cases shall be done by motion. Except where required by law, counsel will not be permitted to withdraw if scheduled proceedings will be delayed.

### **310: Presentence Reports and Scheduling**

**A.** The court will set a sentencing date at the same time a presentence report is ordered. The clerk's office will then forward, forthwith, the sentencing date together with the presentence request and information to the Department of Corrections.

**B.** The sentencing date shall be at least sixty (60) days from the date the presentence is ordered.

**C.** The agent preparing the presentence report shall file the presentence report at least seven (7) days prior to the date of sentencing.

### **311: Time Payment of Fines/Forfeitures**

It is the mission of the Rock County Circuit Court to advocate for lawful, effective, and just policies toward those who are ordered to pay restitution, fines and fees. The objective is compliance, whether through payment in money, performing community service, or creating alternative ways to satisfy the public policy behind the imposition of fines and fees. Incarceration and/or suspension of driving privileges must remain as the ultimate sanction for those who are able to pay but *willfully* refuse to do so.

**A.** The payment of restitution, fines, costs, fees, surcharges, et al. will be completed within sixty (60) days of sentencing.

**B.** Deferred Payment Agreements are available to defendants convicted of State, County and Municipal offenses in Rock County Circuit Court.

**C.** If the defendant desires more than sixty (60) days to pay, he/she *MUST* contact the Clerk of Courts' Office to make an application for a deferred payment plan.

**D.** If the defendant qualifies for a Deferred Payment Agreement and notifies the Collections/Accounts Specialist that they have been or will be incarcerated, payments under an

*approved* Deferred Payment Agreement shall not begin until after the defendant is released from custody.

**E.** The Collections/Accounts Specialist shall determine whether the Deferred Payment Agreement offered to a particular defendant is based upon the defendant's ability to pay the fine within one year from the date of the agreement.

**F.** If the Collections/Accounts Specialist determines the defendant is eligible for a Deferred Payment Agreement, the schedule and payment agreement will be reduced to writing.

**G.** The Clerk of Circuit Court will charge and collect a \$15.00 fee for the establishment and monitoring of a payment plan for persons ordered to make payments to the Clerk of Circuit Court per Wisconsin Statute 59.40(5)(c). The \$15.00 fee will be paid at the time the Deferred Payment Agreement is executed. If the payment plan must be renewed for a year, the \$15.00 will be charged and collected at the time of renewal.

**H.** The minimum monthly payment for a Deferred Payment Agreement will be \$25.00.

**I.** The grace period for a Deferred Payment Agreement is 15 days.

**J.** A claim against debtor's tax refunds will be submitted to the Wisconsin Department of Revenue per Wisconsin Statute 71.935. Any payments received directly from the Wisconsin Department of Revenue do not count as a monthly payment on Deferred Payment Agreements.

**K.** If the defendant cannot or does not pay the full balance of the Deferred Payment Agreement within one year, it shall be the responsibility of the defendant to file a request for an extension and a financial statement to the Collections/Accounts Specialist for a decision.

**L.** If the defendant's financial status should change substantially while on a Deferred Payment Agreement, they may contact the Court Compliance Officer to request a modification of the plan.

**N.** If the defendant fails to do any of the following, the Deferred Agreement will be null and void.

1. Pay the court ordered restitution, fine or costs by the due date; or
2. Request an indigency hearing by the fine due date; or
3. Comply with the terms of the Deferred Payment Agreement.

The Collections/Accounts Specialist will:

1. Issue a civil judgment per Wisconsin Statute 815.05 **and**

2. Refer the matter to State Debt Collections (SDC), and/or for tax refund interception.
3. Issue a license suspension per Wisconsin Statute 345.47(1)(b) **OR**
4. Except for restitution, refer the matter to the court to determine if a commitment warrant based on Wisconsin Statute 973.07, should issue.
  - a. The defendant shall be immediately sentenced to one day in jail for each \$75.00 remaining unpaid, and a warrant for his/her arrest issued forthwith without the necessity of any further hearing.
  - b. The defendant may request to perform community service or participate in an alternative program provided by the Rock County Sheriff's Office.

### **312: Jail Time for Nonpayment**

When jail is ordered as an alternative for nonpayment of fines/forfeitures, assessments, surcharges, fees, or costs a defendant shall serve one day in jail for every \$75.00 owed, pursuant to statutory limits on jail time for non-payment, Wis. Stats. 973.07 and 345.47.

