
EAU CLAIRE COUNTY CIRCUIT COURT RULES

(Tenth Judicial District)
Effective Date: November 1, 2022

ORDER PROMULGATING LOCAL COURT RULES PURSUANT TO §751.12 AND §753.35, WIS. STATS.

Part 1: Tenth Judicial District Rules

Part 2: Court Practice

Part 3: Civil Practice

Part 4: Criminal Practice

Part 5: Family Law Practice

Part 6: Foreclosure Practice

Part 7: Juvenile Practice

Part 8: Probate Practice

Part 9: Small Claims Practice

Part 10: Traffic/Forfeiture Practice

Introduction

The undersigned circuit court judges for Eau Claire County, Wisconsin, in an effort to promote an orderly and efficient system of court administration, hereby adopt the following rules of practice and trial court administration which shall govern the practice of law in this County. All prior rules not otherwise incorporated herein shall have no force and effect after the effective date hereof.

These rules have been approved by the Chief Judge for the Tenth Judicial District and are ancillary to the Wisconsin Statutes, the Wisconsin Supreme Court Rules and the Rules of the Tenth Judicial District.

Effective Date

These rules are effective as of: November 1, 2022.

Publication of Local Court Rules

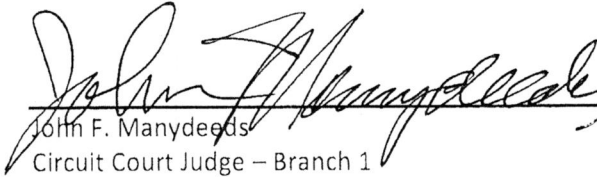

Local court rules shall be adopted and amended by written order of the circuit court judges for Eau Claire County, subject to the approval of the Chief Judge for the Tenth Judicial District. Subsequent to adoption or amendment, said rules shall be filed with Eau Claire County Clerk of Circuit Courts. Copies shall be forwarded to the secretary of the Eau Claire County Bar Association, the court administrator for the Tenth Judicial District, the State Bar of Wisconsin, the State Law Library, and the Office of the Director of State Courts.

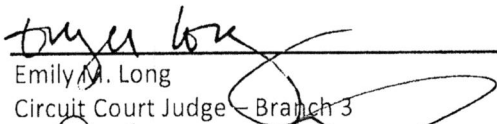
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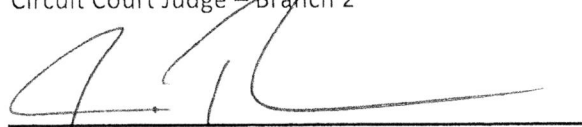
The Eau Claire County Clerk of Circuit Courts shall print and make available to members of the bar and public, at cost, all rules adopted or amended by the Eau Claire County Circuit Courts.

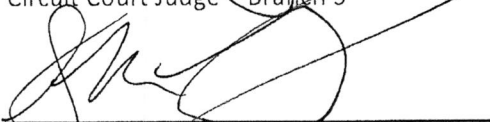
Dated this 4th day of Oct., 2022.

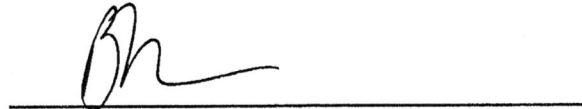
BY THE COURT:

 <hr/> John F. Manydeeds Circuit Court Judge – Branch 1	 <hr/> Michael A. Schumacher Circuit Court Judge – Branch 2
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 <hr/> Emily M. Long Circuit Court Judge – Branch 3
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 <hr/> Jon M. Theisen Circuit Court Judge – Branch 4
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 <hr/> Sarah M. Harless Circuit Court Judge – Branch 5

 <hr/> Beverly Wickstrom Circuit Court Judge – Branch 6

Approved As To Form And Content
This 28th Day of October, 2022

 <hr/> Maureen Boyle Chief Judge – Tenth Judicial District

PART 1: TENTH JUDICIAL DISTRICT RULES

101 DISTRICT RULE ADOPTION AND PROMULGATION

101.01 Pursuant to §753.35(2), Wis. Stats., the Tenth Judicial District Court Rules/Guidelines are incorporated herein by reference. *These Rules/Guidelines may be accessed at <https://www.wisbar.org/Directories/CourtRules/Pages/Circuit-Court-Rules.aspx>*

102 PUBLICATION AND REVISION OF CIRCUIT COURT RULES

102.01 Rules shall be adopted by written order of a majority of the Eau Claire County Circuit Judges, subject to approval of the Chief Judge.

102.02 Orders adopting rules shall specify an effective date.

102.03 Once adopted, rules shall be filed in accordance with §753.35, Wis. Stats.

PART 2: COURT PRACTICE

201 CASE PROCESSING TIME GUIDELINES

201.01 The following case processing time guidelines have been adopted by the Tenth Judicial Administrative District. They are designed to provide a guide to the judiciary and bar. Unless otherwise indicated, the guideline represents the time period from filing to final disposition.

<u>Case Type</u>	<u>Goal</u>
FELONY	Two Stage Standard <ul style="list-style-type: none">• 85% w/in 180 days• 95% w/in 360 days
MISDEMEANOR	90% w/in 180 days
CRIMINAL TRAFFIC	90% w/in 180 days
CONTESTED TRAFFIC	95% w/in 180 days
CONTESTED FORFEITURE	95% w/in 180 days
CIVIL – PERSONAL INJURY & PROPERTY DAMAGE	90% w/in 540 days
CIVIL – CONTRACTS & REAL ESTATE	95% w/in 360 days
CIVIL – OTHER	95% w/in 180 days
FAMILY – DIVORCE	90% w/in 360 days
PATERNITY	90% w/in 180 days
FAMILY – OTHER	95% w/in 360 days
CONTESTED SMALL CLAIMS	95% w/in 180 days

FORMAL ESTATES	90% w/in 540 days
INFORMAL ESTATES	90% w/in 540 days
JUVENILE DELINQUENCY	95% w/in 90 days
JUVENILE CHIPS	85% w/in 90 days

201.02 Every case shall be scheduled for a next action or review date at every stage in the life of the case.

202 CLOSURE OF PROCEEDINGS

202.01 Media Coverage

Unless good cause be shown, or otherwise required by statute, a party moving 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 to hear the 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.

203 RULES OF DECORUM

203.01 The second floor of the Eau Claire County Government Center is monitored by security officers. All members of the public and attorneys are subject to the security screening process. Anyone returning to the second floor after leaving is required to go through security screening again.

Unauthorized Items: guns of any kind including pellet, BB, replica and toy guns, ammunition, explosives, electric weapons, martial arts weapons, batons, brass knuckles, mace, pepper spray, hammers, gun case (empty), knives of any kind, sharp objects, ax/hatchet, bow/crossbow. (Additional items may be disallowed at the discretion of screening personnel).

203.02 Attorneys shall never lean upon the bench or appear to engage the court in a manner, which would lessen the dignity of the proceedings in the eyes of the jury and public.

203.03 Witnesses shall be examined from a position behind the counsel table or lectern except when handling exhibits. Persons examining witnesses may either stand while examining a witness or remain seated. In no case shall a witness be crowded during examination.

203.04 When an attorney or party is addressing the jury, he or she shall not crowd the jury box.

203.05 During examination of jurors on voir dire, the attorney or party conducting the examination shall insofar as practical, use collective questions, avoid repetition and seek only material information.

203.06 During trial, no attorney or party shall exhibit familiarity with witnesses, jurors or opposing counsel and generally the use of first names shall be avoided. In jury arguments, no juror shall be addressed individually or by name.

203.07 Attorneys and court officers shall, be attired in such a manner as not to lessen the dignity of the court or of proceedings in the eyes of the jury and public, whether appearing in person or remotely.

