

Sauk County Circuit Court Rules

(Fifth Judicial District)

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Rule 1 - Adoption, Amendment and Publication of Sauk County Court Rules.

1.01 Effective February 1, 2002, these rules have been adopted by the Sauk County Circuit Judges and supercede all previously adopted Sauk County Circuit Court Rules.

1.02 Court rules and amendments shall be adopted by written order of a majority of the Sauk County Circuit Court Judges, subject to the approval of the Chief Judge of the Fifth Judicial District.

1.03 All rules and amendments thereto shall specify an effective date.

1.04 Except for a rule adopted or amended as an emergency rule pursuant to §753.35, Wisconsin Statutes, proposed rules shall be posted for public view in the Sauk County Courthouse by the Clerk of Circuit Court and copies shall be forwarded to the president and secretary of the Sauk County Bar Association at least 30 days prior to formal adoption. Any person wishing to comment upon any proposed rule or amendment shall submit those comments to the Sauk County circuit judges in writing before the expiration of the 30 days.

1.05 Once adopted, all rules or amendments shall be filed with the Sauk County Clerk of Circuit Court. The Clerk of Circuit Court shall then post them in a conspicuous place in the Sauk County Courthouse for no less than 30 days, provide copies of the adopted rules to those persons, offices or organizations listed in §753.35, Wisconsin Statutes, and print and make available, at cost, all rules adopted or amended.

Rule 2 - Rules of Decorum

2.01 Whenever a jury is present court shall be formally opened each day either by the bailiff, court security officer or clerk of court.

2.02 Lawyers shall never engage the court in a manner which would lessen the dignity of the proceedings in the eyes of the jury or public.

2.03 Witnesses shall be examined with courtesy and respect.

2.04 Witnesses shall be examined either from a position at or behind counsel table or from a lectern when one is provided except when displaying an exhibit to a witness. In no case shall the witness be crowded during examination. This rule shall not preclude the court from setting additional or different requirements as necessitated by a particular case.

2.05 The administration of an oath or affirmation of witnesses shall be an impressive ceremony and not a mere formality.

2.06 When addressing the jury, a lawyer or party shall not crowd the jury box.

2.07 During court proceedings no lawyer or party shall exhibit familiarity with witnesses, jurors or opposing counsel and the use of first names shall generally be avoided.

2.08 All lawyers and court officers shall, while in attendance upon the court, be attired in such a manner as not to lessen the dignity of the proceedings in the eyes of the jury or public, except that where circumstances require it, the presiding judge, in his or her discretion, may approve exceptions to this rule.

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Rule 3 - General and Procedural Rules

3.01 Court Commissioner Proceedings. All proceedings before a Sauk County court commissioner shall be considered proceedings before the circuit court and subject to these rules.

3.02 Telephone Testimony. In matters where telephone testimony is being presented, the party calling the witness is responsible to place the call or to have the witness call in to the court at the scheduled time. The party calling the witness shall be responsible for all costs of the call unless otherwise ordered by the court.

3.03 Motion Practice.

- a. Any party filing a motion shall be responsible for securing a hearing date from the office of the judge or court commissioner assigned to hear the case.

- b. No party shall schedule a motion at the time of a previously scheduled motion in a matter without first contacting and obtaining leave of the court.

3.04 Voir Dire Examination

Unless otherwise authorized by the court, the lawyer or party conducting the voir dire examination shall: (a) insofar as practical, use collective questions addressed to the panel as a whole; (b) use individual inquiry only where necessary; (c) avoid repetition; and (d) seek only information material and necessary to jury selection.

3.05 Exhibits

Each party using an exhibit shall have sufficient copies available for the witness, court and opposing counsel, party or parties.

3.06 Continuances

Continuances may be granted only in the discretion of the court. Consent or stipulation of counselor or the parties will not be recognized as binding upon the court.

3.07 Consolidation of Civil and Small Claims Cases

All cases arising out of the same transaction or the same act or acts of negligence may, upon motion of any party, or upon order of the Court on its own motion, be consolidated for purposes of trial.

To effect consolidation, any motion or stipulation to consolidate and all supporting documents shall be captioned with the case names and numbers of all cases sought to be consolidated. Service and filing shall be effected in all of the cases sought to be consolidated. The motion shall be directed to the judge assigned to preside over the lowest numbered case. If consolidation is granted, the case or cases shall be assigned to the judge to whom the lowest numbered case is assigned.

3.08 Borrowing of Court Files Regulated

No court file or paper may be withdrawn for use outside of the courthouse except upon the written order of a judge who shall limit the period during which the file may be withdrawn.

3.09 Remedial Contempt Proceedings

- a. Personal service of process shall be required on all parties being brought before the court for remedial contempt proceedings.
- b. Written orders shall be submitted to the court for signature and filing after any contempt hearing in which a finding of contempt is made. The order shall set forth the contempt findings made, the sanctions imposed and the purge conditions set by the court.

