

Douglas County Circuit Court Rules

(Tenth Judicial District)

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Part 1: Tenth Judicial District Rules:

101: District Rule Adoption and Promulgation. Rules shall be adopted by written order of all Douglas County Circuit Court Judges, subject to approval of the Chief Judge of the District. Each rule shall specify an effective date. Once adopted, rules shall be filed in accordance with Wis. Stats. §753.35. (Effective date: 06/01/07)

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

Part 2: Court Practice:

202: Closure of Proceedings.

202.01: Media Coverage. Unless good cause be shown or otherwise required by statute, a party requesting that any judicial proceeding be closed to the public must notify the Court and the media coordinator in writing at least 72 hours before the time set for the hearing or motion. The purpose of this rule is to permit legal counsel to appear on behalf of the media and be heard. The burden shall be upon the moving party to show why the proceedings should not be public. (Effective date: 06/01/07)

204: Continuances.

204(1): Approval of the Court Required. A continuance of a Court hearing or trial will not be automatically granted simply because all parties agree to a continuance. All requests for a continuance are subject to approval of the Court. (Effective date: 06/01/07)

204(2): Requests Must be in Writing. A request for a continuance must be made in writing and must state the specific reason(s) why a continuance is being sought. (Effective date: 06/01/07)

204(3): Moving Party Must Confer with Opposing Party. A request for continuance must state the position of the opposing counsel or party. The Court must be made aware of any objection to granting the continuance, and any time limit conditions the opposing counsel or party may have. When circumstances do not permit contact with the opposing counsel or party, the request for continuance

must state the good cause basis for not having contacted the opposing counsel or party. (Effective date: 06/01/07)

205: Court Commissioner.

205(1): Availability of De Novo (New) Review Hearing by Judge. All decisions of the Court Commissioner are subject to a de novo (new) review hearing by the assigned judge (except for bindovers in felony preliminary hearings which are subject to a motion to dismiss addressed to the assigned judge). Requests for such a hearing must be in writing and filed with the Clerk of Courts pursuant to the requirements of this rule. All requests for de novo review shall state with particularity the specific decisions of the Court Commissioner for which the review is requested. (Effect date: 06/01/07)

205(2): Timeliness of Requests for De Novo Review of Court Commissioner Decisions. Any party entitled to seek a de novo review of a decision of the Court Commissioner shall file a written request for such review pursuant to statutory time requirements, but if no statutory time requirement exists then within 20 days of the issuance of oral decision by Court Commissioner or within 20 days of mailing of the written decision if the decision was not issued orally at the conclusion of the hearing. A copy of the de novo review request shall be immediately delivered or mailed to all other parties (or their attorneys, if represented) by the requesting party. Any request for de novo review of the Court Commissioner's decision filed more than 20 days after the issuance of the decision shall be deemed untimely, and denied without hearing. (Effective date: 06/01/07)

205(3): Effect of Requests for De Novo Review of Court Commissioner Decisions. Notices requesting a de novo review of a Court Commissioner decision will not automatically stay the Commissioner's Order unless the assigned judge specifically grants a stay of the Commissioner's Order. The Commissioner's Order shall remain in effect until the assigned judge renders a decision. (Effective date: 06/01/07)

207: Facsimile/E-Mail Transmission of Documents to the Court.

207(1): E-mail Transmissions. Except by express permission on a case-by-case basis, no person shall submit any pleading or correspondence to a Circuit Court Judge or Court Commissioner through electronic mail (e-mail). Documents intended for filing must be submitted to the Clerk of Court, as required by Wis. Stats. §801.16(1). (Effective date: 06/01/07)

207(2): Facsimile Transmission of Documents. Pursuant to Wis. Stats. §801.16(2), the following governs facsimile transmissions to a Circuit Court Judge or the Court Commissioner in all cases: (a) facsimile transmissions to the judiciary shall be by express permission only, on a case-by-case basis; and (b) facsimile transmissions to the judiciary shall be sent directly to the particular judicial official's facsimile number. The Clerk of Courts and the County Clerk are not authorized to accept facsimiles directed to a member of the judiciary. However, when sending facsimile transmissions to the Court with approval, the sending party shall simultaneously send the original document on paper to the