- 203.08 Attorneys shall advise their clients and witnesses of the formalities of court and seek their full cooperation. It is expected that attorneys will guide clients and witnesses as to appropriate attire and behavior, whether appearing in person or remotely.
- 203.09 Witnesses shall be examined with courtesy and respect, and their good faith presumed until the contrary appears.
- 203.10 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.
- 203.11 Members of the public are discouraged from bringing children into a courtroom.
- 203.12 Cellular phones and other electronic devices shall be turned off prior to entering a courtroom. They may be used in the courtroom only for the purposes of scheduling, legal research, and note taking but shall be silenced at all times. Playing video games is not permitted in the courtroom.
- 203.13 Taking photographs and making audio or video recordings are prohibited in the courtrooms and corridors without prior court approval.
- 203.14 Attorneys shall refrain from extraneous conversation in the courtroom that is distracting to court reporters.
- 203.15 Unless worn for religious or medical purposes, hats shall be removed prior to entering the courtroom.
- 203.16 Smoking, tobacco products, eating, drinking and chewing gum are not permitted in the courtroom without the express permission of the judge. Water at counsel tables is permissible.
- 203.17 Demonstrations, placards, badges, T-shirts and clothing that espouse a position on an issue before the court are not permitted.
- 203.18 Individuals not in compliance with these rules may be removed from the courtroom. Security personnel may act on their own in enforcing these rules and need no further authority from the court.
- 203.19 Digital Audio Recording

On April 22, 2019, the Wisconsin Supreme Court issued Supreme Court Order 19-01, which established monitored digital audio recording (DAR) as a standard means of taking the record in Wisconsin. Attorneys and courtroom participants should be aware of the following:

- Take precautions to protect disclosure of confidential communications. Use the mute button when consulting with clients or when making statements you do not want recorded. Alternatively, speak softly and away from the microphone.
- Identify yourself for the record. Spell your name and state who you represent.
- Provide the digital court reporter or monitor with the correct spellings of unusual or technical names and words used by you or your witnesses.
- Speak clearly and enunciate.
- Do not move microphones.

- Do not shuffle papers, tap pens, or make other noise near microphones.
- Always remain within arm's reach of a microphone. If you approach the podium or the bench, wait until you are again near a microphone before speaking again. Speaking away from the microphone may not be heard on the record.
- Avoid speaking while other people are speaking. Only one person may speak at a time.
- The recording system can only pick up verbally spoken words. Avoid "uh huh", nods of the head, and gestures. Solicit verbal responses from all witnesses.
- Address jurors by name or number for proper identification during voir dire. See 203.06.
- Identify "this" or "here". A reporter transcribing will never know what "this" or "here" is unless it is identified on the record.

204 CONTINUANCES

- 204.01 Stipulated requests for continuance of trial dates require the consent of the parties in writing or on the record and must be for good cause.
- 204.02 Non-stipulated requests for continuance must be on motion and hearing and for good cause.
- 204.03 All requests for continuance are subject to approval of the Court.

205 VIDEO AND TELEPHONIC HEARINGS/MOTIONS

- 205.01 In cases involving out-of-county attorneys, the use of video or telephonic conferencing for scheduling and for motions not involving evidence is encouraged. The use of video or telephonic conferencing for other matters shall be at the discretion of the judge. Requests to appear via video or telephonically shall be made at least one week in advance. If a telephonic conference is requested, it shall be the responsibility of the attorney or party seeking the conference call privilege to make the arrangements, give notice and assume costs.

206 COURT COMMISSIONER

- 206.01 The court commissioner shall preside at the following:
- 206.01.1 Probable cause hearings for mental and alcohol commitments and protective placements.
- 206.01.2 Protective placement reviews.
- 206.01.3 Non-support and URESA actions brought by the Child Support Agency.
- 206.01.4 Small claims proceedings, except contested evictions, garnishments and replevins.
- 206.01.5 Traffic and ordinance initial appearances and pleas.
- 206.01.6 Juvenile detentions.
- 206.01.7 Harassment and domestic abuse injunctions.
- 206.01.8 Paternity proceedings.
- 206.01.9 Other matters as directed by a judge.

206.02 De Novo Review of Court Commissioner Decisions

206.02.1 Small Claims Actions

See Rule 904.

206.02.2 Cases Other Than Small Claims Actions

Any party seeking a de novo review of a decision of the court commissioner shall file a written request for such review within the time period allowed by the applicable Wisconsin Statute.

207 JUDICIAL ASSIGNMENTS

207.01 No Limitation of Jurisdiction

This rule is intended to equalize and rotate caseloads and not to limit the jurisdiction of any branch over any matter. Nothing in this rule shall limit jurisdiction of any branch over any matter brought before it.

207.02 Notice of Assignment

For purposes of a request for substitution of judge, these local rules constitute notice of the judicial assignment.

207.03 Intake

Each judge presides over Intake Court for two weeks at a time in chronological branch order. Intake Court schedules are posted in the Office of the Clerk of Courts and in the office of each judge's scheduling clerk.

207.04 Assignment of Cases

Cases are assigned as indicated in Table 1 below. Cases assigned to Intake Court shall remain in Intake Court unless transferred out of Intake Court in accordance with the rules set forth in Table 1.

TABLE 1

TYPE OF MATTER	JUDICIAL ASSIGNMENT	TRANSFER OUT OF INTAKE COURT
Actions Affecting Family – Chapter 767	Random+	N/A
Administrative Appeals	Random+	N/A
*Child Abuse And Individual At Risk Restraining Orders	Intake Court	Stays in Intake Court
Civil Under Chapter 801, Unless Otherwise Addressed	Random+	N/A
Complex Forfeiture	Random+	N/A
Contested Probate	Random+	N/A
*Criminal	<p><u>Misdemeanor</u>: Assigned to judge on intake when Initial Appearance made (for purposes of judicial assignments only, these rules define defendant’s initial appearance to be “defendant’s first appearance after complaint or citation is filed”).</p> <p>Where co-defendants exist, the judge on intake when the first defendant makes his or her initial appearance shall be assigned to all cases.</p> <p><u>Felony</u>: Random assignment at the time the criminal complaint is filed.</p> <p>Where co-defendants exist, the first judge assigned to the first felony defendant shall be assigned to all co-defendants.</p>	<ul style="list-style-type: none"> • After Arraignment (F) • Request for Jury Trial (M/F) • Entry of Not Guilty Plea (M/F) • Request to Enter Guilty/No Contest Plea (F) <p>F = Felony M = Misdemeanor</p>

*Guardianships due to Incompetency, Conservatorships And Protective Placements	Initial Assignment to Intake Court. Thereafter, assigned to judge who issued Letters of Guardianship or Conservatorship or Order of Protective Placement.	Issuance of Letters or Order of Protective Placement
Harassment And Domestic Abuse Injunctions	Random+	N/A
John Doe Hearings	Intake Court	N/A
*Juvenile Delinquency, Adoptions, Children In Need Of Protection And Services (CHIPs) And Juveniles In Need Of Protection And Services (JIPs), and Minor Guardianships	If prior matter (family, paternity, CHIPs, guardianships, JIPs or Delinquency) involving juvenile or juvenile's parent(s), assignment is to judge first assigned to any such matter. Otherwise, initial assignment is to Intake Court, and ultimate assignment to Intake Judge who accepted Plea; approved Consent Decree; or accepted Request for Trial.	<ul style="list-style-type: none"> • After Plea accepted • Request for Trial made • Consent Decree approved
*Mental And Civil Commitments (Chapter 51)	Intake Court. Jury trial held by Judge on intake at the time probable cause hearing was held or waived.	Other than for purposes of jury trial, stays in Intake Court.
Minor Settlements (Civil)	Random, except that a settlement arising out of a previously filed case shall be heard by the judge assigned to the prior case.	N/A
*Minor Guardianship	If prior matter (family, paternity, CHIPs, guardianship, JIPs or Delinquency) involving juvenile or juvenile's parent(s), assignment is to judge first assigned to any such matter. Otherwise, assignment to Intake Court.	Issuance of Letters of Guardianship

*Petitions For Occupational Drivers' Licenses	Intake Court	Stays in Intake Court
*Small Claims	Demand for trial is referred to judge on Intake on the date the trial before the Court Commissioner was held	Stays in Intake Court
*Terminations Of Parental Rights (TPR's)	Intake Court	Stays in Intake Court
*Traffic And Ordinance	Judge on Intake at date of initial appearance before Court Commissioner	<ul style="list-style-type: none"> • Request for Jury Trial • Filing of Evidentiary Motion
*Warrants	Intake Judge/Random	N/A
Writs	Random+	N/A

+ Denotes cases that are assigned randomly, on an equal basis among the branches.

