

## PIERCE COUNTY CIRCUIT COURT - LOCAL RULES

### Part 1: Seventh Judicial District Rules

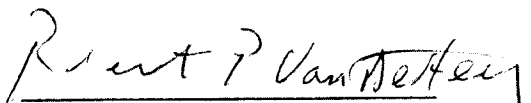
- 101 District Rule Adoption and Promulgation
- 101.01 Pursuant to Wis. Stat. §753.35, the Seventh Judicial District Court Rules are incorporated herein by reference. These Pierce County Circuit Court Rules supersede all previously adopted local rules and shall be posted and available for public review in the Pierce County Courthouse.
- 101.02 Rules shall be adopted by Order of the Circuit Court, subject to the approval of the Chief Judge.
- 101.03 The effective date of these rules is January 1, 2023.

Approved and adopted this 14<sup>th</sup> day of December, 2022,



Honorable Elizabeth Rohl  
Pierce County Circuit Court Judge

Approved and adopted this 14<sup>th</sup> day of Dec., 2022,



Honorable Robert P. VanDeHey  
Chief Judge Seventh Judicial District

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### **Part 2: Court Practice**

#### **201 Notice of Representation and Withdrawal of Counsel**

Notice of Retainer. An attorney who represents a party shall file with the Clerk of Court a Notice of Retainer or Order Appointing Counsel as soon as practicable. An attorney who intends to withdraw as counsel of record shall first file a written motion and proposed order to the Court and all opposing parties. Withdrawal and/or substitution by an attorney may be accomplished by written stipulation if agreed to and signed by all attorneys and approved by the Court. Except where required by law, counsel will not be permitted to withdraw if scheduled proceedings will be delayed.

**Cameras and Media Access**

202. 01 Cameras in the Courtroom. (a) All Pierce County Circuit Court proceedings shall be open to the public and media coverage unless prohibited by statute or court order. (b) Any mediation session, whether in civil, small claims or family court, is not a judicial proceeding required by law to be public and such settlement proceedings are therefore exempt from these requirements. As a result, any manner of recording (audio or video) is prohibited in said proceedings. (c) Cameras and recording equipment may be allowed in courtrooms or hearing chambers provided a written request is made to the presiding court official at least three (3) days before each scheduled hearing or trial. A notice by one media representative shall be sufficient for all subsequent hearings and trials in said case. Each media organization must provide an individual notice; one notice will not suffice for all other media representatives. The Court will make a diligent effort to notify the attorneys and any unrepresented parties by telephone as soon as reasonably possible of the notice, and place a copy of the media request for cameras in courtroom into the file indicating the time of doing so.

The notice requirement may be waived by the presiding court officer upon good cause being shown.

202.02 Camera and Recording Equipment Rules. The Court Officer presiding at the hearing shall designate the location within the courtroom of any and all camera or audio equipment so that media coverage will not obstruct the view of persons located in the public areas of the courtroom. The size and configuration of the courtrooms in Pierce County may require limitations on the number of cameras, audio recording devices and other media equipment. In cases where media organizations wish to have more equipment present than space permits, those media representatives who are allowed in the courtroom shall share footage or audio recording with those not permitted inside the courtroom with their equipment. Media equipment shall be set up prior to the commencement of any hearing and may not be removed until the next recess. There shall be no visual photography or videotaping of any juveniles, victims, undercover law enforcement agents or confidential informants unless authorized by the Court upon advance request. There shall be no video or still photography of jurors or prospective jurors under any circumstances. No flashes or strobe lights may be used under any circumstances.

202.03 The media and all parties shall comply with Supreme Court Rule 61.

**203 Confidential Records**

The following records and files are presumed to be confidential and will not be accessible without an order of the Court: juvenile files, guardianship and protective placement files (except as authorized by law), mental commitment files, pre-adjudication paternity files, presentence investigation reports, medical reports, psychological evaluations, victim addresses and Victim Identification Keys, confidential judge and court commissioner notes that are work-product, and financial disclosure statements.

**204 Continuances**

All stipulated requests for the continuance of a hearing/trial require the consent of the parties in writing or on the record and must be for good cause shown. Non-stipulated requests for continuance must be on motion and hearing and for good cause shown by the party or with the party's written consent. Continuance requests are subject to the approval of the Court and shall be requested of the Court within twenty (20) days of the date a hearing/trial notice is provided. If the time limits of the proceeding do not permit such time periods, the Court may in its discretion shorten the time to file a notice of continuance and objection.

**205 Court Commissioner**

The Circuit Court Commissioner/Family Court Commissioner shall be appointed pursuant to Wis. Stat. §757.68 and SCR 75.02(1). The Circuit Court Commissioner/Family Court Commissioner shall have all of the powers and duties specified in their annual appointment orders. Supplemental Court Commissioners may be appointed pursuant to Wis. Stat. §757.675 and shall have all of the powers and duties specified in their respective appointment orders.

**206 Entry of Order/Judgments (Five-Day Rule)**

The Judge and Court Commissioner 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. If a stipulation and order is submitted where all parties are in agreement it will be signed immediately.

