

Chippewa County

(Tenth Judicial District)

Effective Date: March 13, 2009

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Part 1: Tenth Judicial District Rules

101 District Rule adoption and promulgation

101.01 Pursuant to §753.35 (2), the Tenth Judicial District Court Rules are incorporated herein by reference.

Part 2: Court Practice

201 Confidential Records

201.01 General

(1)When an individual requests access to a court record that includes confidential information, the Clerk of Courts' office will ask for identification to verify that the individual is a party to the action. If so, and if a party is allowed access to the confidential records in his or her file, access to the entire file will be granted. If the party is not allowed access to some or all of the confidential records in the file, the confidential records the party is not allowed to see will be removed from the file before the party is allowed access.

(2)When an attorney seeks access to a file containing confidential records, the confidential records will be removed from the file unless the attorney is an attorney of record in that particular case.

(3)Anyone other than an attorney of record or party to the action will be allowed access only to the nonconfidential portions of a case file.

(4)Any case in which a criminal record has been expunged shall be closed to access to anyone without a court order authorizing access to the file. The Clerk of Courts shall take appropriate steps to ensure confidentiality of all expunged

criminal records.

201.02 Financial Records in Divorce Cases

Only parties to the action and attorneys of record will be allowed to view and copy financial declarations and other confidential financial information in divorce actions.

201.03 Medical and Hospital Records

Medical and hospital records remain confidential when filed with the court until such time, if any, as they are introduced into evidence at a trial. Until then, only parties to the action and attorneys of record may view medical and hospital records.

201.04 Psychological Records

In Chapter 51 proceedings, all psychological records are confidential except for the individual who is the subject of the petition, the individual's attorney, the guardian ad litem and the attorney who is prosecuting the action for Chippewa County. In divorce proceedings, all psychological records are confidential except for the attorneys of record and the parties to the action.

201.05 Other Situations

In situations not covered by written policy or clear statutory policy, the Clerk of Courts shall exercise discretion in deciding who has access to confidential records. The Circuit Court retains the authority to authorize disclosure of otherwise confidential information as well as the authority, where permitted by law, to classify files or parts of files as confidential.

202 Facsimile/Email Transmission of Documents to the Court for Filing

202.01 Facsimile documents transmitted directly to the court shall be accepted for filing only if:

- a. The document does not exceed 15 pages in length, excluding cover sheet, unless an exception is approved by the assigned judge or court commissioner on a case-by-case basis.
- b. No filing fee is required.
- c. No additional fee or charge must be paid by the circuit court for accepting or receiving the facsimile.
- d. The faxed copy is considered the original. No additional copies may be sent.
- f. Parties shall provide sufficient faxed copies if authentications are requested.
- g. Identical documents received after the facsimile will not be accepted for filing or authentication and will be either destroyed or returned.

202.02 Except as stated, section 801.16, Wis. Stats., applies to facsimile filings.

203

203.01 Intake Assignments

Each branch of Circuit Court shall serve one week out of every two as the intake Judge. The intake Judge shall preside at all traffic, ordinance, DNR and criminal

first appearances, juvenile detention hearings, probable cause hearings under Chapter 51, Wisconsin Statutes, and any uncontested probate court matters which may come before the Court. The intake Judge shall retain jurisdiction over all matters through final disposition of the matter except as provided by statute, Supreme Court rule or local rule.

203.02 Civil Cases

All civil cases, all small claims cases, all family law cases and all paternity cases filed in Chippewa County shall be assigned by the Clerk of Circuit Court so that each branch receives an equal number of cases. In small claims, if a Judge files a disqualification, the case may be assigned to the other branch of Circuit Court. In other matters, if a Judge files a disqualification, the Judicial Assistant shall prepare and file the appropriate documents. For substitutions, the Clerk of Court or Juvenile Clerk shall prepare and file the appropriate documents.

203.03 Criminal Cases

(1) Upon the filing of a summons and complaint, the Clerk of Court shall assign a Judge and an initial appearance date.

(2) Upon filing of a warrant and complaint, the Judge hearing the first appearance shall be assigned to the case.

(3) Initial appearances for persons in custody shall have their case assigned to the intake Judge.