Clerk of Court for filing. Any facsimile transmissions to the Court in violation of these provisions will not be reviewed or otherwise considered by the Court. (Effective date: 06/01/07)

213 Jury Fees.

213(1): Jury Demands in Civil Traffic/Forfeiture Cases. Requests for a jury trial in civil traffic or other forfeiture cases shall be filed in writing, along with payment of the jury fee, with the Clerk of Courts within 10 days after a plea of not guilty is entered. The jury fee payment is nonrefundable. (Effective date: 06/01/07)

214: Rules of decorum.

214(1): Attire. Lawyers and court personnel shall, while in court, be attired in such a manner as not to lessen the dignity of the Court proceedings. (Effective date: 06/01/07)

214(2): Promptness of Proceedings. Attorneys and parties shall be prepared to proceed at the time matters are scheduled. Failure to proceed on time may be grounds for sanctions (including but not limited to costs, dismissal, judgment and ruling against the late party on the particular matter before the Court). (Effective date: 06/01/07)

214(3): Civility in Witness Examination. Witnesses shall be examined with courtesy and respect. (Effective date: 06/01/07)

214(4): Voir Dire. During examination of jurors on voir dire, the lawyer or party conducting the examination shall, insofar as practical, use collective questions, avoid repetition and seek only material information, and avoid engaging in individual voir dire unless it follows in response to a general question. When addressing the jury, the lawyer or party shall not crowd the jury box. (Effective date: 06/01/07)

214(5): Formality of Proceedings. During trial, no lawyer or party shall exhibit familiarity with witnesses, jurors or opposing counsel, and generally the use of first names shall be avoided. (Effective date: 06/01/07)

214(6): Cell Phones. All persons shall turn off cell phones in his/her possession before entering any courtroom. (Effective date: 06/01/07)

216: Telephonic hearings/motions.

216(1): Out-of-County Attorneys or Out-of-County Unrepresented Litigants. In cases involving out-of-county attorneys or out-of-county unrepresented litigants, (i.e. located outside of Douglas County, Wisconsin and Duluth, Minnesota), the use of telephone conferencing for scheduling and for non-evidentiary motion hearings is permitted upon express permission of the Court for good cause shown. A request to appear by telephone under such circumstances shall be made at least 72 hours prior to the scheduled conference/hearing. It shall be the responsibility of the individual(s) permitted to appear by telephone to make the arrangements to

call the Court at the time of hearing. An out-of-county attorney will not be permitted to participate by telephone in an evidentiary hearing or trial. (Effective date: 06/01/07)

216(2): Witness Appearance by Telephone. Unless otherwise specified, a witness shall be permitted to testify by telephone at trial or any evidentiary hearing only upon prior express permission of the Court for good cause shown. In cases under Chapter 48, 51, 54 and 55 of the Wisconsin Statutes, an expert witness may testify and be examined by telephone, pursuant to Wis. Stats. §807.13(2). (Effective date: 06/01/07)

Part 3: Civil Practice:

301 Service and Answer.

301(1): Guardian ad Litem. In a personal injury action or settlement action involving a minor, neither the minor's attorney nor a member of the attorney's firm may be appointed as guardian ad litem for the minor. (Effective date: 06/01/07)

302 Scheduling.

302(1): Obtaining Motion Dates. A party filing any Motion in a civil action shall be responsible for obtaining and noticing the Motion hearing date. Failure to properly notice the Motion shall constitute waiver of the Motion. (Effective date: 06/01/07)

Part 4: Criminal Practice:

408 Jury and Bench Trials.

408(1): Timeliness of Guilty Pleas in Jury Trials. If a criminal defendant intends to enter a guilty plea or no contest plea in any criminal case scheduled for jury trial, the Court should be notified of the intended plea no later than noon of the weekday preceding the commencement of the trial. A party failing to comply with this rule shall be assessed the entire cost of one day's juror fees for a jury, including all mileage costs, totaling no less than \$500. (Effective date: 06/01/07)