**Facsimile/Email Transmission of Documents to the Court**

- 207.01 Facsimile documents transmitted to the courts shall be accepted for filing only if: (a) no filing fee is required; (b) the document does not exceed fifteen (15) pages in length, excluding cover sheet; and (c) no additional fee or charge must be paid by the Circuit Court for accepting or receiving the facsimile document. Facsimile documents will not be accepted by e-filing parties in e-filed cases.
- 207.02 A party submitting a document shall make the original transmission through the Clerk of Court facsimile at (715) 273-6855 only. The Court will treat the facsimile as the original document to be filed and it is generally not necessary to submit an original. Pursuant to State statute the Clerk of Court may charge \$1.25 per page for incoming and outgoing facsimiles. Documents that are not to be filed but are to be used by the Court for reference or other purpose may be transmitted by facsimile transmission at the discretion of the Judge, Court Commissioner, Judicial Assistant or Clerk. The Court may charge a fee for incoming and outgoing facsimiles that exceed six (6) pages.

**Rules of Decorum**

- 208.01 These rules restate the rules of courtesy and decorum set forth in Wisconsin Supreme Court Rule 62.
- 208.02 Judges, court commissioners, lawyers, clerks and court personnel shall at all times do all of the following: (a) Maintain a cordial and respectful demeanor and be guided by a fundamental sense of integrity and fair play in all their professional activities. (b) Be civil in their dealings with one another and with the public and conduct all court and court-related proceedings, whether written or oral, including discovery proceedings, with civility and respect for each of the participants. (c) Abstain from making disparaging, demeaning or sarcastic remarks or comments about one another. (d) Abstain from any conduct that may be characterized as uncivil, abrasive, abusive, hostile or obstructive. (e) While in court or while participating in legal proceedings, dress in a manner showing proper respect for the court, the proceedings and the law. Judges shall wear black robes while presiding on the bench except when exceptional circumstances exist. (f) Advise clients, witnesses, jurors and others appearing in court that proper conduct and attire is expected within the courthouse and, where possible, prevent clients, witnesses or others from creating disorder or disruption. (g) In scheduling all hearings, meetings and conferences, be considerate of the time schedules of the participants and grant reasonable extensions of time when they will not adversely affect the court calendar or clients' interests. (h) Conduct themselves in a manner which

demonstrates sensitivity to the necessity of preserving decorum and the integrity of the judicial process.

- 208.03 No recording devices will be allowed in the courtroom. Only parties to the case may address the court unless the court allows otherwise.
- 208.04 Judges, court commissioners and lawyers shall be punctual in convening and appearing for all hearings, meetings and conferences and, if delayed, shall notify other participants, if possible.
- 208.05 Lawyers shall do all of the following: (a) Make all reasonable efforts to reach informal agreement on preliminary and procedural matters. (b) Attempt expeditiously to reconcile differences through negotiation, without needless expense and waste of time. (c) Abstain from pursuing or opposing discovery arbitrarily or for the purpose of harassment or undue delay. (d) If an adversary is entitled to assistance, information or documents, provide them to the adversary without unnecessary formalities. (e) Abstain from knowingly deceiving or misleading another lawyer or the Court. (f) Clearly identify for the Court and other counsel changes that he or she has made in documents submitted to him or her by counsel or by the Court. (g) Act in good faith and honor promises and commitments to other lawyers and to the Court.
- 208.06 Adherence to standards of professionalism and courtesy, good manners and dignity is the responsibility of each judge, court commissioner, lawyer, clerk, and other personnel of the court who assist the public.

## **209 Remote Appearances**

- 209.01 Requests to appear remotely (via phone or videoconference) shall be requested by submitting the Request (GF-306) unless extenuating circumstances prevent the filing of the form.
- 209.02 If approved by the Judge or the Court Commissioner, telephone hearings can be arranged by contacting the Judicial Assistant. The party requesting the hearing is responsible for connecting all other parties to the call for purposes of scheduling and for the hearing itself (if to be conducted via phone). After approval by the Court, a date and time will be set by the Judicial Assistant. The party requesting the telephone motion is responsible for notifying all parties, initiating the conference call at the time of the hearing, and connecting all parties to the conference call who wish to appear by telephone.



**Ex Parte Communications**

"*Ex Parte* communication" means communication with a circuit court judge or court commissioner regarding a pending or impending action or proceeding, directly or indirectly through any other person, including support staff or other court personnel, or by mail or email, to the exclusion of other parties. Ex parte communications are restricted by state and local law. Any communication by telephone, email, letter, face-to-face conversation, or other off the record contact, is generally prohibited. If parties submit ex parte communication to the court it may be returned to them. If a copy of the communication/correspondence is sent to all parties involved in the case it not ex parte.

**Electronically Recorded Proceedings**

211.01 Pursuant to Wis. Stat. §757.55 and SCR 71.05, the Judge of Pierce County Circuit Court has determined that certain proceedings involving the circuit court, circuit court commissioner/family court commissioner may be reported by electronic means. Electronic reporting uses audio recording equipment to register court proceedings and has been approved for use by the Wisconsin Supreme Court and Seventh Judicial District. Proceedings reported by electronic means may include default divorces, post-judgment family motions, harassment and domestic abuse injunction hearings, juvenile hearings, preliminary hearings in criminal cases, probable cause hearings, small claims, traffic and ordinance cases. Circuit Court proceedings may also be reported by electronic means if approved by the Circuit Court Judge assigned to the case. Copies of these proceedings shall be made available at a cost of \$10.00 plus postage if mailing is required. The recording, however, is not an official transcript and shall not be used for anything other than illustrative purposes. Any party requesting an official transcript shall be responsible for requesting this through the Pierce County Clerk of Court.