(4) When both judges have been assigned cases involving the same defendant, whenever practical all the cases involving this defendant shall be assigned to one judge according to the following protocol. The judge with the earliest filed case shall be assigned the later cases unless the later cases involve more serious charges. Under this rule felonies are more serious than misdemeanors which are more serious than criminal traffic cases. Thus, if there are two cases and the newer case is a felony and the earlier case is a misdemeanor, the judge with the newer case would be assigned the misdemeanor. If both cases are felonies, the judge with the older case would be assigned the newer case.

203.04 Juvenile Cases

Juvenile delinquency, JIPS, and CHIPS cases shall be assigned randomly, with half the cases going to each judge. If the child has an existing case, new cases shall be assigned to the same judge. Initial appearances in juvenile delinquency, JIPS, and CHIPS cases shall be set by the assigned Judge except when a congested calendar makes such an assignment impractical or the Judge files a disqualification, in which event the case shall be assigned to the other branch of Circuit Court.

203.05 Other Cases

The Chief Judge may, from time to time, reassign a case in order to expedite its disposition or to accomplish the more efficient administration of justice. The rotation of the intake Judge's assignment may occasionally be altered because of judicial illness, vacations, education seminars and conferences, or other judicial absences. This plan of judicial assignment assures that each branch of the Chippewa County Circuit Court will preside over each and every type of court proceeding and at the same time makes each Judge responsible for the judge's own trial calendar.

204 Rules of Decorum

Judges, Court Commissioners, Attorneys, Clerks, and Court Personnel are expected to follow Supreme Court Rule Chapter 62, Standards of Courtesy and Decorum for the Courts of Wisconsin.

205 Substitutions and Recusals

Paperwork for a judge who is substituted shall be prepared by the Clerk of Court or the Juvenile Clerk. When there is a recusal, the judge's Judicial Assistant shall prepare the paperwork.

Part 3: Civil Practice

301 Judgments

301.01 Default Judgment

When a default judgment is presented to the judge and the judge signs an Order for Judgment, the Clerk of Court (or a deputy) may sign the Judgment.

Part 4: Criminal Practice

401 Defendant's Presence Required

Defendants must be present at all initial appearances, status conferences, motion hearings, arraignments, and trials, except in misdemeanor cases if the Judge approves authorizations to appear.

402 Warrants and Warrantless Arrests

Whenever a warrantless arrest occurs, the person arrested must have a probable cause determination within 48 hours of the arrest as required by County of Riverside v. McLaughlin, decided by the United States Supreme Court. The arresting officer shall complete the appropriate form. This form shall be kept at the Chippewa County jail and shall be available for immediate use by a judge or court commissioner making an evaluation of probable cause for that arrest.

A judge or court commissioner shall review the form and determine whether probable cause exists.

1. Persons for whom no probable cause is found shall be released immediately.
2. Persons for whom probable cause is found may be held for further proceedings and may post bond.

Judges and Court Commissioners will be assigned to cover specific weekends. The assigned Judge or Court Commissioner must make sufficient contacts with the county jail so that no arrested person is held more than 48 hours without a probable cause determination.

403 Bonds

403.01 Cash Bonds

All bail bonds for individuals arrested in a situation involving domestic abuse and released on bond prior to a court appearance shall contain the following condition of release:

"That _____ absolutely desist and refrain from any contact with _____, until the further order of the court. Contact includes, but is not limited to, any physical contact, harassing or threatening telephone calls or entry to the victim's residence." For the purpose of this order, the law enforcement officers are to define a case of domestic abuse as one in which the suspect and victim are involved in a "spousal relationship" that includes any of the following:

1. A husband and wife living together.
2. A husband and wife who are separated.
3. An ex-husband and ex-wife.
4. A boyfriend/girlfriend relationship.
5. An ex-boyfriend/ex-girlfriend.

404 Initial Appearances

At initial appearances both a pretrial or settlement conference date with the prosecutor and the next court date shall be set. Ordinarily, the scheduling date will be on a regular intake date. Both dates shall be shown on all bail bonds. If the Court fails to set the next court date, the Clerk of Courts shall set the next court date.

405 Commitment Orders

If a commitment order is executed in a county where the county seat is more than 100 miles from Chippewa Falls and the unpaid fine is less than \$150, then the Chippewa County Sheriff's department may inform the arresting agency or other sheriff's department the Chippewa County will not pick up the person arrested. Depending on the circumstances, however, the Chippewa County Sheriff's department may elect to pick up the apprehended individual anyway. An example might be when a sheriff's deputy will be in the area of the other county for other reasons.