- c. Any request for the imposition of sanctions due to noncompliance with purge conditions subsequent to a contempt finding shall be made in the form of a petition or motion to the court setting forth the basis upon which the request for the imposition of sanctions is made.

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Rule 4 - Closure of Proceedings.

4.01 All Sauk County Circuit Court judicial proceedings shall be open to the public unless prohibited by statute or otherwise ordered by the court.

4.02 Any party or attorney moving to close any judicial proceeding that would otherwise be an open proceeding must notify the court and the Sauk County media coordinator in writing at least 72 hours before the time of the scheduled hearing. The purpose of this rule is to permit legal counsel to appear on behalf of the media and be heard. The burden shall be on the moving party to show why the proceedings should not be public. The court may waive the 72 hour notice provision upon a finding of good cause.

Rule 5 - Media Coverage of Court Proceedings and Cameras in the Courtroom

5.01 All Sauk County Circuit Court proceedings shall be open to the public and media coverage unless prohibited by statute or court order.

5.02 All media coverage of proceedings in the Sauk County circuit courts shall be in accordance with Supreme Court Rule (SCR) Chapter 61.

5.03 Cameras and recording equipment will be allowed in courtrooms or hearing chambers provided a written or oral request is made to the presiding hearing officer and Sauk County media coordinator at least 72 hours before each scheduled hearing or trial. No notice is required for initial appearances in criminal cases. The notice requirement may be waived by the presiding court officer upon good cause being shown. Each media organization wishing to have cameras or recording equipment must comply with this requirement.

5.04 The name of the Media Coordinator shall be maintained on file at <https://www.wicourts.gov/news/mediacoord.htm>.

5.05 The court officer presiding at the time of 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.

5.06 The size and configuration of the courtrooms in Sauk County may require limitations on the number of cameras, audio recording devices and other media

equipment. In cases where more media organizations wish to have equipment present that 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.

5.07 Media equipment shall be set up prior to the commencement of any hearing and may not be removed until the next recess.

5.08 There shall be no visual photography or videotaping of any juveniles, victims of sex crimes, undercover law enforcement agents or confidential informants unless authorized by the court upon advance request.

5.09 There shall be no video or still photography of jurors or prospective jurors under any circumstances.

5.10 The use of motorized cameras while court is in session is prohibited unless the motor is silent. No flashes or strobe lights may be used.

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Rule 6 - Lawyers Not Members of the State Bar of Wisconsin (Pro Hac Vice)

6.01 All attorneys who are not admitted to the State Bar of Wisconsin shall fully comply with all requirements of the Supreme Court Rules before providing legal services or appearing in the Sauk County Circuit Court.

Rule 7 - Facsimile Transmission and Filing of Documents with the Court

7.01 Facsimile documents transmitted directly to the Sauk County Circuit Court shall be accepted for filing only at 608-355-3480 and shall be subject to the following provisions:

- a. The document does not exceed fifteen (15) pages in length.
- b. No filing fee is required.
- c. No additional fee or charge is required to be paid to the Clerk of Circuit Court for accepting or receiving the facsimile document.
- d. Papers filed by facsimile transmission completed after regular business hours of the Clerk of Circuit Court's office are considered filed on a particular day if the submission is made by 11:59 p.m. central time, as recorded by the court facsimile machine, so long as it is subsequently accepted by the clerk upon review. Regular business hours for the Sauk County Clerk of Court are 8:00 a.m. to 4:30 p.m.
- e. Facsimile documents are considered filed upon receipt by the Clerk of Circuit Court and are the official record of the court and may not be substituted. The transmitting party shall send no additional copies of the facsimile document to the Clerk of Circuit Court. The Clerk of Circuit Court shall discard any duplicate

documents subsequently received by the Clerk of Circuit Court, assigned judge or court commissioner. Parties who have transmitted documents by facsimile to the court shall retain in their own files any "original" document that was used for the facsimile transmission. In the event the authenticity of the faxed document is challenged, the party who faxed the document to the court shall have the burden to show authenticity.

7.02 The party transmitting the facsimile document is solely responsible for ensuring its timely and complete receipt. The circuit court, judge, court commissioner or clerk of circuit court is not responsible for:

- a. Errors or failures in transmission that result in missing or illegible documents.
- b. Periods when a circuit court facsimile machine is not operational for any reason.

7.03 Facsimile documents transmitted to a plain-paper facsimile machine of a noncourt agency, party, or company for the receipt, transmittal and delivery to the clerk of circuit court shall be accepted for filing only if the transmission complies with this local rule or has been approved by the assigned judge or court commissioner and certified by the party or attorney.

7.04 A judge assigned to a particular matter may authorize in advance the filing of particular documents in that case that do not conform to these rules if good cause is shown and they are in conformance with §801.16, Wisconsin Statutes. Facsimiles exceeding 15 pages in length must certify that the assigned judge or court commissioner has approved the facsimile transmission.