**De Novo Hearings**

Pursuant to Wis. Stat. §757.69(8), any decision of a circuit court commissioner shall be reviewed by the judge of the branch of court to which the case has been assigned, upon motion of any party. Such motion shall be brought within fourteen (14) days of the commissioner's order unless a separate time period is allowed by law. The fourteen (14) days commences from the date a written order was filed or from the oral ruling.

### **Part 3: Civil Practice**

#### **302           Scheduling**

- 302.01 Aging Case Review. The Office of the Clerk of Court will review aging cases and if there has been no action after 185 days the attorneys/parties will be contacted. If there is no response and there continues to be no action on the case a 20-day Dismissal Order may be drafted by the court.
- 302.02 Scheduling Orders and Scheduling Conferences. Scheduling orders will typically not be issued until a telephonic scheduling conference has taken place and a scheduling order has been agreed to by counsel. Scheduling conferences are handled by the Court Commissioner and can be arranged by contacting the Judicial Assistant. The party requesting the scheduling conference is responsible for notifying all parties of the date and time of the call, initiating the call, and connecting all parties to the call. The Court Commissioner will establish deadlines and a Scheduling Order will be issued. Deadlines included in such orders may include pretrial dates, discovery, pleading and party amendments, expert witness disclosure dates, ADR completion date, and other dates agreed upon by counsel. In the event that the parties are unable to agree on provisions of the scheduling order, the matter may be referred to the judge for further assistance.
- 302.03 Continuances. All stipulated requests for the continuance of a hearing/trial require the consent of the parties in writing or on the record and must be for good cause shown. Non-stipulated requests for continuance must be on motion and hearing and for good cause shown by the party or with the party's written consent. Continuance requests are subject to the approval of the court and shall be requested of the court within twenty (20) days of the date a hearing/trial notice is provided. If the time limits of the proceeding do not permit such time periods, the court may in its discretion shorten the time to file a notice of continuance and objection.
- 302.04 Mediation. In any civil action, the parties and other interested persons as ordered by the court, shall select either mediation or any other settlement alternative, as that term is defined in Wis. Stat. §802.12(1)(i), and attempt settlement prior to trial. An order under this paragraph may include a requirement that the parties participate personally in the settlement alternative. All parties, including subrogated parties, and their attorneys shall participate in person. Any corporate party or other organization shall appear, in addition to counsel of record, by an individual who shall have full authority to negotiate, unless the mediator permits otherwise. Full authority means the authority to

make or modify offers and to approve a final settlement without the need to seek authority from any other person. A party who fails to comply with this provision of this order may be ordered to pay all costs of the mediation and be subject to further sanctions. Unless otherwise ordered by the court, the parties shall share equally the cost of mediation or other settlement alternative. The court may waive or modify this ADR requirement in its discretion. Mediation shall generally be completed before the court schedules a jury trial.

### **303            Pretrial Conferences**

At all pretrial matters, attorneys must have the authority to negotiate in the absence of their clients or, if authority is not granted, immediate telephonic access to the clients shall be required. The Judge or Court Commissioner may in any case require all parties to be present personally at the pretrial.

### **304            Discovery**

All motions to compel discovery pursuant to Wis. Stat. §804 must be accompanied by a statement in writing by the movant that after consultation with the opposing party and sincere attempts to resolve their differences the parties are unable to reach an accord. Such statement shall recite the date, place and name of all parties participating in such discussions. The Court may upon its own initiative after reasonable notice, or pursuant to a motion, limit the number of depositions and interrogatories and may also limit the length of depositions. The frequency and extent of the use of the discovery methods otherwise permitted or limited by these rules may be further limited if the Court determines that: the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or the burden or expense of the proposed discovery outweighs its benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, the importance of the proposed discovery in resolving the issues.

### **305            Other Motions**

305.01 Motion Practice. Motions shall be heard at a date and time set by the Judge or Judicial Assistant. It is the attorney's responsibility to schedule the motion with the court, and a motion filed only with the Clerk of Court will not be scheduled until a specific request is made of the court for a hearing date and

time. Motions, supporting documents and briefs should be filed with the court and served on the nonmoving party at least twenty (20) days before the hearing date unless provided otherwise by these rules or order of the court. The opposing party should serve and file a written response at least five (5) days before the hearing. Motion Hearings are typically set for 30 minutes and attorneys/parties should advise if more time is required.

- 305.02 Remote Motions. Remote hearings are discretionary with the Court and may be requested by filing such a request in writing. After approval by the Court, a date and time will be set by the Judicial Assistant. The party requesting the telephone motion is responsible for notifying all parties, initiating the call, and connecting all parties to the call who wish to appear by telephone.

## **306 Judgments**

- 306.01 Default Judgment. Except as to mortgage foreclosures, in all actions where personal service was obtained upon the defendant, ten (10) days notice shall be required prior to the entry of judgment. Notice may be accomplished by either an affidavit of mailing or cover letter showing that the defendant was copied on the default papers filed with the Court. If after ten (10) days no objection is received, the Court will typically sign the proposed order and grant the default judgment. In actions where damages are not liquidated, a hearing may be held to determine the amount of the judgment. The Court may order a hearing to determine the amount of judgment in any case, and any judge may in an individual case require further notice or proof regarding service, damages or costs if appropriate.
- 306.02 In mortgage foreclosure actions, a hearing is generally required and the plaintiff shall include with its motion for default judgment the specific property description in the proposed findings of fact, conclusions of law and judgment submitted for the Court's signature. In cases where no personal service is obtained upon the defendant (i.e., substitute or published), notice of motion for default judgment shall be given to the defendant by regular mail at the defendant's last known address. The notice shall provide that in the event the defendant does not request a hearing from the court, in writing, on the plaintiff's motion within fifteen (15) days of the date of the notice, a default judgment may be entered.
- 306.03 Summary Judgment. The parties may file motions for summary judgment within eight (8) months of the filing of the summons and complaint or within the time established in the scheduling order, as allowed under Wis. Stat. §802.08. Motions shall be accompanied by legal briefs and affidavits.