406 Jury and Bench Trials

At least one week before the date of any jury trial in a criminal case, the Court will conduct a final status conference. This date will be set when the jury trial is scheduled. The last opportunity for a plea agreement will be seven days before trial, whether or not there is a status conference, except upon a showing of good cause, in which case the Court may assess costs upon the attorneys or defendant. After the status conference, but no later than seven days prior to trial, the case must either be tried or dismissed.

407 Pre-sentence Investigation

The clerk in the courtroom will hand the defendant a letter regarding the pre-sentence investigation.

The Clerk will notify the Probation Department of date of the pre-sentence order (list to be placed in probation basket) including the defendant's name and the attorney's name. Pursuant to §972.15 Wis. Stats., pre-sentence investigations are confidential and may be viewed only by the attorneys of record and the defendant. The court will issue an order permitting the attorneys to receive copies of the pre-sentence investigation until completion of the sentencing hearing.

408 Probation

408.01 Probation Letter

The clerk in the courtroom will hand defendant a letter regarding probation which shall inform the defendant that he or she must report immediately to the probation office in Chippewa Falls.

408.02 Notification to Department of Corrections

The Clerk shall notify the Probation Office of the date of probation order (list to be placed in probation basket) including the defendant's name, the name of the defendant's attorney, and a copy of the judgment of conviction.

Part 5: Family Law Practice

501 Advance payments on custody and psychological evaluations

Whenever custody studies and psychological evaluations are ordered in family law proceedings, each parent shall pay \$850 in advance to the Clerk of Circuit Court to cover the expense of the custody/placement evaluations. This payment shall be made within 30 days and prior to commencement of the custody and psychological evaluations.

In appropriate cases, the Court may reduce or waive the requirements of this rule. Also, the Court may order installment payments or the Court may order one parent to pay the entire amount in appropriate circumstances.

Each order for a custody study or psychological evaluation shall specify what each party is to pay.

502 Child Support Warrants

Civil warrants for individuals where there is unpaid child support, whether for failure to appear or to enforce a finding of contempt, shall permit the defendant to post a cash bond unless the court specifically prohibits posting of a bond.

503 Guardian ad litem

503.01 Pay Rate

Guardians ad litem shall be paid at the rate determined by the Circuit Judges to be appropriate and necessary. The Court has found beyond a reasonable doubt that the statutory rate of reimbursement would unduly burden or substantially interfere with the judiciary's ability to appoint counsel. This finding is based upon surveys of area attorneys.

503.02. Retainer

Before an appointed guardian ad litem commences work, a retainer of not less than \$1,000 shall be paid to the Guardian Ad Litem. The Guardian ad Litem may not commence work until the retainer is paid, unless the court orders otherwise. In original actions each party shall pay one-half the amount ordered paid, unless otherwise ordered by the Court. In revision actions the party seeking the revision shall pay the retainer. If a party cannot pay the retainer or guardian ad litem fees in full, the party must provide the court with a financial declaration showing hardship.

In appropriate circumstances, the Court may waive the initial payment, in whole or in part. The Court may also relieve a party from the obligation to contribute to the payment of guardian ad litem fees.

503.03 Language of Order Appointing a Guardian Ad Litem

The order appointing a guardian ad litem must contain the following language: “The fees for the services of the guardian ad litem are the responsibility of the parties to this action and shall be paid within the time designated in the court order approving the fees. Payments shall be made to the Guardian ad Litem. Either or both parties may be required to pay fees. Any fees not paid within the time allowed by the Court shall be paid by Chippewa County upon request of the guardian ad litem, and Chippewa County shall have a money judgment against any party who has not made the required payment. Unpaid money judgments will accrue interest at the rate of twelve percent a year until paid.”

503.04 GAL Fee Statement

When the guardian ad litem completes all necessary work in the case, the guardian ad litem shall within 14 days submit a fee statement for approval by the Judge assigned to the case. Upon approval of the fees, an order approving fees shall be included in the divorce judgment or order modifying the judgment. If that is not appropriate, a separate order approving fees may be issued. An order approving fees shall require each party to pay an equal amount unless a different ratio has been set. If no decision on division of guardian ad litem fees has been made, either party may petition the Court for an unequal division of the fees.

503.05 Interim GAL Bills

Guardians ad litem shall submit monthly statements to the parties, their attorneys, and the court, showing how much of the retainer remains. If the retainer has been exceeded, the court may order additional payments by one or more of the parties. If payments are not made by a responsible party, the court may order the Guardian ad Litem to stop work until the payments are made.