* Denotes cases that are part of Intake Court. These cases stay in Intake Court unless transferred out by one of the actions denoted in column 3.

207.03 Modification or Enforcement of Final Orders

Motions for modification or enforcement of a final order or judgment shall be assigned to the same judge who granted the order or judgment.

208 SUPREME COURT AND EAU CLAIRE COUNTY CIRCUIT COURT FORMS

208.01 Parties shall use the Supreme Court forms and Eau Claire County forms specified by these rules, or, where permitted, a substantial equivalent.

*Supreme Court forms are available at:
<https://www.wicourts.gov/forms1/circuit/index.htm>*

209 FORMAT OF DOCUMENTS ACCEPTABLE FOR FILING

*Attorneys and high-volume filers shall follow the eFiling rules found at:
<https://www.wicourts.gov/ecourts/efilecircuit/index.jsp>*

209.01 Exhibits shall only be filed prior to any court hearing or trial with the approval of the Court, although they may be pre-marked upon approval of the Court.

- 209.02 Letters, pleadings, motions, briefs, affidavits and other documents shall conform to the provisions of this rule; if not, the document shall not be filed.
- 209.03 All documents submitted for filing shall:
- 209.03.1 Be printed on 8 ½ x 11 inch paper;
 - 209.03.2 All documents shall leave a minimum half-inch top margin at the top of each page. This header space is to ensure that the auto-stamp does not interfere with the content of the document when it is e-filed/scanned into the record.
 - 209.03.3 Any document submitted for Court Official signature shall leave a three-inch margin at the top of the first page. All subsequent pages shall leave a minimum half-inch top margin at the top of each page.
 - 209.03.2 State the case number and names of the principal parties to the case;
 - 209.03.3 Be double-spaced;
 - 209.03.4 When referring to published decisions of Wisconsin appellate courts, include the Callaghan reporter citation (Wis. 2d);
 - 209.03.5 If signed by an attorney, state the attorney's State Bar Identification Number;
 - 209.03.6 The original document shall be maintained by the filing party and produced upon request of the Court.
 - 209.03.7 Self-represented litigants shall produce the original and copies of documents for filing.

One copy shall not be stapled or otherwise bound, except by an easily removable method, such as a paper clip or a binder clip, in order to facilitate scanning into the CCAP Case Management application. Once file stamped, the original shall be maintained by the filing party and produced upon request of the Court.
 - 209.03.8 Unless otherwise permitted by state statute or court order, include a certification signed by the party or an attorney for the party filing the document stating that a copy of the document has been served on all parties to the action, in accordance with applicable law, identifying the name and address of each party served and stating the date and method of service; and
 - 209.03.9 Conform to any page limitations on briefs or appendices set forth in these rules.
- 209.05 The court may relieve self-represented litigants from some or all of the requirements of this rule.

210 FILING OF DOCUMENTS BY FACSIMILE

- 210.01 The following governs filings of pleadings and other papers by facsimile transmission with the Clerk of Court:
- 210.01.1 e-Filers shall not submit any filings via facsimile.
 - 210.01.2 Self-represented litigants may file pleadings and other papers with the Clerk of Circuit Court via facsimile to 715-839-4817 only in accordance with the

procedures established in §801.16(2), Wis. Stats. Transmissions that do not comply with this rule will not be filed.

- 210.01.3 No filings shall exceed 15 pages in length. A "filing" means the fax cover sheet and all subsequent pages thereafter.
- 210.01.4 Notwithstanding the preceding paragraphs, no briefs or memoranda of law will be accepted by facsimile for filing.
- 210.01.5 In accordance with §801.16(2)(c), Wis. Stats. any deviation from this local rule will only be permitted upon receipt of express consent of the judge assigned to the case and only upon good cause shown. It is incumbent on the faxing party to demonstrate to the Clerk that a judge has granted express consent.

211 CORRESPONDENCE WITH THE COURT BY FACSIMILE AND ELECTRONIC MAIL

- 211.01 The following governs facsimile transmissions to an individual judge or the court commissioner:
 - 211.01.1 Facsimile transmissions to the judiciary shall be by express permission only.
 - 211.01.2 Fax transmissions to the judiciary shall be directed to the particular judicial official's fax number. The Clerk of Circuit Court will not accept faxes directed to the judiciary.
 - 211.01.3 The judiciary will not accept or forward to the Clerk's office, any filings intended for the Clerk of Circuit Court.
 - 211.01.4 Facsimile transmissions to the judiciary shall not exceed six (6) pages, including the fax cover sheet unless the individual judge permits otherwise.
 - 211.01.5 Any deviation from this rule will only be permitted upon receipt of express consent of the judge and only upon good cause shown.
- 211.02 The following governs electronic mail communication with an individual judge or the court commissioner:
 - 211.02.1 Parties may not communicate with the court by electronic mail unless specifically invited by the court, on such terms as the court prescribes, and then only if all parties receive a copy of the message simultaneously with delivery of the message to the court.

212 COURTESY COPIES OF MOTIONS, BRIEFS, AFFIDAVITS AND OTHER SUCH DOCUMENTS

- 212.01 Only upon direct request shall parties provide the assigned judge with courtesy copies of briefs and affidavits on substantive motions simultaneously with eFiling and service on parties. Such copies shall be marked "Courtesy Copy" and mailed or faxed as directed.

213 PROPOSED ORDERS; THE "FIVE-DAY RULE"

- 213.01 Judges and Court Commissioners shall hold proposed orders for a minimum of five (5) days upon receipt. If no objection is received by any other party, they may sign the orders as submitted.

PART 3: CIVIL PRACTICE

301 INITIAL COURT REVIEW

All civil cases shall be reviewed for service and answer 105 days after filing. If a case has not reached issue in the time prescribed by statute, a dismissal order or default proceeding may be initiated by the court.

302 PRETRIAL

In all pretrial matters, attorneys must have authority to negotiate in the absence of their clients or, if authority is not granted, immediate telephone access to clients.

303 TELEPHONIC TESTIMONY

When testimony is taken by telephone, the party calling the witness is responsible for any long distance charges.

304 GUARDIANS AD LITEM FOR MINORS

In a personal injury action involving a minor, neither the minor's attorney nor a member of the attorney's firm may be appointed guardian ad litem for the minor.

PART 4: CRIMINAL PRACTICE

401 INTAKE COURT

401.01 History and Purpose

The Intake Court process in Eau Claire County was established in 1984 under the authority of §753.35(1) Wis. Stat. The purpose of Intake Court is to improve the efficiency with which routine matters are handled.

401.02 Initial Appearances

Initial appearances are held Monday through Friday at 11 a.m. The purposes of the Initial Appearance are to: (1) advise defendants of their rights; (2) review the charges and possible maximum penalties; (3) set a settlement conference date; (4) set a return/adjourned initial appearance date; and (5) set bond. Pleas are not accepted at the Initial Appearance.

401.03 Settlement Conferences

The settlement conference is an opportunity for a defendant to meet with the District Attorney's Office to determine whether criminal charges may be resolved through a plea agreement. Settlement conferences are typically by phone and held Monday and Wednesday afternoons and otherwise by appointment set outside of Intake Court.

401.04 Return Appearance

The return appearance functions as a status conference. Return appearances are held Monday through Thursday at 9:30 a.m. The purpose of the return appearance is to advise the intake judge whether an agreement has been reached. Those requesting an adjournment of the first Return Appearance are encouraged to reschedule with the District Attorney’s Office prior to the initial Return Appearance. Table 2 below illustrates the procedure that will be followed depending upon whether an agreement has been reached at the time of the return appearance.