### **313: Community Service Rate**

**A.** Defendants permitted to do community service in lieu of payment of fines/forfeitures and penalty assessments will earn a credit of \$10.00 per hour towards the fines/forfeitures and penalty assessments.

**B.** Community service work may not be in lieu of court costs, restitution, victim/witness fees, and other mandatory surcharges and fees.

**C.** All community service work shall be completed within one (1) year and the defendant has the burden of submitting proof of completion.

**D.** Upon willful failure to complete community service, despite the ability to do so, failure of proof of completion, the defendant may be sentenced to one day in jail for every \$75.00 of fine not worked off during community service.

### **314: Criminal Case Search Warrants, Subpoenas for Documents, and Probable Cause Determinations**

**A.** During normal business hours, Monday through Friday, but excluding all state and county holidays, applications in criminal cases for search warrants, subpoenas for documents, and probable cause determinations may be submitted to the warrant email address maintained by the judicial office administrator. A judge will review the application as soon as practical. Alternatively, during business hours applications may be brought to the judicial chambers for

review. Electronic submission is preferred.

**B.** Outside of normal business hours, applications in criminal cases for search warrants, subpoenas for documents, and probable cause determinations shall be submitted to the warrant email address.

**C.** The Presiding Judge shall create an annual roster of judges and court commissioners who will review applications in criminal cases, made outside of normal business hours, for search warrants, subpoenas for documents, and probable cause determinations. A copy of the roster, and any amendments, shall be provided to each Circuit Court Judge, the Clerk of Courts Office, the Rock County District Attorney's Office, the Rock County Sheriff's Office, all law enforcement agencies within Rock County, and the State Public Defender's Office.

### **315: Plea Transcript for Criminal Operating While Intoxicated**

When a plea is taken for a criminal Operating While Intoxicated offense, the court will order the court reporter who attended the plea hearing to prepare a transcript of the plea hearing to ensure a record is maintained regarding the taking of the plea. The court reporter shall file the original with the Clerk of Circuit Courts who will include the transcript in the court record. The court reporter will charge the cost of the transcript to the County at the rate prescribed in Wisconsin Statute 814.69(1)(a).

## **RULES FOR FAMILY CASES**

### **401: Family Court Commissioner**

**A.** The Family Court Commissioner (FCC) is authorized to perform all duties allowed in §757.69(p). Wis. Stats.

**B.** All post judgment actions brought under Chapter 767, Wis. Stats. shall be heard by the FCC. At the end of the hearing, the FCC shall advise the parties that they have a right for a De Novo hearing if the request is filed within fifteen (15) days from the date of the FCC's decision and the order shall recite on its face that the parties were so advised.

**C.** *De Novo* Reviews of Family Law Matters

1. The FCC shall not hear any motions to modify an order or temporary order if the matter is pending a *De Novo* hearing or if the divorce trial has been held and the court has taken the matter under advisement. The order in existence will remain in effect until the court renders its decision.

2. Orders entered by the FCC by Stipulation or entered by default are not subject to *De Novo* review.

**D.** In appropriate cases, and at the discretion of the FCC, the FCC may enter a temporary modification order in post judgment matters

#### **402: Pro se Petitions, Temporary Order Hearings and Stipulations**

**A.** All litigants shall file a Petition and Confidential Petition Addendum (Form GF-179) in every action affecting the family under §767.001(1). If custody or physical placement is an issue in the case, the Clerk of Courts shall provide to all pro se litigants a blank financial disclosure statement (Form FA-4139V). The pro se litigant shall complete and file the financial disclosure statement with the Clerk of Courts prior to the temporary hearing or within 90 days of the filing of the Petition, whichever is sooner. The financial disclosure statement shall contain the information set forth in B. below.

**B.** At the minimum, the preliminary financial statement shall include:

1. Most recently filed income tax return or the prior year's W-2 Form;
2. Pay stubs for a minimum of four pay periods from all employers in the current year, and;
3. Proof of all state-provided assistance or benefits received by his/her family.

Failure to file a preliminary financial disclosure statement and supporting material may result in an adjournment with costs to the prepared party. In the alternative, the Family Court Commissioner may accept as true, facts presented in the prepared party's financial disclosure statement.