Responsive briefs and affidavits shall be filed within twenty (20) days, and ten (10) days thereafter for reply briefs and affidavits. Summary judgment motions will be decided without oral argument unless otherwise ordered. Oral argument will be scheduled upon request and in the discretion of the assigned Judge.

**307                    Harassment, Domestic Abuse, Child Abuse and Individual At Risk  
Restraining Orders and Injunctions**

- 307.01 The Clerk of Court shall ensure that the petitioner has signed the moving papers and that the signature is notarized. The Clerk of Court shall also ensure that all relevant paragraphs on the petition and other papers are complete and stated with specificity. The Clerk should also determine whether or not any other actions between the parties are pending. If there are, the Court Commissioner or Judge assigned should be so informed. The Court Commissioner or Judge shall review all petitions as to form and substance. If the petitioner seeks to have the filing fees waived due to indigency, the Court Commissioner or Judge shall determine the question of indigency. Injunction hearings shall be scheduled with either the Court Commissioner or Judge, depending on the nature of the case and calendar availability, to ensure compliance with statutory hearing timelines.
- 307.02 Petitioners in harassment, domestic abuse, child abuse, and individual at risk cases should provide the Clerk of Court with their contact information at the time of filing so as to facilitate communication for scheduling purposes. Any contact information provided by a petitioner shall be sealed in the court file and may not be accessed unless otherwise ordered by the Court.

**Part 4: Criminal Practice**

**401                    Warrants**

Warrant Return Dates. Parties that have active warrants may appear on a weekday (excluding holidays) at 3:00 p.m. to have their warrant quashed. The defendant must contact the Clerk of Court Office as well as the District Attorney's Office that they plan to appear. If the defendant is represented by an attorney, the contact shall be made by the attorney. Unless otherwise

allowed by the court, a defendant will only be allowed one such warrant return date.

**402 Initial Appearances**

Initial appearances are normally held every Monday from 8:30 a.m. to 11:00 a.m. with the Court Commissioner.

**403 Pretrial Conferences**

After the entry of a not guilty plea, a representative of the district attorney's office shall confer with the defendant, or their attorney if they have one, and attempt to resolve the case. The Pretrial Conference will be held via phone with the District Attorney and Defendant/Defense Counsel. Failure to call in at the pretrial will result in a warrant.

**404 Motion Practice**

Motions must be in writing and shall state with particularity the grounds thereof and the order or relief sought pursuant to Wis. Stat. §971.30(2). Motions shall also contain the legal authority for the relief requested. It is the responsibility of the moving party to advise the Court before the Final Pre-trial when a motion requires an evidentiary hearing. The hearing will be heard prior to trial unless the Court determines otherwise. Attorneys/Parties should contact the Judicial Assistant for a hearing date and time before filing the motion and include the date/time in the motion.

**405 Pre-Sentence Investigation**

Pre-sentence Reports. After a conviction in a felony case the Court may order a Pre-Sentence Investigation. When a Pre-Sentence Investigation report has been received the Judge shall disclose the contents of the report to the defendant's attorney and to the district attorney prior to sentencing. When the defendant is not represented by an attorney, the contents shall be disclosed to the defendant. The Judge may conceal the identity of any person who provided information in the presentence investigation report. Except as otherwise provided by statute, after sentencing the Pre-Sentence Investigation Report shall be confidential and shall not be made available to any person except upon specific authorization of the Court. The district attorney and the defendant's attorney are entitled to have and keep a copy of the Pre-Sentence

Investigation Report. If the defendant is not represented by counsel, the defendant is entitled to view the Pre-Sentence Investigation Report but may not keep a copy of the report. 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 Pre-Sentence Report shall keep the information in the report confidential.

**406                    Restitution**

405.01 The specific amount of restitution should be ascertained by the District Attorney by the time of sentencing and should be included in the Judgment of Conviction. If there is a contest regarding restitution, the matter shall be referred to the Court for factual findings pursuant to Wis. Stat. §973.20(13). This hearing may be with either the Court Commissioner or Judge.

405.02 If unable to determine a specific amount of restitution at the time of Sentencing, and Restitution is ordered "to be determined", the restitution claim shall be submitted by the District Attorney within 30 days. Once submitted the defendant has ten days to object to the amount of restitution.

**407                    Appointment of Counsel**

Appointment of Counsel/County Reimbursement. Appointment of counsel shall be made by the judge. When the Court appoints criminal defense counsel at county expense (not an appointment by the State Public Defender's Office), at the time the appointment is made the defendant will be required to sign a statement acknowledging that he or she will reimburse the county for all of the counsel fees through a wage assignment or other means. The Court may order immediate partial payment of fees as a condition of appointment.

**408                    Scheduling Orders**

The Judge may supplement these criminal practice rules with scheduling orders.