TABLE 2		
STATUS AT RETURN	CASE TYPE	
	FELONY	MISDEMEANOR
PLEA AGREEMENT REACHED	Refer to Appropriate Branch for Plea Hearing <ul style="list-style-type: none"> ■ Pleas to felonies will not be taken during Intake Court without the permission of the Intake Judge ■ See Rule 403 regarding disposition of multiple cases resulting in a felony conviction 	Intake Judge Will Take Plea
NO PLEA AGREEMENT REACHED	Set Another Return	Set Another Return
	Set for Preliminary Hearing; Arraignment Occurs (Enter Plea and Refer to Assigned Branch for Scheduling)	
	Waive Preliminary Hearing, Refer to Assigned Branch	

401.05 Transfer From Intake Court to Assigned Judge

Once a case has been transferred out of Intake Court (see Table 1), it may not be transferred back into Intake Court.

401.06 Motions in Intake Court

There are a limited number of motions that will be heard during Intake Court – see Table 3 at the end of this document which identifies motions that may be filed and heard during Intake court.

401.07 Preliminary Hearings

Preliminary hearings are held Tuesday afternoons at 1:30 p.m., 2:00 p.m. and 2:30 p.m. in Intake Court. Following bind over, arraignment may be in Intake Court or in front of the assigned judge.

401.08 Substitution of Judge

401.08.1 **Felony Matters.** Substitution of judge in felony proceedings is governed by §971.20, Wis. Stats.

401.08.2 **Misdemeanor Matters.** Substitution of the judge in misdemeanor proceedings is governed by §971.20, Wis. Stats. However, for purposes of §971.20(4), Wis. Stats., (1) arraignment does not occur until the defendant enters a not guilty plea and the matter is transferred out of Intake Court and (2) “motions to the trial court” are limited to those motions made to the assigned judge and do not include any motions properly heard in Intake Court.

402 MOTIONS OUTSIDE OF INTAKE COURT

402.01 All motions must state the grounds "with particularity." §971.30, Wis. Stats. Failure to comply with this requirement shall be grounds for dismissal of the motion.

402.02 A party filing a motion shall be responsible for securing a hearing date prior to the filing of the motion. Failure to secure a date shall constitute waiver of the motion.

402.03 A written motion, any supporting papers, and notice shall be served no later than five (5) days before the date for the hearing, unless a different period is fixed by statute or by order of the Court. Time shall be computed as set forth in §801.15, Wis. Stats.

403 DISPOSITION OF MULTIPLE CASES RESULTING IN FELONY CONVICTION

When a defendant has multiple cases subject to a plea agreement resulting in a felony conviction, and those cases are assigned to more than one branch of court, then all of the defendant's cases subject to the plea agreement shall be transferred to the branch first assigned a felony case by random computer assignment, regardless of whether dismissal is contemplated in that case.

PART 5: FAMILY LAW PRACTICE

501 MEDIATION

501.01 In any action affecting the family in which it appears legal custody or physical placement are contested (including, but not limited to, divorce, post-divorce, paternity and child support actions) the parties, and other interested persons as ordered by the court, shall attend at least one session of mediation with a mediator and parent education classes. See §767.11(8), Wis. Stats.

501.02 Requests for mediation may be made by any party, or others pursuant to §767.11(5)(c), Wis. Stats., or upon referral from the Court without motion, and the parties and/or others shall be referred to mediation by the family court or judge at the earliest date available. See §767.11(5), Wis. Stats. Once a party has received an order for mediation, they must complete mediation and parent education classes before they may pursue other action before the Court other than for support or contempt.

- 501.03 Mediation shall take place with a representative of Try Mediation, Inc., the Circuit Court's designated provider of mediation, unless the parties agree to the use of a private mediator and meet the filing/notice requirements as outlined in §767.11(7), Wis. Stats. All mediators shall meet the statutory requirements of a mediator in terms of neutrality (§802.12, Wis. Stats.) and confidentiality (§904.085, Wis. Stats.) in which any oral or written communication relating to a dispute in mediation is inadmissible in evidence and any judicial proceeding with certain exceptions.
- 501.04 Mediation may not be waived under any circumstances other than those set forth in §767.11(8)(b), Wis. Stats. Waivers of mediation may only be made by a Circuit Court Judge on the record, specifically considering the factors enumerated §767.11(8)(b), Wis. Stats.
- 501.05 There shall be no deferrals of mediation. Prior mediation shall not satisfy the mediation requirement if the mediation took place before the current filing before the court.
- 501.06 If the mediation is successful, the mediator shall assist in preparation of a Mediation Agreement, which shall be reviewed, approved and filed by the parties, counsel and the court as directed in §767.11(12), Wis. Stats. If mediation is unsuccessful, the mediator shall provide the court with a brief statement indicating the mediation was unsuccessful and providing any information the mediator deems appropriate and necessary.
- 501.07 Any fees for mediation are payable directly to TRY Mediation, Inc.

502 GUARDIAN AD LITEM

- 502.01 A guardian ad litem may be appointed by stipulation or following a motion hearing. No guardian ad litem shall be appointed upon ex parte application of a party, unless cause is shown.
- 502.02 The court shall consider appointment of a guardian ad litem in any action affecting the family under the conditions set forth in §767.045, Wis. Stats. The court shall strongly consider appointment of a guardian ad litem if legal custody and/or periods of physical placement are in dispute between the parties and shall state on the record or provide in writing its rationale if no guardian ad litem is appointed under those circumstances.
- 502.03 The Court will maintain a list of attorneys who are willing and qualified to accept a guardian ad litem appointment from the Court. Any attorney who wishes to be included on this list may submit a written request with verification of attendance at approved Guardian ad Litem training seminars or a resume of guardian ad litem experience. In addition, the attorney must indicate whether they will or will not accept appointments at the hourly rate established by SCR 81.02. (\$100.00 per hour at this time). If the parties are desirous of having a guardian ad litem who has not agreed to be paid at the county hourly rate, they may do so by stipulation and approval of the Court. In this situation, the retainer fee and payment of fees will not be administered through the Clerk of Court office.
- 502.04 The parties will ordinarily be required to deposit a sum of money with the Eau Claire County Clerk of Court office, which sum shall be held in trust by the Clerk of Court office as security towards payment for the guardian ad litem. Generally, each party shall deposit \$750.00. As payments are made to the guardian ad litem, additional deposits may be required.

- 502.05 The Court will determine which party deposits what amounts and may allow payment plans. (Payment plans may be negotiated with and administered by the Clerk of Courts office.)
- 502.06 Failure of either party to pay guardian ad litem fees during the pendency of any action may result in the imposition of sanctions by the Court, dismissal of the guardian ad litem appointment or delay in scheduling matters for contested hearings or trial.
- 502.07 At the conclusion of the proceeding, the court will order liability of the parties for payment of any balance owed on the guardian ad litem fees. Unless the court orders otherwise, each party is responsible for 50% of the total gross fees due to the guardian ad litem.
- 502.08 If a party or parties are determined to be indigent and the County makes any payment on behalf of a party for a guardian ad litem, the final court order may contain a provision setting forth the requirement for the parties to reimburse the County for that expense, and to establish a payment plan.

503 GUARDIAN AD LITEM PROCEDURE-FEES

- 503.01 Guardians ad litem shall be compensated at the hourly rate set by the Court in the order of appointment, or any amendment thereto. If the guardian ad litem has agreed to accept payment at the county rate (\$100.00 per hour at this time), the guardian ad litem will be paid by the Clerk of Court office.
- 503.02 The guardian ad litem shall send monthly billing statements to the Clerk of Courts office and the Clerk of Court office will pay the guardian ad litem. When the guardian ad litem's bill exceeds the deposit amount, the Clerk of Court will require the parties to post additional funds or refer the matter to the court assigned to the case for further order.
- 503.03 In cases where the guardian ad litem has not agreed to be paid at the county rate, retainers will be paid directly to the guardian ad litem. The guardian ad litem will be responsible for billing the parties and, if necessary, obtaining additional funds from the parties; or referring the matter back to the Court assigned to the case for further order.
- 503.04 The Court determines the ultimate apportionment of responsibility for the guardian ad litem fees. The county will return any unearned funds left to the parties after the final billing statement has been paid.

