

# Trempealeau County Circuit Court Rules

*(Seventh Judicial District)*

These rules take effect November 1, 2019.

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## **Rule 1. Publication and Adoption of Circuit Court Local Rules**

Rules shall be adopted by the circuit court judge subject to approval of the chief judge of the district.

Upon adoption, rules shall be filed in accordance with Wis. Stat. § 753.35.

## **Rule 2. Civil Practice**

I. All civil cases will be reviewed for service and answer 90 days after filing. If case has not reached issue, a dismissal order or default proceeding may be initiated by the court.

II. No continuance will be granted unless there is good cause shown. To avoid scheduling conflicts, attorneys shall be prepared to immediately tell the court of such conflicts when the court sets dates from the bench or in conference. Stipulated requests for continuance of trial date must have the consent of the parties in writing or on the record and must be for good cause. Non-stipulated requests for continuance must be on motion and hearing and for good cause.

III. Telephone conferencing for scheduling and for motions not involving evidence is encouraged.

IV. 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.

V. A motion for summary judgment shall comply with Wis. Stat. § 802.08 and procedures contained in Rule 6.

## **Rule 3. Small Claims Procedures**

All contested small claims actions shall undergo mediation before being scheduled for trial. A mediation representative will be available in the courtroom at the time of the return date. Trial will be scheduled with the judge or court commissioner if mediation is unsuccessful.

If the defendant has appeared at the return date and the matter is not resolved through mediation, the defendant shall within 10 calendar days file a written answer on forms provided by the Clerk of Courts Office. Upon filing the original answer in the Clerk of Courts Office, the defendant shall at the same time serve (by first-class mail or hand delivery) a copy upon the plaintiff. Failure to file the

answer within such time shall be deemed a default and judgment may be entered in favor of the plaintiff, at the discretion of the court commissioner/judge.

If defendant desires to assert a counterclaim, such counterclaim must be in writing and must be filed and served along with the answer filed within 10 calendar days from return date. Any counterclaims not properly filed or served shall be barred. Plaintiff must reply to defendant's counterclaim in writing and file and serve such reply within 10 calendar days from the filing of the counterclaim. Failure to file the reply to the counterclaim within such time shall be deemed a default and judgment may be entered in favor of the defendant/counterclaimant, at the discretion of the court commissioner/judge.

Mail service of small claims pleadings has long been an accepted and approved procedure in Trempealeau County. This will affirm the procedures as provided by small claims statutory authority and specifically allow service by mail pursuant to Wis. Stat. § 799.12(2) & (3).

#### **Rule 4. Family Law Practice**

**I. UP-TO-PARENTS PROGRAM COMPLETION REQUIRED.** Divorce/Legal Separation/Married People Living Apart/Paternity Actions/Voluntary Acknowledgement of Paternity:

In order that parents in these cases have the best opportunity to protect themselves and their children, the Court orders as follows:

- (1) Within 60 days of the filing of the petition for dissolution or within 60 days of the finding of paternity, if applicable, the parents shall each complete the work on the website: [www.UpToParents.org](http://www.UpToParents.org). Both English and Spanish versions are available from that webpage.
- (2) Within the 60 days established in (1) above, parents with one or more minor children shall file with the Court a copy of the "Certificate of Completion." Upon completion of the course, such certificate is available on the conclusion page.

**II. MEDIATION.** Mediation shall be ordered in all contested matters involving child custody and periods of physical placement. No fees will be charged for the initial custody/physical placement mediation session. The fees for subsequent mediation sessions are payable directly to the mediator.

**III. DE NOVO REVIEW.** Pursuant to Wis. Stat. § 757.69(8), any party who was present at a hearing held by the family court commissioner has the right to have the circuit court judge hold a new hearing upon the filing of a motion within 15 days of the oral decision of the family court commissioner, or within 15 days of mailing of the written decision if the order was not orally given by the family court commissioner at the time of the hearing. Findings and orders entered by the family court commissioner by stipulation or entered by default are not subject to de novo review. Fifteen (15) days shall be counted consecutively and include weekends and holidays pursuant to Wis. Stat. 801.15(1). The party requesting the de novo review must notify in writing all interested parties, including the guardian ad litem, the family court commissioner, and the child support agency of the time and date for the hearing. Any order based on the decision of the family court commissioner must be on file prior to the de novo hearing.

## **Rule 5. Forfeiture Cases**

Requests for a jury trial shall be filed, along with the payment of the jury fee, with Clerk of Court, no later than 10 days from the initial appearance.

## **Rule 6. Procedures on Motion for Summary Judgment**

The Court has adopted certain procedures to be followed in filing and responding to Motions for Summary Judgment which are intended to supplement the statutory guidelines of Wis. Stat. § 802.08 and to facilitate the methodology imposed upon the trial court by the appellate courts in reviewing motions for summary judgment.