410 Presentence Investigation. Pursuant to Wis. Stats. §972.15(4m), presentence investigations are confidential. The district attorney and the defendant's attorney are entitled to have and keep a copy of the presentence investigation report. If the defendant is not represented by counsel, the defendant is entitled to view the presentence investigation report but may not keep a copy. A district attorney or defendant's attorney who receives a copy of the report shall keep it confidential. A defendant who views the contents of a presentence investigation report shall keep the information in the report confidential. If sentencing results in a prison term, a copy of the presentence investigation report and the Judgment of Conviction shall be provided to the Sheriff for delivery, along with the prisoner, to the Department of Corrections or other point of intake designated by the Department of Corrections. (Effective date: 06/01/07)

Part 8: Probate Practice:

803 Filing of Documents.

803.01: Filing of documents.

803.01(1): All probate filings shall conform with the outlines adopted by the Tenth Judicial District. Copies of the outlines are available upon request. (Effective date: 06/01/07)

803.02: Facsimile Transmission of Documents to the Court.

803.02(1): Documents requiring signature may be sent by facsimile transmission to the Probate Office for the sole purpose of exhibiting to the Court that the document is complete. The original document containing the original signature(s) must be filed in the Probate Office. A facsimile copy of a document will not be considered a filed original without the prior authorization from the Judge/Court Commissioner. If permission to file a document is granted by the Court, the document must be complete and in conformance with Wisconsin Statutes. (Effective date: 06/01/07)

803.02(2): Documents received by facsimile transmission between the hours of 8:00 a.m. and 4:30 p.m. are considered received the same day. Documents received after 4:30 p.m. are considered received the following business day for filing purposes. (Effective date: 06/01/07)

803.02(3): The party transmitting the facsimile document is solely responsible for ensuring its timely and complete receipt. (Effective date: 06/01/07)

803.02(4): Copies of documents transmitted by the Court via facsimile must be paid for in advance at the statutory fee for copies. The facsimile machine is not to be utilized in an effort to avoid payment of statutory copy fees or late filings. (Effective date: 06/01/07)

804: Scheduling.

804 (1): Petitioning parties/attorneys are responsible for scheduling hearings directly with the assigned Judge's assistant unless prior arrangements have been made through the Probate Office. (Effective date: 06/01/07)

804 (2): Hearings on Informal Applications are scheduled before the Register in Probate. (Effective date: 06/01/07)

805 Estates.

805 (1): It is the responsibility of a petitioning party to deliver the Notice to Creditors to the proper newspaper for publication. (Effective date: 06/01/07)

805.01: Wills.

805.01(1): Only the original Will shall be accepted for filing. In an Informal Administration, if the heirs cannot locate the original Will

but agree that the copy they possess is the Last Will and Testament of the decedent, an Affidavit must be submitted by all interested persons indicating that they believe the copy of the Will is the decedent's Last Will and Testament and the Affidavit must accompany a copy of the Will at the time of filing. (Effective date: 06/01/07)

805.07: Objection to Claims Filed.

805.07(1): Late claims. If a claim is received by the Probate Office after the last date for filing, the Probate Office shall file-stamp the claim and provide a copy of it to the attorney of record. If the claim is disputed, the petitioning attorney shall schedule a hearing on the disputed claim before the Judge. No informal probate will be closed if there are outstanding claims. (Effective date: 06/01/07)

805.11: Extensions of Time to Closing Estates.

805.11(1): A petition and proposed Order must be submitted before an extension for time to close an estate will be granted. (Effective date: 06/01/07)

806 Trusts.

806(1): The Tenth Judicial District outline shall be followed when closing a Trust. (Effective date: 06/01/07)

806.01 Trust Inventory

806.01(1): The Trust inventory shall be filed before the estate will be closed. (Effective date: 06/01/07)

806.02 Closing.

806.02(1): A Wisconsin Closing Certificate for Fiduciaries is required to terminate the Trust. (Effective date: 06/01/07)

807 Guardianship, Conservatorship and Protective Placements.

807.02: Guardianships.