504 CUSTODY/PLACEMENT STUDIES

- 504.01 Whenever legal custody or physical placement of a minor child is contested, mediation is not used or does not result in an agreement between the parties, the guardian ad litem recommendations are not accepted by the parties, or at other times as the court deems appropriate, the court may order a legal custody and/or physical placement study pursuant to §767.11(14), Wis. Stats. The evaluator shall be agreed upon by the parties and if there is no agreement, shall be appointed by the court, with input from the guardian ad litem. The parties shall provide the following information:
- 504.02 Whether any of the parties to the study, or their significant others, have had contact with the evaluator.

- 504.03 The names, addresses, and phone numbers of the parties and other interested persons; the names and birth dates of the children involved; and, the names and phone numbers of counsel for the parties;
- 504.04 The date of any court hearing and/or date established for custody study completion;
- 504.05 The court ordered arrangement or agreement of the parties as to cost and payment arrangements.
- 504.06 Absent other agreement, if a petition for a custody/physical placement study and evaluation comes from one of the parties, the petitioner shall pay for the study before it is commenced and the court shall review and reassess costs as appropriate at the case conclusion. If the petition for a custody/physical placement study and evaluation comes from the guardian ad litem or the court, the parties shall share equally in the cost of the custody/physical placement study and evaluation, with the court reviewing and reassessing costs as appropriate at the case conclusion. All payments are to be made directly to the provider by the parties.
- 504.07 All costs and fees incurred for the custody/physical placement study and evaluation shall be paid up front, before the custody/physical placement study and evaluation is completed and the report is distributed. There shall be no payment by the County for a custody/physical placement study and evaluation unless neither party is capable of paying. Specific findings in a written order, or on the record, about the financial indigency of both parties, must be made before a waiver of custody/physical placement study fees can be effectuated and the county is ordered to pay any fees for a custody evaluation. If one party is indigent, and the other is not, the non-indigent party shall be responsible for all costs associated with the custody study, with review and reassessment of the custody evaluation and expense at the conclusion of the case.
- 504.08 If a party or parties are determined to be indigent and the County makes any payment on behalf of a party for a custody study, the final court order shall contain a provision setting forth the requirement for the parties to reimburse the County for that expense, and to establish a payment plan.
- 504.09 The original custody evaluation, home study and/or psychiatric reports shall be filed with the Court and sealed within the court file. Copies of the reports shall be released to attorneys. Copies of the reports shall not be distributed directly to the parties but attorneys may share the reports by allowing their clients to read the reports in the attorney's office or some other supervised place of their designation. If the parties do not have counsel, they may make arrangements to review the reports under supervision with TRY Mediation, Inc.

505 FAMILY COURT COMMISSIONER

- 505.01 The family court commissioner may hear stipulated default divorces and actions for enforcement or revision of judgments. A judge may also hear these matters, or may require that all such cases in that judge's branch be heard by the commissioner.
- 505.02 The family court commissioner shall preside over all stages of paternity cases authorized by statute. This includes all hearings other than the trial of the paternity issue.

506 PARENTING PROGRAM

506.01 In any action affecting the family in which a minor child is involved or during the pendency of an action to determine paternity, in which the Court will issue a decision or affirm a stipulation regarding legal custody or physical placement of a child, the Court shall order the parties to attend a Parenting Program through TRY Mediation, Inc., entitled "Families in Transition: Children in the Middle" concerning the effects on a child of a dissolution of a marriage and/or training in parenting or co-parenting skills.

Attendance at said program shall be completed within 120 days of the issuance of said Order. A certificate of attendance at said program shall be filed by the parties with the Clerk of Court Office upon completion of the program.

This local rule applies to all actions and motions filed after January 1, 2009.

507 MISCELLANEOUS

507.01 If a party fails to file a financial declaration within the time required by statute, that party may be prohibited from introducing any evidence regarding finances at the time of trial.

507.02 A Divorce/Annulment Worksheet shall be filed with a summons and petition.

507.03 On or after January 4, 1999, the Clerks of Circuit Court shall direct all child support, family support and maintenance paid, pursuant to preexisting or new court orders, to the Department of Workforce Development or its designee.

PART 6: FORECLOSURE PRACTICE

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PART 7: JUVENILE PRACTICE

701 JURISDICTION OF THE JUVENILE COURT

701.01 Children's Code under Wis. Stat. Chapters 48. Children in Need of Protection or Services and Unborn Children in Need of Protection or Services (CHIPS), Juvenile Injunctions, Guardianships of the Person for Children, Termination of Parental Rights and Adoptions.

701.02 Adult Adoptions under Wis. Stat. Chapter 882.

701.03 Juvenile Justice Code under Wis. Stat. Chapter 938: Juveniles in Need of Protection or Services (JIPS) and Delinquent Juveniles.

701.04 Juvenile Civil Commitment under Wis. Stat. Chapter 51.

702 FILING OF DOCUMENTS

702.01 All documents relating to Juvenile Court subject matter are to be filed in the Register in Probate/Clerk of Juvenile Court office. Documents required shall be filed prior to the hearing.

703 FORMS DISTRICT AND STATE

703.01 Standard statewide forms are required for filing.

704 ASSIGNMENT OF CASES AND SUBSTITUTION OF JUDGE

704.01 Assignment of Judge

Subject to Local Rule 207.04, the Register in Probate/Clerk of Juvenile Court office assigns cases according to the venue of multiple cases involving one family. Once a case is assigned to a judge, all further matters involving the family will be assigned to the same judge.

704.02 Substitution of Judge

Once a substitution of a judge is granted on any petition regarding a specific child, that judge is disqualified from presiding over any subsequent juvenile court proceedings regarding that child with the exception of petitions for revision, extension, and change of placement over which that judge had previously established and maintained jurisdiction. Subsequent petitions related to the child shall be assigned to the judge assigned as a result of the foregoing substitution procedure. For example, if petition 1 is assigned to Judge A and petition 2 is assigned to Judge A but upon substitution reassigned to Judge B, petition 3 would be assigned to Judge B.

705 SCHEDULING

705.01 The Register in Probate/Clerk of Juvenile Court office schedules and sends out notices for all hearings related to juvenile matters.

705.02 Temporary physical custody hearings and detention hearings are held at 1:00 p.m. Monday through Friday before the Court Commissioner.

705.03 Petitions for delinquencies are generally heard on Wednesdays between 1:30 p.m. and 2:30 p.m. in Intake Court unless the case has been assigned to a judge under Rule 704.01 (venue of multiple cases involving one family).

705.04 Petitions for Children in Need of Protection or Services (CHIPS) are generally heard on Wednesdays between 2:30 p.m. and 3:30 p.m. in Intake Court unless the case has been assigned to a judge under Rule 704.01 (venue of multiple cases involving one family).

705.05 Petitions for Juveniles in Need of Protection or Services (JIPS) are generally heard on Wednesdays between 2:30 p.m. and 3:30 p.m. in Intake Court unless the case has been assigned to a judge under Rule 704.01 (venue of multiple cases involving one family).

705.06 Truancy hearings are held on Mondays at 3:30 p.m. before the Court Commissioner. If a juvenile contests the petition, an immediate hearing is held in Intake Court.

705.07 Adoption hearings are held on Wednesdays at 3:30 p.m. in Intake Court, unless the case has been assigned to a Judge under Rule 704.01

705.08 Termination of parental rights hearings are held on Wednesdays at 3:30 p.m. in Intake Court.

705.09 Juvenile injunctions are heard on Wednesdays at 3:00 p.m. in Intake Court.

705.10 Restraining order and child abuse hearings are held on Wednesdays at 3:00 p.m. in Intake Court.

- 705.11 Juvenile ordinance sanction hearings are held on Wednesdays at 3:30 p.m. in Intake Court.
- 705.12 Petitions for emergency minor guardianship shall be heard before the Court Commissioner. If the Court Commissioner is not available, the emergency minor guardianship shall be heard by the Circuit Court Branch on Intake.
- 705.13 Petitions for temporary, limited, or full minor guardianships of the person are heard in Intake Court unless the case has been assigned to a Judge under Rule 704.01.