7.05 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 or clerk.

7.06 The circuit court, judge or clerk, is not responsible for:

- a. Errors or failures of transmission that results in missing or illegible documents.
- b. Periods when a circuit court facsimile machine is not operational.

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Rule 8 - Family Law Practice

8.01 Divorce Education Program

In all divorce, legal separation or annulment actions filed in which there are minor children of the parties, the parents shall be required to attend a parent education program approved by the Sauk County Circuit Court prior to the scheduling of any final hearing or trial. Upon a showing of good cause this requirement may be waived by the court. The Sauk County Family Court Commissioner shall provide information and procedural guidelines concerning this program.

8.02 Mediation

Unless undue hardship or danger to the health of one of the parties is shown, or unless otherwise excused by the court, the parties shall attend mediation pursuant to sec. 767.11, Wis. Stats., prior to the appointment of a guardian ad litem.

8.03 Guardian ad Litem

Upon the appointment of a guardian ad litem in any action affecting the family, the parties shall be required to make a deposit to the Sauk County Clerk of Court to defray guardian ad litem fees and expenses. The amount of the deposit shall be determined by the court. Unless both parties are found to be indigent, either or both parties shall be required to reimburse Sauk County for the full cost of the guardian ad litem fees and expenses.

8.04 Motions for De Novo Hearings

All motions for de novo hearings pursuant to § 767.17 from a decision of the Family Court Commissioner must be filed within 20 days of the date of the decision or within 20 days of date of the mailing of the decision, whichever is later. Any decision entered by the Family Court Commissioner remains in effect until an order has been entered by the judge following the *de novo* hearing.

8.05 Conduct of De Novo Hearings

Prejudgment de novo hearings shall be conducted in summary fashion (off the record) unless otherwise ordered by the presiding judge. Post-judgment de novo hearings shall be conducted as full evidentiary hearings.

8.06 Failure to Appear at Temporary Hearing/Right to Rehearing

A party failing to appear at a temporary hearing before the Family Court Commissioner shall not be entitled to a de novo hearing before the presiding judge. A party failing to appear for a temporary hearing may request a rehearing before the Family Court Commissioner if the Family Court Commissioner determines that there was “excusable neglect” for the nonappearance.

A party requesting a rehearing based upon excusable neglect shall make such request in writing with notice to the other party within 30 days of the date of the original hearing, or within 15 days of the date the order resulting from the hearing was signed, whichever is longer. Upon receipt of a timely written request, the Family Court commissioner shall either: (1) rule outright on the request; (2) solicit a written response from the opposing party before ruling; and/or (3) schedule a hearing on the request. If, following any hearing conducted, the Family Court Commissioner determines that excusable neglect has been demonstrated, a hearing on the merits of the original motion shall follow immediately unless the other party requests a continuance. Such continuance requests shall be liberally granted.

If the Family Court Commissioner determines that there was no excusable neglect for the nonappearance, the initial decision shall stand.

Any written request for the review of the “non excusable neglect” determination by the Family Court Commissioner must be made to the assigned circuit court judge within 20 days of the determination by the Family Court Commissioner. All such requests must set forth with specificity the reasons for the nonappearance. If the presiding judge reverses the Family Court Commissioner determination of excusable neglect, the matter shall be scheduled for further hearing before the Family Court Commissioner within thirty (30) days of the circuit court determination.

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Rule 9 - Small Claims Practice 9.01 Pleadings

All pleadings shall be in writing, except upon the personal appearance of a defendant or counsel at the joinder of issue, an oral answer may be entered. No oral counterclaims, affirmative defenses or motions will be permitted. Answers may not be made by telephone.

9.02 Service of Summons

Service of a summons in all small claims cases shall be by personal or substituted service as provided in sec. 801.11, Wisconsin Statutes.

9.03 Joining Issue/Answering Complaint

- a. A defendant may join issue without personally appearing on the return date set forth in the summons by answering the complaint in writing and filing such answer with the clerk of court prior to the return date and time set forth in the summons.
- b. The filing of a written answer shall be deemed an appearance by a defendant.
- c. Any summons shall contain notice to the defendant that he or she has the option to file a written answer without personal appearance on or before the return date and time.
- d. Written answers may be filed by facsimile as permitted and in accordance with Sauk County Circuit Court rules.

9.04 Garnishment Impleader

Whenever the answer of a garnishee discloses that any third person or party claims the debt or property in his or her hands and the name and residence of such claimant, the plaintiff shall, unless the time is otherwise extended by the court, within 20 days of the date of filing of the garnishee answer, implead those parties in accordance with Sec. 812.17, Wis. Stats. If plaintiff fails to implead those parties within the 20 day period, the

garnishment action shall be dismissed and all funds being held pursuant to the garnishment shall be returned to the garnishee or person depositing those funds.

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