**409                    Huber Privileges/Electronic Home Monitoring**

Huber law, by state statute, is for: (a) seeking employment or engaging in employment training; (b) working at employment; (c) performing community service work; (d) self-employment; (e) school attendance; or (f) medical treatment including chemical dependency and mental illness treatment. The

court sentences defendants and the Pierce County Sheriff's Office manages the Huber/work release rules and regulations.

**410            Payments**

Any money posted on the case for bond or for payment of attorney fees may be used to pay restitution, fines and forfeitures, cost of the case as well as attorney fees.

**411            Continuances**

All stipulated requests for the continuance of a hearing/trial require the consent of the parties in writing or on the record and must be for good cause shown. Non-stipulated requests for continuance must be on motion and hearing and for good cause shown by the party or with the party's written consent. Continuance requests are subject to the approval of the court and shall be requested of the court within twenty (20) days of the date a hearing/trial notice is provided. If the time limits of the proceeding do not permit such time periods, the court may in its discretion shorten the time to file a notice of continuance and objection. Before submitting a request for continuance the party shall ascertain if the opposing party/counsel objects.

**412            Plea Questionnaire and Waiver of Rights Form**

411.01 A fully completed Plea Questionnaire and Waiver of Rights form signed by the defendant and his or her attorneys shall be delivered to the Judge at the commencement of the Plea Hearing.

411.02 If the plea hearing is being conducted remotely, the attorney shall e-file the Plea Questionnaire and Waiver of Rights Form in advance of the hearing. Additionally, the attorney must file a Waiver of Right to Personal Appearance (CR-295).

**Part 5: Family Law Practice**

**501            Advanced payments on custody and psychological evaluations**

The Court may order a party to deposit funds with the Clerk of Court to cover the cost of court-ordered custody and psychological evaluations.



- 503.01 The Court will normally require one or both parties to deposit partial prepayment of the GAL fees in the amount of \$1,000 to the Clerk of Court upon appointment of a GAL. In an initial divorce action, the parties will generally be required to split the deposit 50/50. In post-judgment disputes, the moving party will generally be required to post the initial \$1,000. The Court may reduce the \$1,000 deposit amount or waive the deposit requirement if a party is indigent. The Court will not sign an order appointing a GAL until the \$1,000 retainer has been paid or other payment arrangements have been approved by and ordered by the court.
- 503.02 A GAL appointed in an action affecting the family should provide a monthly billing to the parties or their counsel. The GAL should appear at the final hearing in divorce or paternity proceeding with a statement of fees. In a divorce action the Court will consider the GAL fee a marital liability in the property division. In a paternity action, the Court will allocate responsibility for payment of the fee in the judgment. The Court may order either or both parties to pay all or any part of the compensation of the GAL. If both parties are indigent, the Court may direct that the county pay the compensation. The Court may order a separate money judgment for unpaid GAL fees so the county can docket the judgment.
- 503.03 At the conclusion of the action, and prior to the discharge of the GAL, the Court shall review the financial account of the GAL billings and receipts. The Court shall make a final determination of what portion of GAL fees and costs shall be paid by each party or the county. The county shall be ordered to pay any outstanding balance only upon a finding that both parties are indigent or if there are other extraordinary circumstances. No final judgment will be granted by the Court without a provision regarding payment of the GAL fees and costs, including date certain for payment of remaining fees. Any final stipulation submitted by the parties for approval of the court must contain a provision regarding payment of remaining GAL fees.
- 503.04 When drafting an order for payment, the GAL shall copy all counsel and parties and indicate that, unless any objection is received within five (5) days, the Court shall sign the order for payment as submitted by the GAL. If there is a dispute over payment, the objecting party is responsible for scheduling the matter for review with the Judge or Court Commissioner.

- 504.01 Before a contested divorce is scheduled a final pretrial will be set and a scheduling order drafted. The Court may order mediation for property division and/or maintenance. The parties will be responsible for scheduling mediation as well as the cost of mediation.
- 504.02 Financial Disclosure Statements. A Financial Disclosure Statement must be filed by both parties with the Court Commissioner and with the Pierce County Child Support Agency if public assistance is involved, before or at the time of the hearing on the temporary order or prior to the entry of any temporary order based upon a written stipulation. Failure by either party to complete and file this form as required will authorize the judge or family court commissioner to accept the statement of the other party as the basis of its decision. Every motion or order to show cause to set or modify support, family support, or maintenance, shall contain language which requires both parties to submit to the Court at the scheduled hearing completed financial disclosure statements/budgets and verification of income for two (2) months prior to the hearing date.
- 504.03 Confidentiality of Financial Disclosure Statements. State Statute requires the information provided in financial disclosure statements, all such documents shall be sealed in court files and may be accessed only by a party or his or her attorney.
- 504.04 Failure to file timely Financial Disclosure Statements. An updated Financial Disclosure Statement shall be filed at the final hearing, or at such time as ordered by the Court. Failure by either party to timely file a complete disclosure statement as required, shall authorize the judge or court commissioner to accept the statement of the other party as accurate.
- 504.05 Temporary Order Hearing. All motions or orders to show cause for temporary orders shall be brought before the Court Commissioner with the right to a de novo hearing before a judge. Hearings before the Court Commissioner shall not be used for discovery purposes. The Court Commissioner may curtail discovery which is not relevant to the pending hearing and may modify motions or orders to show cause which would require parties to bring materials to a hearing which would be more appropriately obtained through discovery procedure.
- 504.06 Default divorce dates in uncontested cases may be obtained by contacting the Clerk of Court Office or Judicial Assistant. Default divorce dates will not occur until after the statutory 120 day waiting period contained in Wis. Stat. §767.335 has expired. If a Contested Divorce hearing is needed a Final Pre-

Trial will be set with the Judge and the Judicial Assistant will issue a Scheduling Order.