503.06 Payment of GAL Bills

Payments shall be made to the Guardian ad Litem within 30 days of any order for payment of additional fees. Once the Guardian ad Litem’s work has been concluded, the payments shall be paid in full to the Guardian ad Litem within 60 days. After 60 days, if payments have not been paid in full, the Guardian ad Litem may apply to the court for payment of the outstanding balance. The request for payment shall be made on the Claim for Legal Services Form required by the Chippewa County auditor.

If the Court orders Chippewa County to pay guardian ad litem fees, the fees shall be paid by the responsible parties within 14 days unless there is a specific order to the contrary. If payment in full has not been made within 14 days, Chippewa County may, without further notice, have a civil judgment against a party who has failed to pay. Chippewa County may collect this judgment by any legal means including income assignments, tax refund intercepts, garnishments, and executions against property.

Part 6: Foreclosure Practice

No local rules.

Part 7: Juvenile Practice

No local rules.

Part 8: Probate Practice

801 Summary Settlement, Summary Assignment and Special Administration
Proof of Heirship must be filed with all opening papers for Summary Settlement, Summary Assignment and Special Administration.

802 Scheduling

802.01 Uncontested matters are scheduled with the Register in Probate.

802.02 Contested matters are scheduled with the Judicial Assistant of the assigned judge.

803 Closing of Estates

803.01 Estate proceedings must be closed within 12 months from the date of filing the petition or application.

803.02 When an estate cannot be closed within the required time limit, a petition requesting an extension shall be filed stating the reasons for the request and a proposed order.

804 Guardianships

804.01 Annual Accountings are required in all guardianships unless the court waives the requirement for estates with assets of less than \$1,000.

805 District Forms

805.01 Case management forms/guidelines/checklists created by the 10th Judicial District Registers in Probate shall be used when appropriate.

805.02 District forms may not take the place of standard, statewide forms created pursuant to sec. 758.18, Wis. Stats.

Part 9: Small Claims Practice

901 Appearance

901.01 Return dates.

On return dates all parties must appear in person, by an attorney, or where permitted by statute, by an authorized agent. Defendants must state or file a detailed answer. If a defendant does not appear and submit a detailed answer, the plaintiff will be entitled to a judgment if the complaint states a proper complaint. If a plaintiff does not appear, the Court Commissioner shall dismiss the complaint without prejudice, and may award costs to the defendant as allowed by statute.

Complaints dismissed because the plaintiff failed to appear require that a new action be commenced. Any person appearing on behalf of a party must have authorization to settle the case. If a party appears without full authority to settle the case, the case shall be dismissed without prejudice.

901.02 Default Matters

The Clerk of Courts or a deputy may conduct all default matters entering judgment or dismissing as appropriate, and awarding costs allowed by statute.

902 Mediation Requirement

The Small Claims Court Commissioner shall conduct a settlement conference in all contested matters in which both parties appear. If it appears that either the plaintiff or defendant is entitled to judgment based on the pleadings, and that the pleadings cannot be amended to state a proper claim for relief or a defense as appropriate, the Commissioner shall grant a judgment on the pleadings. It is not necessary that the Clerk attend the settlement conference. Because the settlement conference will take place on the return date, a defendant's answer must allege facts. A general denial will not be accepted.

903.01 Trials

Small Claims Court Commissioners may conduct trials in all matters except evictions, garnishments and replevins. Secs. 799.206 and 799.207, Wis. Stats. These trials do not require a court reporter, but the Clerk shall keep minutes. Sec. 799.207(1)(d), Wis. Stats. Appeal from these trials shall be pursuant to Sec. 799.207(3), Wis. Stats. If both sides consent and the Court Commissioner has sufficient time available, the trial may be held immediately. Sec. 799.207(1)(b), Wis. Stats. Any case taken under advisement by the Court Commissioner must be decided within seven days.

903.02 Eviction Trials

Whenever possible, eviction trials will be held on the return date before one of the circuit judges. If the amount of past due rent is not disputed, the circuit judge may determine that sum to be the amount due for past due rent. If the landlord does not request to make an additional claim for either additional past due rent or damages to the rental property, a judgment for past due rent may be entered by the Judge. If the landlord asks to make a claim for additional past due rent or damages, the monetary portion of the judgment shall be reserved and the landlord shall have 30 days to amend the complaint to make the additional claims. A new return date will be set if additional claims are made.