706 GUARDIAN AD LITEM/ADVOCATE COUNSEL

- 706.01 Guardian at litem and advocate counsel in Juvenile Court must have on file with the Register in Probate/Clerk of Juvenile Court documentation of compliance with Supreme Court Rule 35.01.
- 706.02 From the date of appointment until the date of discharge, the guardian ad litem and advocate counsel shall attend all juvenile court appearances on behalf of the minor child unless excused by the court, in which case the guardian ad litem shall make his or her recommendations by written correspondence filed with the court. The guardian ad litem shall utilize applicable statewide forms in making recommendations to the court.
- 706.03 As a requirement of state mandated form JD 1799, a Statement of Guardian ad Litem must be filed. This form will be used at dispositional hearings, change of placement hearings, revision, sanction and permanency plan review hearings.
- 706.04 Interim and Final Bills.

The guardian ad litem and/or advocate counsel must submit interim bills at least quarterly. Final bills must be submitted within thirty (30) days of discharge. Bills shall be filed in the Register in Probate/Clerk of Juvenile Court office. Failure to submit bills in a timely manner may result in a denial of payment.

707 AFFIDAVIT OF INDIGENCY

- 707.01 A petition to waive fees, affidavit of indigency and order shall be completed by the party seeking to waive fees due to financial inability to pay.
- 707.02 Fees can be waived only if approved by the assigned judge.

708 TELEPHONE/VIDEO CONFERENCE APPEARANCE

- 708.01 Telephone or video conference appearances must be requested in writing or through email and submitted to the Register in Probate/Clerk of Juvenile Court office no less than 72 hours in advance of the hearing. It is the responsibility of the requesting party to insure the telephone or video conference appearance is set up with the proper individuals/institution/correctional facility and to pay the costs associated therewith.

709 CONFIDENTIALITY OF COURT RECORDS

- 709.01 Court records for Chapter 938 proceedings are not open for inspection or their contents disclosed to the public except by juvenile court order or as permitted by § 938.396, Wis. Stats. If allowed, the file can be inspected, but no copies will be made without a specific court order.

- 709.02 Court records for Chapter 48 proceedings are not open for inspection or their contents disclosed to the public except by juvenile court order or as permitted by § 48.396, Wis. Stats. If allowed the file can be inspected, but no copies will be made without a specific court order.

710 TEMPORARY PHYSICAL CUSTODY/72 HOUR HOLD

- 710.01 An email to the Register in Probate/Clerk of Juvenile Court is required informing the office a temporary physical custody/72 hour hold hearing is requested. Paperwork for this hearing shall be filed as soon as possible for the hearing.

711 DISPOSITION

711.01 Court Reports

A designated representative of the Department of Health and Human Services shall prepare a court report in accordance with the mandates of §§48.33 and 938.33, Wis. Stats.

711.02 Consent Decrees

If a consent decree is requested, a court report shall be filed by the Department.

711.03 Filing Deadline

Dispositional reports prepared by the Department will be filed with the Register in Probate/Clerk of Juvenile Court office at least three (3) days prior to the scheduled dispositional hearing.

711.04 Availability of Court Reports

No Court Report shall be released to a child, parent, the media, or others, except as provided by law. However, contents of the report may be shared and discussed between counsel and client(s).

711.05 Additional Disposition Information

Any party may submit material for filing to the Register in Probate/Clerk of Juvenile Court office, with copies given to all the parties.

711.06 Requested Court Findings and Statement of Services

The requested court findings and statement of services to be provided to child and family attached to the court report will become part of the appropriate disposition court order.

712 PERMANENCY PLANS

- 712.01 Permanency plans are only required for out of home placements.

- 712.02 Permanency plans must be completed and filed within 60 days after the date the child is first removed from the home.

- 712.03 An original permanency plan must be filed for each case.

- 712.04 The permanency plan shall be filed with the court not less than five (5) days before the permanency hearing.

- 712.05 The court findings attached to the permanency plan will become part of the permanency plan order.
- 712.06 If the permanency plan cannot be heard by the court within the time limits a hearing shall be set ten (10) days out giving notice to the parties. The court will set the permanency plan hearing date in court.

713 TRIAL REUNIFICATION

- 713.01 A trial reunification cannot occur without a court order.
- 713.02 Only the person or agency responsible for implementing the dispositional order may request a trial reunification.
- 713.03 At the end of the trial reunification, the person or agency responsible for implementing the dispositional order shall:
 - 713.03.1 Return the child to the previous out-of-home placement without further order of the court. Notice of the date of the return and current address of the placement shall be submitted to the court.
 - 713.03.2 Request a change of placement to a new out-of-home placement or to the trial reunification home.
- 713.04 A request for an extension of the trial reunification shall be filed with the court no later than ten (10) days prior to the expiration of the trial reunification.
- 713.05 If a determination is made the trial reunification is no longer in the best interest of the child:
 - 713.05.1 Remove the child from the trial reunification home without prior court order.
 - 713.05.2 Place the child in the previous out-of-home placement or in a new out-of-home placement.
 - 713.05.3 If the child is placed in a new out-of-home placement: A request for change in placement shall be made within three (3) days after removing the child from the trial reunification home.
 - 713.05.4 If the child is placed back in the previous out-of-home placement: A request for revocation of the trial reunification must be submitted to the court within three (3) days after removing the child from the trial reunification home.

714 TERMINATION OF PARENTAL RIGHTS (TPR)

- 714.01 A guardian ad litem is required by the court and must be appointed at the time the initial paperwork is filed.
- 714.02 A petition other than one filed on behalf of Eau Claire County or the State of Wisconsin will not be heard by the court unless a stepparent adoption or agency adoption petition accompanies the petition.
- 714.03 An agency home study is to be submitted prior to the hearing before the court.

715 ADOPTIONS

- 715.01 All records and papers pertaining to an adoption proceeding are confidential files and may not be disclosed except by order of the court, except as permitted under Wisconsin law.
- 715.02 All documents which are necessary for the hearing must be filed in the Register in Probate/Clerk of Juvenile Court office no later than forty-eight (48) hours prior to the hearing. If required documents are missing, the court reserves the right to remove the matter from the calendar without further notice.

716 JUVENILE CIVIL COMMITMENTS

- 716.01 Probable cause hearings for juvenile commitments are scheduled through the Court Commissioner.
- 716.02 Final hearings for juvenile commitments are scheduled in Intake Court.
- 716.03 Juvenile recommitment hearings are scheduled in Intake Court.
- 716.04 Access to civil commitment files is limited to the person involved, his or her attorney, County Corporation Counsel and such other persons as approved by the court or permitted by statute.

717 JUVENILE INJUNCTIONS

- 717.01 Any supporting documents should be filed with the petition.
- 717.02 Proof of service shall be presented prior to or at the hearing.

PART 8: PROBATE PRACTICE

801 JURISDICTION OF THE PROBATE COURT

- 801.01 Probate actions under Wis. Stat. Chapters 851 through 879.
- 801.02 Guardianship and protective placements under Wis. Stat. Chapters 54 and 55.
- 801.03 Civil commitments under Wis. Stat. Chapter 51.

802 RESPONSIBILITY WITHIN THE PROBATE COURT

- 802.01 Responsibility of Register in Probate/Probate Registrar
 - 802.01.1 The Register in Probate/Clerk of Juvenile Court office is responsible for the opening, reviewing, filing, maintenance and closing of all files and papers dealing with civil commitment, probate, protective placement, guardianships (both adult and minor), as well as administrative matters dealing with Probate Court.
 - 802.01.2 The Probate Registrar handles uncontested informal probate hearings.