**505                    Mediation**

505.01 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 as required by Wis. Stat. §767.405. In its discretion, the court may order additional mediation sessions in a contested case on legal custody, physical placement, child support, property division, or any other issue affecting the family if it deems such a referral appropriate.

**506                    Continuances**

506.01 All stipulated requests for the continuance of a hearing/trial require the consent of the parties in writing or on the record and must be for good cause shown. Non-stipulated requests for continuance must be on motion and hearing and for good cause shown by the party or with the party's written consent. Continuance requests are subject to the approval of the Court and shall be requested of the Court within twenty (20) days of the date a hearing/trial notice is provided. If the time limits of the proceeding do not permit such time periods, the court may in its discretion shorten the time to file a notice of continuance and objection.

**Part 6: Foreclosure Practice**

**601                    Default Hearings**

601.01 In mortgage foreclosure actions, a hearing is generally required and the plaintiff shall include with its motion for default judgment the specific property description in the proposed Findings of Fact, Conclusions of Law and Judgment submitted for the Court's signature. In cases where no personal service is obtained upon the defendant (i.e., substitute or published), Notice of Motion for Default Judgment shall be given to the defendant by regular mail at the defendant's last known address. The notice shall provide that in the event the defendant does not request a hearing from the Court, in writing, on the plaintiff's motion within fifteen (15) days of the date of the notice, a default judgment may be entered.

**602                    Mediation**

- 602.01 Upon the filing of a Summons and Complaint for foreclosure, the plaintiff(s) will be notified of the availability of foreclosure mediation and the process thereof, including service of mediation information upon the defendant borrower(s).
- 602.02 In foreclosure actions, the plaintiff(s) shall determine whether and by whom the subject real estate is occupied. If the subject real estate is occupied by persons other than the defendant borrower(s), the plaintiff(s) shall give notice of the pending action to foreclosure to the occupants.

**Part 7: Probate Practice**

**701: Jurisdiction of the Probate Court**

- 701.01 Probate actions under Wis. Stat. Chapters 851 through 879.
- 701.02 Guardianship and protective placements under Chapters 54 and 55.
- 701.03 Trust actions under Chapter 701.
- 701.04 Civil commitments under Chapter 51.

**702: Responsibility within the Probate Court**

- 702.01 Nothing contained in these rules will be construed to limit or restrict the Judge in exercise of his or her discretion nor restrict the Chief Judge in the exercise of his or her duties.
- 702.02 Responsibility of the Probate Judge: All contested matters falling under the jurisdiction of the probate court are handled by the probate judge.
- 702.03 Responsibility of Register in Probate/Probate Registrar: The Register in Probate office is responsible for the opening, reviewing, filing, maintenance and closing of all files and papers dealing with civil commitment, probate, trust, protective placement, adult adoption, guardianships (both adult and minor), as well as administrative matters dealing with probate court. The Probate Registrar handles uncontested informal probate hearings.

Responsibility of Court Commissioners: The Circuit Court Commissioner may handle civil commitment probable cause hearings, emergency protective

placement hearings, summary hearings on Watts and temporary guardianship hearings.

### **703: Filing of Documents:**

- 703.01 Filing of documents: All documents relating to Probate Court subject matter are to be filed at the Register in Probate office unless filed with the Court at the time of the hearing.
- 703.02 Facsimile Transmission of Documents to the Court: Documents requiring original signatures may be faxed only for the purpose of showing the court the document is complete; the original must be filed with the court. The Judge or Court Commissioner may authorize in advance the filing of a particular document that does not conform to these rules if good cause is shown and they are in conformance with the statutes. The party transmitting the document is solely responsible for ensuring its timely and complete receipt. 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.

### **704: Scheduling:**

- 704.01 The Register in Probate office schedules probate cases on the Judge's probate calendar. The probate calendar is normally two Wednesdays a month from 10:30 a.m. to Noon.

### **705: Estates:**

- 705.01 Wills: Only original wills will be accepted for filing with the court. Wills of a decedent which will not be subject to probate proceeding shall be filed and shall be accompanied by an affidavit.
- 705.02 Summary Settlement and Summary Assignment: Proof of Heirship must be filed with all opening papers for Summary Settlement and Summary Assignment petitions.
- 705.03 Selection of Personal Representative: only Wisconsin residents may be appointed as Personal Representative of an estate, unless, at the discretion of the Court.
- 705.04 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 probate court.

- 705.05 Objection to Will filed: An objection to a Will filed must be in writing and filed with the probate court together with the statutory filing fee. When the objection is filed, the probate court shall set a hearing date.
- 705.06 Objections to claims filed: An objection to a claim must be in writing and filed with the probate court. When the objection is filed, the probate court shall set a hearing date. The personal representative or attorney for the estate shall send notice of the objection and notice of the hearing to all interested parties.
- 705.07 Inventory: Estate inventory shall be filed no later than four (4) months after the issuance of letters together with the statutory filing fee.
- 705.09 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. Any requests for waiving the requirement for a closing certificate for fiduciaries must be in writing and accompanied by a proposed order. Such requests will be addressed by the Judge.
- 705.10 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.
- 705.11 Extensions of time to closing 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. See section 805.09 and section 809.
- 705.12 7<sup>th</sup> Judicial District time lines 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.