If the tenant has counterclaimed on issues other than the eviction, a trial date on non-eviction issues will be scheduled before the court commissioner.

903.025

In all eviction actions, stipulated dismissals will be accepted and approved only if both parties agree to the terms and conditions of the stipulation in front of the Court Commissioner or a Circuit Court Judge.

904 Court Commissioner Duties

The Small Claims Court Commissioners should avoid any appearance of partiality towards either party, should explain to pro se litigants the procedure for small claims

actions, and tell both sides in summary fashion what the commissioner believes will be expected at trial if the case is not resolved. Court Commissioners shall hand out the "Demand for Trial" notice following any trial before them. Court Commissioners may sign replevin judgments.

905 Attorney's Fees

Attorney fees are to be allowed on the Return Date whenever an Attorney signs the summons, however, if the Attorney fails to appear for trial, attorney fees will not be allowed.

906 Clerk's Duties

On the first return date of each month, the Small Claims Clerk shall obtain a date from both Judges for a date certain for that month to hear any contested garnishment, eviction or replevin actions.

907 Trial Notices

The Clerk shall hand out trial notices on the return date.

908 Reopen Judgments

"Reopen Judgments" may be allowed if the defendant has been served by regular mail and claims not to have received the summons and complaint.

909 Apportionment of Costs for Multiple Plaintiffs

Pursuant to 218.04(9j) when multiple plaintiffs appear in the same action, the collection agency for those plaintiffs must submit a bill of costs apportioning the costs and fees among the various plaintiffs.

Part 10: Traffic Forfeiture Practice

1001 Obtaining Bonds on Traffic Citations

All persons arrested for a violation of a state or municipal forfeiture shall be released from custody without a cash bond if they:

- 1) Have a valid Wisconsin driver's license or can show sufficient evidence of ties to the community or
- 2) The arresting officer is otherwise satisfied that the accused will make future court appearances.

All persons arrested for a misdemeanor, including a misdemeanor traffic offense, shall be released from custody without a cash bond unless any of the following exist:

- 1) The accused does not have proper identification.
- 2) The accused appears to represent a danger of harm to himself or herself, another person or property.
- 3) The accused cannot show evidence of sufficient ties to the community.
- 4) The accused has previously failed to appear in court or failed to respond to a citation.
- 5) Arrest or further detention is necessary to carry out legitimate investigative action in accordance with law enforcement agency policies.

All persons detained for a forfeiture, misdemeanor or misdemeanor traffic offense shall be released upon compliance with the state deposit of misdemeanor bail schedules, unless

otherwise directed by the court. These guidelines do not supersede specific statutorily mandated detention.

1022 Traffic Citations

Whenever a traffic citation is contested the court will set it for trial unless the District Attorney's office is prosecuting. In that event, the case will not be set for trial until a settlement conference with the prosecutor has taken place. If a case does not settle after the settlement conference, it is the responsibility of the District Attorney's office to notify the court officer for the charging agency who shall obtain a court date from the Judicial Assistant.

If the court does not hear anything from the prosecutor for more than three months, the court may dismiss the citation without prejudice.

Part 11: Selection of Jurors

1101 Juror List

The Clerk of Circuit Court and the Jury Commissioners shall use the Department of Transportation list when selecting names of potential jurors.

1102 Service Period

Jurors shall serve for a period not exceeding one month, unless a trial in progress takes them past the one month period, in which case they shall finish that trial.

Jurors who serve 10 days shall be excused from further service unless a trial in progress takes them past the 10 day period, in which case they shall finish that trial.

1103 Selection of Additional Jurors

The Clerk of Circuit Court shall have the power to select additional jurors if the original list provides insufficient numbers

1104 Excusing of Jurors

The Clerk of Circuit Court shall have the discretion to excuse jurors who meet the statutory requirements. One or more of the Circuit Judges may be consulted, if necessary, regarding whether or not a juror should be excused. If statutory requirements are not clearly met, a request to be excused from jury duty shall be presented to the juror judge.

Part 12: Miscellaneous

1201 Cash Payments

The Clerk of Circuit Court may establish reasonable rules limiting the number and types of coins that office will accept as payment for fines, forfeitures and other matters.

1202 Carrying Weapons in Chippewa County Courtrooms

No one other than on-duty sworn law enforcement personnel may go armed with a weapon (firearms, electric weapons, knives or clubs) in the Chippewa County Courtrooms.