A copy of the procedure to be followed on Motions for Summary Judgment in the Circuit Court for Trempealeau County, Wisconsin, may be obtained from the Clerk of Court for Trempealeau County. Failure to comply with this order shall be considered cause for imposing sanctions which may include dismissal, contempt, costs, or such other and further sanctions as the Court may deem appropriate under the circumstances.

Procedure to be Followed on Motions for Summary Judgment:

I. A motion for summary judgment made pursuant to Wis. Stat. § 802.08 shall be served and filed in the following form:

A. The motion itself, together with such materials permitted by Wis. Stat. § 802.08 as the movant may elect to serve and file; and

B. Either a stipulation of facts between or among all the parties to the action, or a statement of the findings of fact proposed by movant, or a combination thereof.

1. Whether a movant elects a stipulation or a statement of proposed findings, or both, it is movant's obligation to present no more and no less than the set of factual propositions which movant considers necessary to judgment in movant's favor, and as to which movant considers there is no genuine issue. [Footnote 1]

2. Such factual propositions shall be set forth in numbered paragraphs, the contents of each of which shall be limited as far as practicable to the statement of a single factual proposition.

3. At the close of each numbered paragraph shall be set forth one or more references to the PLEADINGS, DEPOSITION TRANSCRIPTS, ANSWERS TO INTERROGATORIES, ADMISSIONS on file or AFFIDAVITS [Footnote 2] supporting movant's contention there is no genuine issue as to that factual proposition.

4. References to the record shall include:

- a. In the case of a pleading, the numbered paragraph of that pleading;
- b. In the case of a deposition transcript, the name of the witness and the page of the transcript;
- c. In the case of an answer to an interrogatory, the number of that interrogatory and the identity of the party to whom it was directed;

- d. In the case of an admission in response to, or resulting from a failure to respond to, a request for admission made pursuant to sec. 804.11, Wis. Stats., the number of the requested admission and the identity of the party to whom it was directed;
- e. In the case of an admission on file which is not in response to, or resulting from a failure to respond to, a request for admission made pursuant to sec. 804.11 Wis. Stats., the form such admission takes and the page or paragraph of the document in which that admission is made. Admissions made solely for the purpose of the motion for summary judgment should be so designated.

C. A statement of the conclusions of law proposed by movant, in numbered paragraphs;

D. A motion for summary judgment in the form required by I., above, shall be served and filed together with a supporting brief.

II. When a motion and support brief have been served and filed in compliance with I. above, the Court shall issue a schedule for the procedures described in III. and IV. below, unless a briefing schedule has already been established by the Court.

III. Response. On or before the date specified in the schedule issued by the Court, any party who elects to oppose the motion for summary judgment shall serve and file the following:

A. Such materials permitted by Sec. 802.08 Stats, which said party may elect to serve and file in opposition to said motion.

B. A response to the movant's statement of proposed findings of fact.

1. With respect to each numbered paragraph of the movant's proposed findings of fact, the said response shall state clearly whether there is a genuine issue as to the whole or a part of the said factual proposition; if it is contended that there is a genuine issue only as to a part of the said factual proposition, the response shall identify precisely the said part of the numbered paragraph.

2. With respect to any paragraph or part of a paragraph of the movant's proposed findings of facts as to which it is contended that a genuine issue exists, the response shall refer to the PLEADINGS, DEPOSITION TRANSCRIPTS, ANSWERS TO INTERROGATORIES, ADMISSION on file, or AFFIDAVITS complying with sec. 802.08 Stats., which respondent believes give rise to said genuine issue.

3. The said references to the record shall be made with that specificity required by I.(B.)(4.), above.

4. If an opposing party believes the motion for summary judgment must fail because of material facts not stated by the movant and as to which it is considered there is no genuine issue, the said opposing party may present such other factual propositions either by means of:

- a. A stipulation of facts between or among all of the parties to the action; or
- b. A statement of the findings of fact proposed by said opposing party; or
- c. A combination of "a" and "b".

5. With respect to such presentation of factual propositions not stated by the movant, the said opposing party shall comply with the requirements set forth in I.(B)., above.

C. A response to the movant's statement of proposed conclusions of law.

1. With respect to each such numbered proposed conclusions the said response shall state clearly whether the said conclusion is agreed to or disputed in whole or in part; if the dispute is partial, the response shall state precisely which portion of the proposed conclusion is disputed.

2. If an opposing party believes the motion for summary judgment must fail because of conclusions of law not stated by movant, that party may state such other conclusions of law.

D. The response in the form required by III., above, shall be served and filed together with a brief in opposition to the motion for summary judgment.