## **706: Guardianship:**

- 706.01 Temporary Guardianships: A hearing shall be held on all temporary guardianship petitions. 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. A Guardian ad Litem shall be appointed for the proposed ward in all temporary guardianship matters.

- 707.02 Guardianships: Guardian ad litem: The Court shall appoint a guardian ad litem for the proposed ward; the guardian ad litem shall file a report with the court prior to the hearing. The guardianship inventory together with the statutory filing fee shall be filed within 60 days of the appointment of a guardian of the estate. Unless previously ordered by the court, the guardian must petition the court to spend or request reimbursement for any expenditures over \$500 to be paid by the ward's assets. Fees to be collected for acting as guardian require court approval regardless of amount.
- 707.03 Minor guardianships: A Guardian ad Litem shall be appointed for the proposed ward in all minor guardianship matters. The guardianship inventory together with the statutory filing fee shall be filed within 60 days of the appointment of a guardian of the estate
- 707.04 Conservatorships: The conservatorship inventory together with the statutory filing fee shall be filed within 60 days of the appointment of a conservator. A hearing is required to terminate a conservatorship.
- 707.05 Protective Placements: A petition for protective placement may be filed with or anytime after the guardianship petition is filed. Competency evaluation must be completed and filed with the court on all protective placement petitions.
- 707.06 Protective Placement Reviews (*Watts*): Summary hearings on *Watts* reviews will be held in front of the judge. If an objection to the protective placement is received, the matter will be scheduled with the intake judge for further proceedings.
- 707.07 Termination of guardianships: Guardianship of the person – deceased ward: upon notification to the probate court that the ward died, the court will issue an order of discharge of the guardian of the person. Guardianship of the estate – deceased ward: upon notification to the probate court 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; the court will issue an order of discharge of the guardian of the estate.
- 707.08 Guardian of the estate for a minor: Upon filing proof of the ward reaching the age of eighteen, filing the final account and receipt signed by the ward; the court will issue an order of discharge of the guardian of the estate.

**708: Civil Commitments:**

708.01 Commencement: All civil commitment matters under Chapter 51 originate with the county corporation counsel office.

708.02 Scheduling: The court will schedule all hearings regarding civil commitments.

**709 District probate benchmarks:**

709.01 An estate must be closed within twelve (12) months from the date of filing the petition or application, unless extended by the Court for good cause.

709.02 See 705.11 above regarding extensions for time to close the estate.

**710: District forms:**

710.01 Case management forms/guidelines/checklists created by the Pierce County Register in Probate shall be used when appropriate.

**Part 8: Small Claims Practice**

**800 Venue**

800.01 Within Wisconsin, small claims actions may be filed in: (a) the county in which the defendant resides or does substantial business; (b) the county in which the property relating to the claim is located; or (c) the county in which the claim arose. Claims arising out of consumer credit transactions may be filed in the county: (a) where the consumer resides; (b) where the consumer made the purchase; or (c) if it was a credit transaction, where the collateral (property securing the transactions) is located. A “consumer transaction” is a purchase or lease of goods, property or services, or loan of money or credit, for personal, family, household, or agricultural purposes.

**801 Service**

801.01 Alternatives for service of summons and complaint. (1) In suits for money judgments, service of summons may be by personal service, substituted service or, if within Pierce County, by mail sent by the Pierce County Clerk of Court. (2) If a summons is returned to the Clerk of Court’s Office by the post office, the plaintiff must serve the defendant(s) by personal service, substituted service, or publication. (3) Eviction actions require personal or substituted



service. (4) Replevin actions must be commenced by personal service. (5) Where personal, substituted, or mail service has failed, the plaintiff may request permission of the Court on the return date for publication to establish personal or in rem jurisdiction. (6) Where personal and substituted service has failed in eviction actions, adjournment of the return date, posting, and mailing is the procedure. (7) In evictions and replevin actions, the Petition/Motion to set aside judgment shall be served by mail with certificate of mailing or affidavit of mailing not later than 48 hours before the time specified for the hearing. (8) In construction liens, the statutory requirement of registered mail is met by certified mail if a sender's receipt is obtained from the postal authorities and return receipt is requested.

## **802            Appearance**

802.01 Return Date: Action for Money Judgment and Evictions. A specific return date appears on the summons and complaint and is obtained by contacting the Small Claims Clerk. The plaintiff must appear in court on the date and time specified or the case will be dismissed. The defendant must on the date and time specified or a judgment may be entered against him or her. The defendant may also file a written answer prior to the hearing but must still appear. If the case is not settled at this time, a pretrial date will be given out for both parties to come back in front of the Circuit Court Commissioner. Replevin Return dates are scheduled with the Judge. Plaintiffs should contact the Judicial Assistant to obtain a date for Replevins.

802.02 Both the plaintiff and defendant must appear in person or by an attorney on the return date of the summons unless they have received permission from the court for a remote appearance.

802.03 At the Return Date the Court Commissioner will hear each case individually. While the return date specifies a specific time, cases are sometimes not called at that specific time due to calendar congestion. If an attorney or out-of-state defendant that is appearing via phone does not call in, it will be considered a nonappearance and may result in dismissal or a judgment.