802.02 Responsibility of Court Commissioners

802.02.1 The Probate Court Commissioner handles uncontested hearings on formal probates and trusts matters.

802.02.2 The Court Commissioner handles civil commitment probable cause hearings, emergency protective placement hearings, summary hearings (Watts hearings), temporary guardianship due to incompetency hearings, and temporary minor estates hearings.

803 FILING OF DOCUMENTS

803.01 All documents relating to probate court subject matter are to be filed in the Register in Probate/Clerk of Juvenile Court office. Documents required shall be filed prior to the hearing.

803.02 Facsimile Transmission of Documents to the Court

803.02.1 e-Filers shall not submit any filings via facsimile.

803.02.2 Self-represented litigants may file pleadings and other papers with the Register in Probate/Clerk of Juvenile Court via facsimile to 715-839-1635 only in accordance with the procedures established in §801.16(2), Wis. Stats. Transmissions that do not comply with this rule will not be filed.

803.02.3 No filings shall exceed fifteen (15) pages in length. A “filing” means the fax cover sheet and all subsequent pages thereafter. Pleadings and other papers shall not be separated into multiple filings or facsimile transmissions in an effort to avoid the 15-page limit.

803.02.4 Copies of documents from court files will not be transmitted by facsimile without the appropriate costs being received in advance. The facsimile machine is not to be utilized in an effort to avoid payment of statutory copy fees.

803.03 Mail, hand delivery, fax or electronic filings are acceptable methods for filing documents. Documents filed by e-mail are not acceptable.

804 SCHEDULING

804.01 The Register in Probate/Clerk of Juvenile Court office schedules informal probate hearings and uncontested formal hearings on Tuesday mornings between 9:00 a.m. and 11:00 a.m. Attorneys shall appear for these hearings unless the attorney is certain no one is going to appear or object. Attorneys may appear telephonically but must schedule through the Register in Probate.

804.02 Routine formal probate matters to be heard by a judge are scheduled through Intake Court.

804.03 Any contested probate, demand for formal proceedings, objections, insolvent estates, unclassified probate, review of agent’s performance, or any file requiring a court’s order for a hearing shall be assigned according to the properties of the probate draw. Once a judge hears a contested matter in the case, all further contested matters in the case will be assigned to the same judge.

804.04 Final hearings for mental commitments are scheduled through Intake Court.

- 804.05 Recommitment hearings are scheduled through Intake Court.
- 804.06 Guardianship and conservatorship hearings are scheduled through Intake Court.
- 804.07 Temporary guardianship hearings are scheduled through the Court Commissioner.
- 804.08 Post guardianship/conservatorship matters are scheduled with the judge who issued the letters.
- 804.09 For any related case in the circuit court, notify the Register in Probate so the same judge may be assigned to both matters.

805 ESTATES

805.01 Wills

Only original wills will be accepted for filing with the court.

805.01.1 Wills of a decedent which will not be subject to probate proceeding shall be filed and shall be accompanied by an affidavit.

805.01.2 Objections for admission of the will or appointment of the personal representative shall be in writing accompanied by the statutory filing fee. When the objection is filed, the Probate Court shall assign the case according to the properties of the probate draw. The objector or attorney shall send notice of the objection to all interested parties. A notice of hearing will be sent to the interested parties from the court.

805.02 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 petitions. Special administration proceedings will be granted for specific powers only.

805.03 Ancillary Proceedings

A surety bond is required for nonresidents granted ancillary letters.

805.04 Notice of Retainer

An attorney who represents an interested party shall file a notice of retainer with the Register in Probate.

805.05 Withdrawal of Counsel

An attorney who intends to withdraw as counsel of record shall file a written motion to the court.

805.06 Selection of Personal Representative

Only Wisconsin residents may be appointed as Personal Representatives of an estate, unless, at the discretion of the court, the nominated non-resident is required to have a resident agent and post a bond with the Probate Court in an amount determined by the Court. If the decedent died intestate, an automatic surety bond will be required.

805.07 Hearing or Waiver of Hearing

A hearing is not required when waivers are filed by interested parties. Hearings will be held if notice is required or upon request of the attorney for the estate, the personal representative, or the court.

805.08 Objections to Claims

An objection to a claim must be in writing and filed with the Probate Court. When the objection is filed, the Probate Court shall assign the case according to the properties of the probate draw. The personal representative or attorney for the estate shall send notice of the objection to all interested parties. A notice of hearing will be sent to the interested parties from the court.

805.09 Inventory

The general inventory is due no later than four (4) months after the appointment of the personal representative. A statutory filing fee shall accompany the inventory.

805.10 Estate Account

Filing of an estate accounting in an informal action is preferred. A statement of attorney fees shall be filed when the estate account is not filed in the probate office.

805.11 Tax Clearances

A Wisconsin closing certificate for fiduciaries shall be filed and a federal estate tax closing letter (if the estate met the standard to file a federal estate tax return) shall be filed with the court prior to the closing of any estate.

805.12 Closing Estates

Signed receipts from heirs or beneficiaries and documentation that the residual beneficiaries or heirs have been advised as to the amount of the personal representative and attorney fees must be filed with the court.

805.13 Tenth Judicial District Timelines to Close Estates

Estate actions shall be disposed of within twelve (12) months from the date of the filing of the petition or application to open estate.

805.14 Extensions of Time to Close Estates

When an estate cannot be closed within the required time limits, a petition setting forth the reasons for the request of an extension of time to close the estate must be filed with the court. A proposed order shall also be submitted. The court will review each request individually.

805.15 Trusts

Trusts are not subject to continuing judicial supervision.

806 UNIFORM POWER OF ATTORNEY

806.01 Petitions for review should include a detailed evidentiary affidavit setting forth the specific objection and concern the petitioners have with respect to the conduct of the agent.

806.02 The petition shall be filed with the Register in Probate/Clerk of Juvenile Court office. When the petition is filed, the Register in Probate shall assign the case according to the properties of the probate draw.

807 GUARDIANSHIPS

807.01 Temporary Guardianships

807.01.1 A hearing shall be held on all temporary guardianship petitions.

807.01.2 A Petition to extend temporary guardianship and order on petition to extend temporary guardianship shall be filed if an extension of the temporary guardianship is requested.

807.01.3 A Guardian ad Litem shall be appointed in all temporary guardianship matters. The fees of the guardian ad litem are the responsibility of the petitioner/guardian.

807.02 Guardianships

807.02.1 The Court shall appoint a guardian ad litem for the proposed ward if the petition is filed by a self-represented individual, otherwise counsel will retain the guardian ad litem; the guardian ad litem shall file a report with the court prior to the hearing. The fees of the guardian ad litem are the responsibility of the petitioner/guardian.

807.02.2 The guardian ad litem shall submit their billing invoice within 30 days of discharge. If the case is pending 180 days or longer, the guardian ad litem shall submit interim bills on at least a quarterly basis.

807.02.3 The guardianship inventory and appropriate filing fee shall be filed within 30 days of the appointment of a guardian of the estate.

807.02.4 Unless previously ordered by the court, the guardian must sign and date a guardian's fee and payment contract for reimbursement of expenses and/or guardian fees.

807.02.5 Sale of Real Estate.

The court needs to authorize/confirm the sale/mortgage/lease of the ward's real estate.

807.03 Conservatorships

807.03.1 The conservatorship inventory shall be filed within thirty (30) days of the appointment of a conservator.

807.03.2 A hearing is required to terminate a conservatorship.

807.04 Protective Placements

807.04.1 A petition for protective placement may be filed with or anytime after the guardianship petition is filed.

807.04.2 A comprehensive evaluation must be completed and filed with the court on all protective placement petitions.

807.05 Protective Placement Reviews (Watts)

807.05.1 Summary hearings on Watts reviews will be held in front of the court commissioner.

807.05.2 Summary hearings are held once a month.

807.05.3 If an objection to the protective placement is received, the matter will be held in front of the court commissioner.