807.02(1): A guardian ad litem shall be appointed for all temporary and permanent guardianships. The Corporation Counsel's office is responsible for immediately notifying the Register in Probate that a guardian ad litem needs to be retained for a temporary or permanent guardianship filed by the County. (Effective date: 06/01/07)

807.02(2): If a guardian ad litem is appointed through the Probate Office, the attorney's fees for such services shall be paid by the County. Depending on the assets of the ward, the County may seek reimbursement for such fees from the ward's assets. (Effective date: 06/01/07)

807.02(3): Unless previously ordered by the Court, the guardian must petition the Court for any fees and/or reimbursement of expenses. (Effective date: 06/01/07)

807.06: Watts.

807.06(1): Watts Summary hearings are scheduled on Wednesdays at 1:15 p.m. unless changed by the Court. The Watts review process shall begin with the filing of the Petition for Annual Review by the Department of Health and Human Services. Upon receipt of the Petition for Annual Review, the Probate office shall appoint a guardian ad litem, schedule the hearing and provide notice to all interested persons. If an objection to the protective placement is received, the hearing time for the Watts Summary hearing shall be used as a scheduling conference to schedule a full due process hearing. (Effective date: 06/01/07)

808 Civil Commitments.

808.01: Commencement.

808.01(1): Once a civil commitment matter originates, the petitioning party shall notify the Register in Probate immediately that a guardian ad litem needs to be appointed. The Register in Probate shall attempt to locate a guardian ad litem to be present at the scheduled probable cause hearing. (Effective date: 06/01/07)

808.02: Scheduling.

808.02(1): All hearing dates shall be obtained through the Circuit Court Commissioner for probable cause hearings or the Circuit Court Judge's office for final hearings. (Effective date: 06/01/07)

810: District Forms.

810(1): Case management forms/guidelines/checklists created by the Tenth Judicial District Registers in Probate shall be used when appropriate. (Effective date: 06/01/07)

810(2): District forms shall not take the place of standard, statewide forms created pursuant to Wis. Stats. § 758.18. (Effective date: 06/01/07)

810(3): The most current state forms should be used for filing. The forms are available from the courts' website at www.wicourts.gov. (Effective date: 06/01/07)

Part 9: Small Claims Practice:

901 Service.

901.01: Alternatives for Service of Summons and Complaint in Small Claims Actions. The service of the Summons in small claims cases, except in eviction and replevin actions, may be by regular mail, pursuant to the requirements of Wis. Stats. §799.12(3). See Wis. Stats. §799.12(2). Personal service is required in eviction actions. In replevin actions, service may be made by personal service or by certified mail, pursuant to the requirements of Wis. Stats. §799.12(3). (Effective date: 06/01/07)

902 Appearance.

902(1): Appearance in Small Claims Actions (Except Evictions). Except for eviction actions, a defendant may contest any small claims action without appearing on the initial return date by delivering a written Answer to the Clerk of Courts no later than noon of the weekday preceding the scheduled return date. See Wis. Stats. §799.22(4). The Answer shall state in plain simple language the basis for contesting the lawsuit. The defendant must also provide a copy of any such Answer to the plaintiff (or the plaintiff's attorney) prior to the return date. (Effective date: 06/01/07)

902(2): Appearance in Small Claims Eviction Actions. In eviction actions, all parties (including landlords and tenants) must personally appear at the initial return date (even if the defendant files a written Answer prior to the return date) if the defendant objects to the eviction or other relief requested in the lawsuit. However, a defendant is not required to appear if that party does not object to the granting of the eviction and other relief requested. (Effective date: 06/01/07)

ADOPTION AND APPROVAL OF LOCAL COURT RULES

Pursuant to Wis. Stats. §753.35(1), the above 10th Judicial District Local Court Rules (Douglas County) and the respective effective dates of each Rule are hereby adopted by Circuit Court Judge Michael T. Lucci (Branch I) and Circuit Court Judge George L. Glonek (Branch II), subject to approval by the Chief Judge of the judicial administrative district, and the Local Court Rules contained herein shall remain in full force and effect until otherwise amended.

Dated this ____ day of April, 2007. Dated this ____ day of April, 2007.

The above 10th Judicial District Local Court Rules (Douglas County) are hereby approved.

Dated this ____ day of _____, 2007.