## **803            Party Identification**

804.01 Parties will be properly identified at court proceedings.

804.02 Change of Address. Parties must notify the Clerk of Court in writing of any change of address. Once issue has been joined, the Court is not responsible for any errors or omissions caused by an incorrect address.

- 804.03 Use of Work Address. The plaintiff may not serve the summons and complaint on a defendant by first class mail or certified mail at his or her workplace. This exception does not apply to personal service on a party at his or her workplace.

## **804            Pretrial Date**

- 804.50 At the Return date, if the case is contested, a pretrial order shall be issued and will require a more detailed Statement. Parties must file with the Clerk of Court a more detailed statement of the case. A copy of this statement must also be sent to all opposing parties. If the plaintiff fails to file his or her more detailed statement of the case with the clerk of court by the due date set by the court commissioner, or fails to provide a copy to the defendant(s), the case may be dismissed. If the defendant fails to file his or her more detailed statement of the case with the Clerk of Court by the due date set by the Court Commissioner, or fails to provide a copy to the plaintiff(s), judgment may be entered in favor of the plaintiff(s). If the case cannot be settled at the Pretrial a Court Trial will be scheduled.

## **805            Trials and Settlements**

- 805.01 If a case settles prior to trial, the Small Claims Clerk should be notified by calling (715) 273-6741 as well as submitting a stipulation or letter for the court record.
- 805.02 Trials are scheduled with the Court Commissioner or Judge, depending on case type. Parties should be prepared with evidence and witnesses at the time of trial. If exhibits will be presented there should be sufficient copies brought to court (original for the court along with a copy for opposing party.)
- 805.03 Continuances. All requests for continuances must be made in writing and filed with the Clerk of Court. Parties shall contact opposing party to see if there is an agreement regarding continuance before filing with the court.
- 805.04 Jury Demand. Either party may demand a jury trial pursuant to Wis. Stat. §799.21(3).
- 805.05 Judgments. A plaintiff may take judgment against a defendant when: the defendant fails to respond to the summons and complaint on or before the return date or does not dispute the plaintiff's claim or the entry of judgment; or after a trial when the court rules in the plaintiffs favor. A defendant may take judgment against the plaintiff when the court rules in defendant's favor,

either for dismissal or on a counterclaim. There is a \$5.00 fee for docketing a judgment, to be paid upon entry of same. The Clerk of Court will place the judgment on an official list, open to public inspection. After docketing the judgment, it becomes a lien on any real estate owned by the debtor in that county for ten (10) years.

806.06 Financial Disclosure Statements. If the Court decides in a party's favor, and the judgment requires a party to pay money damages, the Court will also order the judgment debtor to send the prevailing party a statement disclosing his or her name, address, employer(s) and their address(es), real property he or she owns, financial institutions in which he or she has funds on deposit, and other information required by form schedules which will be sent out or given to the debtor by the Court. The debtor need not file this information in court. He or she must mail it directly to the judgment creditor within fifteen (15) days after the judgment is filed in court, unless within that time the judgment is paid. If the debtor has not paid the debt or sent the financial disclosure statement by the 15th day after the judgment was filed in court, the creditor can start proceedings to have the debtor held in contempt of court.

806.07 Contempt. After filing a Petition and Order for Hearing of Contempt, the Court will order the other party to appear in court and explain why he or she has failed to send the proper financial disclosure statement. If the debtor fails to appear at the hearing, the Court will issue a warrant for his or her arrest for being in contempt of court. The debtor can be placed in jail or ordered to pay a fine for each day he or she fails to make the required financial disclosures. The Petition and Order for Hearing of Contempt on the failure to file a financial disclosure statement must be served personally if the moving party wants to request a bench warrant or other sanction for the judgment debtor's nonappearance.

## **Part 9: Traffic/Forfeiture Practice**

### **900 Traffic Court Procedure**

900.01 Initial Appearances. The Court Commissioner shall preside over traffic intake, which typically is scheduled for Monday mornings. If the defendant enters a not guilty plea, he or she shall be provided with a date for a pretrial hearing with the prosecuting attorney. If the defendant is represented by counsel and a not guilty plea is entered, defense counsel should contact the prosecuting attorney before the initial appearance to obtain a pretrial conference date.

900.02 Pretrials. After the entry of a not guilty plea, the prosecuting attorney (or their designee) shall confer with the defendant, or their attorney if they have one, and attempt to resolve the case. The Pretrial Conference will be held via phone with the prosecuting attorney and Defendant/Defense Counsel. Failure to call in at the pretrial will result in a default judgment.

## **901                    Payments**

901.01 The payment of fines, costs, fees, surcharges, etc. should be done within sixty (60) days of a conviction. Any request for an extension of time to pay past the time set forth in the original agreement shall be submitted to and reviewed by the Clerk of Court. In any traffic or ordinance matter, any fine, attorney fee or court cost may be paid in installments when so ordered by the Judge. If such a payment plan is approved, the defendant shall complete a wage assignment, provide the court with a current address, telephone number, and social security number (which will be redacted from the court record). Any money from bond postings or overpayment of attorney fees shall be applied to outstanding fine, forfeitures or costs.

901.02 Payment with coins or tainted currency. The Clerk of Court shall not be required to accept more than three dollars in coins as payment for court costs, fines, forfeitures or fees. County employees or officers shall not be required to accept as payment of a fee or other obligation owed to the county any currency or coins which have been soiled, contaminated, tainted or polluted with any human or animal bodily secretions or any other substance that may pose a risk to public safety or human health.