807.05.4 The guardian ad litem must submit their billing invoice within thirty (30) days of discharge.

807.06 Termination of Guardianships

807.06.1 **Guardianship of the Person – Deceased Ward**

Upon notification to the Register in Probate/Clerk of Juvenile Court office that the ward died, the court will issue an order of discharge of the guardian of the person.

807.06.2 **Guardianship of the Estate – Deceased Ward**

Upon notification to the Register in Probate/Clerk of Juvenile Court office that the ward died and filing of: the final account as approved by the court; a proper receipt from the person/entity receiving the remaining assets in the ward's estate; and a notice of filing of final account, the court will issue an order of discharge of the guardian of the estate.

807.06.3 **Guardian of the Estate for a Minor**

Upon filing of proof of the ward reaching the age of eighteen (18) and the final account and receipt signed by the ward, the court will issue an order of discharge of the guardian of the estate.

808 CIVIL COMMITMENTS

808.01 All civil commitment matters under Chapter 51 originate with the Eau Claire County Corporation Counsel office.

808.02 Probable cause hearings will be heard by the court commissioner.

808.03 Final hearings are scheduled in Intake Court.

808.04 Recommitment hearings will be heard in Intake Court.

809 FORMS - STATE

809.01 Standard statewide forms are required for filing. *Forms can be located at <http://www.wicourts.gov/forms1/circuit/index.htm>*

PART 9: SMALL CLAIMS PRACTICE

901 SERVICE

901.01 The service of the summons, except in eviction actions, may be by mail.

901.02 The service of the summons in replevin actions must be via Certified Mail or personal service.

901.03 Summons and Complaints served by mail that are returned to the Clerk of Courts office after the court date as not deliverable by the U.S. Postal Service will result in a judgment being vacated.

902 MEDIATION REQUIREMENT

All contested small claims actions shall undergo mediation before being scheduled for trial except evictions, garnishments and replevins. A mediation representative will be available in the courtroom at the time of the return date. Attorneys appearing without clients must have authority to mediate a settlement.

903 TRIAL BEFORE COURT COMMISSIONER

- 903.01 If mediation is not successful, a trial will be scheduled with the court commissioner.
- 903.02 §799.206(3), Wis. Stats., requires a valid legal ground for a contest to an eviction filing before a hearing will be scheduled. The Court Commissioner hears all eviction cases on Tuesdays and will make a decision regarding valid legal grounds. If there are valid legal grounds, the case will go before the Intake Judge the same day.
- 903.03 The Court Official's judicial assistant shall be contacted to request a court hearing for garnishments and replevins.

904 DE NOVO REVIEW OF COURT COMMISSIONER DECISIONS IN SMALL CLAIMS CASES

§799.207(2), Wis. Stats., requires that a demand for trial de novo must be made and received by the court within ten (10) days from the date of an oral decision or fifteen (15) days from the date of mailing of a written decision to prevent the entry of the court commissioner's judgment.

PART 10: TRAFFIC/FORFEITURE PRACTICE

1001 INITIAL APPEARANCES

- 1001.01 Adult Ordinance Violations
 - 1001.01.1 Individuals issued OWI or BAC citations must appear at the initial appearance for Traffic Court unless a Not Guilty plea letter has been received prior to the initial appearance date.
 - 1001.01.2 All other individuals receiving traffic or ordinance citations may enter a not guilty plea in writing with the Clerk of Court office prior to the initial appearance date.
 - 1001.01.3 Bicycle ordinance citations will be assessed at \$20 without court costs. The Clerk of Court will deduct \$5 from the \$20 for the fee under §814.63(2), Wis. Stats.
- 1001.02 Juvenile Ordinance Violations
 - 1001.02.1 Juvenile ordinance citations under 16 years of age will incur a penalty of \$50 without court costs with the exception of violations under §125.07(4)(b), Wis. Stats. – underage drinking.

- 1001.02.2 Juvenile ordinance citations of Underage Drinking under §125.07(4)(b), Wis. Stats.; juvenile may avoid the forfeiture plus court costs of the offense by participating in the Eau Claire Alcohol Offender Program.

1002 SETTLEMENT CONFERENCE

- 1002.01 Any individual who enters a not guilty plea will be assigned a settlement conference with the attorney who represents the agency which issued the citation.
- 1002.02 If a settlement conference is awarded to an individual and if that individual fails to appear at the settlement conference, a default judgment will be entered against the individual on the citations.

1003 REQUESTS FOR JURY TRIALS

Requests for jury trials shall be filed in writing along with payment of the jury fee with the Office of the Clerk of Court no later than ten (10) calendar days after the settlement conference.

1004 DEFAULT JUDGMENTS

- 1004.01 If an individual fails to enter a not guilty plea prior to the initial appearance, a default judgment shall be entered on the traffic or ordinance citations.
- 1004.02 If an individual fails to appear for the settlement conference, a default judgment shall be entered against the individual on the citations. (See also Rule 1002.02).

1005 GUILTY OR NO CONTEST PLEAS

If an individual enters either a guilty or no contest plea to a citation, a forfeiture shall be assessed; court costs may be imposed; points on the individual's license may be affected; and the individual's driving privileges may be affected.

1006 REFUSAL HEARINGS

In calculating the ten (10)-day time period in which to request a refusal hearing on revocation under §343.305(9)(a)4, Wis. Stats., weekends and holidays shall be excluded from the calculation, consistent with §801.15(1), Wis. Stats.

1007 RIDE-ALONG ASSIGNMENT

Any traffic or ordinance citation issued to an individual, who has also been charged with a criminal offense arising out of the same incident, shall be handled by the prosecuting agency and judge assigned to the criminal case.

TABLE 3

Intake Motions & Hearings <small>When Made Prior To A Plea in A Misdemeanor or a Preliminary Hearing in a Felony</small>	Intake Judge	Assigned Judge
Bond – Set Requests For Bond Modification for 11 a.m. Court	X	
Appointment of an Attorney	X	
Change of an Attorney	X	
Adjournment	X	
Motion To Dismiss a Defective Complaint	X	
Competency: Raise the issue and order examination	X	
Competency Hearing and Determination		X
Extradition	X	
Claim of Diplomatic Immunity: When verified by the United States State Department	X	
Return with an agreement to a plea to a misdemeanor or ordinance	X	
Preliminary Hearing (Felony) – Motions which involve the Preliminary Hearing	X	
Waiver of Preliminary Hearing	X	
Preliminary Motions & Hearings <small>When Made After To A Plea in A Misdemeanor or a Preliminary Hearing or Preliminary Hearing Waiver in a Felony</small>	Intake Judge	Assigned Judge
Arraignment		X
Bond – Request for Change of Bond		X
Bond – Picked Up on a warrant (Check with Assigned Judge)	X	X
Appointment of an Attorney		X
Change of an Attorney		X
Adjournment		X
Competency: Raise the issue and order examination		X
Competency Hearing and Determination		X
Claim of Diplomatic Immunity: When verified by the United States State Department		X
Claim of Diplomatic Immunity: When not verified by the United States State Department		X
Order To Show Cause On DAGP – Misdemeanor Plea	X	
Order To Show Cause On DAGP – Felony Plea		X

Post Plea Motions & Hearings	Intake Judge	Assigned Judge
Motions Regardless when filed are to be scheduled only after a plea in a misdemeanor and arraignment in a felony		
Status Conference		X
Jury Trial		X
Plea Hearing: After a Not Guilty Plea Entered – A change of plea to Guilty		X
Refusal Hearings in OWI		X
Motion to Dismiss Due to Insufficient Preliminary Hearing		X
Motion Challenging An Information		X
Motion to Suppress Evidence		X
Motion to Dismiss – Constitutional Violations		X
Motion Challenging Constitutionality of Prosecution or Statute		X
Motion For Consolidation		X
Motion For Severance		X
Motion For Discovery		X
Motion In Limine		X
Motion For Sequestration		X
Motion For Change of Venue – Jury From another County		X
All Other Pre-trial Motions		X
All Post-Conviction Motions (Except Bond on a Warrant) See above		X

When in doubt, ask the Intake Judge