IV. Reply. On or before the date specified in the schedule issued by the Court, the movant may, but is not required to, serve and file in rebuttal any or all of the following items:

A. Such materials permitted by Sec. 802.08 Stats., which movant may elect to serve and file in rebuttal.

B. A statement in rebuttal to the response or responses to any numbered paragraph of movant's initially proposed findings of fact, and a statement in rebuttal to any numbered paragraph of findings of fact initially proposed in the response or responses. To the extent that said statement in rebuttal requires record references not earlier made by movant, the said references shall be made with that specificity required by I.(B.)(4.), above.

C. A statement in rebuttal to the response or responses to any numbered conclusion of law initially proposed by the movant, and a statement of rebuttal to any numbered conclusion of law initially proposed in the response or responses.

D. A statement in rebuttal to the response or responses with respect to the form of judgment.

E. With the rebuttal described in IV., above, the movant may, but is not required to, serve and file a rebuttal brief.

V. In deciding the motion for summary judgment:

A. The Court will conclude that there is no genuine issue as to any proposed finding of fact initially proposed by the movant, except to the extent an opposing party's response asserts that a genuine issue exists; and

B. The Court will conclude there is no genuine issue as to any finding of fact initially proposed in a response, except to the extent that movant's rebuttal asserts a genuine issue exists.

C. As to any finding of fact, whether initially proposed by the movant or in a response, as to which it is asserted a genuine issue exists, the Court will make a determination as to the existence or non-existence of such genuine issue.

D. The Court is not required to give any weight to a piece of evidence unless it is set forth in the manner described.

E. The Court does not consider it is under any obligation to search the record for factual matters that might support either the grant or the denial of the motion. It is the duty of the parties to bring to the Court's attention by specific reference to the record as outlined in paragraphs I.(B)., III.(B)., and IV.(B)., all factual and legal matters material to the resolution of the issues in dispute.

VI. All motions for summary judgment shall be considered as submitted for ruling without oral argument, unless the Court directs otherwise.

#### Footnotes

1. The factual propositions should include all of the "basic" facts necessary to a decision on the motion, including those going to jurisdiction, to the identity of the parties, and to the background of the dispute.

2. Affidavits must be made on personal knowledge setting forth such facts as would be admissible in evidence, and showing affirmatively the affiant is competent to testify to the matters stated therein.

### **Rule 7. Media Coverage of Court Proceedings and Cameras in the Courtroom**

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

II. All media coverage of court proceedings shall be in accordance with Supreme Court Rule (SCR) Chapter 61 and this rule.

III. Cameras and reporting equipment shall not be allowed in a courtroom or hearing chamber unless approved in advance by the presiding court official. All requests for use of cameras and/or recording equipment shall be submitted to the Trempealeau County Media Coordinator at least 72 hours in advance of the hearing for which the request is made. The notice requirement may be waived or reduced by the presiding court official upon good cause shown. The presiding court official may deny or limit the use of cameras and recording equipment in his or her discretion pursuant to SCR Chapter 61.

IV. The name and contact information for the Media Coordinator shall be maintained on file at <https://www.wicourts.gov/news/mediacoord.htm>.

V. The court official presiding at the time of hearing shall designate the location within the courtroom of any and all cameras or other recording equipment so that said equipment will not obstruct the view of persons located in the public areas of the courtroom or otherwise interfere court operations.

VI. The size and configuration of the courtrooms in Trempealeau County may require limitations on the number of cameras and other recording equipment. In cases where more media organizations wish to have 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.

VII. Cameras and other recording equipment shall be set up prior to the commencement of any hearing and may not be removed until the next recess.

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

IX. Cameras shall not focus on documents on counsel tables, private conversations at counsel tables, and sidebar conferences between the attorneys and the judge.

X. Audio recording/transmission equipment shall not record or transmit private conversations at counsel tables and sidebar conferences between the attorneys and the judge.

XI. 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.

XII. No recording equipment permitted under these rules shall be operated during a recess.

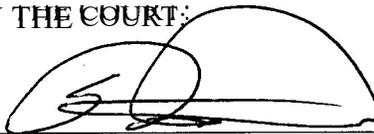
XIII. Live streaming is not permitted for any court proceeding without a court order signed by the presiding court official.

XIV. Any violation of these rules may result in immediate exclusion from the hearing.

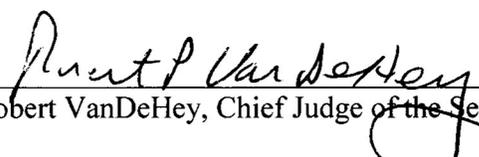
DATED:

10/29/2019

BY THE COURT:

  
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Approved this 29<sup>th</sup> day of Oct, 2019.

  
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Robert VanDeHey, Chief Judge of the Seventh District