#### **403: Ex Parte Orders**

An ex parte order in a family court action awarding custody of children to a party or ordering a party to vacate his or her primary residence will not be signed without a verified petition and affidavit(s) of a party, lay witness, or expert witness. Such order shall be based on facts on the record or alleged justifying the issuance of the proposed order stating substantial reasons why such an order is required and that no other relief is available pending a hearing.

#### **404: Pre-trial Conferences**

Unless excused by the court, the parties shall be required to be present for pre-trial conferences in divorce actions.

#### **405: Mandatory Mediation for Custody and Physical Placement**

In all cases where custody or physical placement of minor children is an issue, the parties shall be ordered to mediation provided by the Rock County Mediation and Family Court Services Department. Waiver of mediation may be granted upon motion to the assigned judge or the FCC.

#### **406: Guardian-ad-Litem Appointments**

**A.** In any family law case in which custody or physical placement is placed in issue, the assigned court or Family Court Commissioner (FCC) shall appoint a Guardian-ad-litem (GAL) immediately upon notification of the failure of court ordered mediation, and said appointment shall be made prior to the scheduling of a pre-trial conference to permit the appointed GAL to participate in the pre-trial conference.

**B.** The court shall appoint the GAL from one of the attorneys retained as contract GAL's by Rock County unless the parties to the action stipulate to the appointment of a privately retained GAL, or the court has compelling reasons to appoint outside the contract. The court may appoint a non-contract GAL in cases not included in those matters covered by the contract GAL's contracts and he/she shall be paid at the Supreme Court (SCR 81.02) rate for appointed attorneys.

**C.** At the time of the appointment of the GAL, the court or FCC shall make an initial determination of the ability of each party to the action to pay GAL fees and enter an order for the payment of these fees based upon the information provided by the parties under Rule 402 A. or B. If this determination is made by the FCC, the parties shall have ten (10) days to appeal the determination of the FCC by requesting a de novo hearing before the assigned judge.

**D.** When the court appoints a GAL from one of the retained contract GAL's, the court or FCC shall enter an order providing for the repayment of all or such portion of the GAL fees determined by the judge or FCC to be reasonable at the hourly rate pursuant to statute or SCR 81.02 ( *See State ex rel Friedrich v. Dane County*, 192 Wis.2d 1, 30-31, 531 N.W.2d 32 (1995), and upon such terms as are determined as reasonable. In the case of the appointment of a GAL that is not one of the retained contract GALs, the collection of GAL fees shall be by remedies provided at law, and shall not be compelled by invoking the contempt powers of the court.

**E.** All payments for GAL fees shall be made to the Rock County Clerk of Court's office at 51 South Main Street, Janesville, Wisconsin 53545. All such payments shall indicate on its face the file number of the case the GAL fees are being made upon.

**F.** Contract GALs may apply for additional compensation in any case in which their services in the case exceed 15 hours (threshold). They must apply to the court for approval to be paid additional compensation in a given case at or prior to the time, they exceed the threshold. The additional compensation shall be at the rate set forth in SCR 81.02.

**G.** In order for any contract GAL to receive compensation above the threshold in a given case, he/she must certify that he/she has submitted all GAL Cost Statements and Orders for Payment of Fees in all of his/her assigned cases that have concluded or closed.

#### **407: Findings of Fact, Conclusions of Law and Judgments**

**A.** The petitioner in the action shall be responsible for drafting the Findings of Fact, Conclusions of Law, and Judgment unless the court orders otherwise.

**B.** The Findings of Fact, Conclusions of Law, and Judgment shall be submitted to the opposing party for approval as to form pursuant to sec. 767.37(1) Wis. Stats., and the opposing party shall have five (5) business days within which to lodge a written objection to the document as drafted. The drafting party may submit the documents to the court while simultaneously submitting a copy to the opposing party for this approval provided the drafting party provides the court with a copy of the transmittal letter sent to the opposing party.

**C.** The Findings of Fact, Conclusions of Law, and Judgment shall be filed with the court within thirty (30) days of the final hearing or decision, and failure to do so may result in the dismissal of the action for failure to comply with a court rule pursuant to sec. 805.03, Was. Stats.