

**FILED**  
KATRINA L. RASMUSSEN

JUL 26 2022

CIRCUIT COURT  
WAUSHARA CO. WIS.

STATE OF WISCONSIN

CIRCUIT COURT

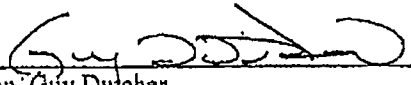
WAUSHARA COUNTY

WAUSHARA COUNTY  
CIRCUIT COURT RULES

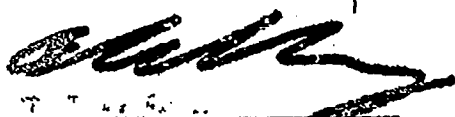
ORDER APPROVING  
CIRCUIT COURT RULES

IT IS HEREBY ORDERED, that the new Waushara Local Court Rules are adopted and attached to this order, replacing the previous Waushara County Local Court Rules, effective August 1, 2022.

Dated this 25<sup>th</sup> day of July, 2022.

  
\_\_\_\_\_  
Hon. Guy Dujcher

Approved this 26<sup>th</sup> day of July, 2022.

  
\_\_\_\_\_  
Hon. Barbara Key, Chief Judge

## **COURT OPERATIONS**

### **1.0 THE INTAKE SYSTEM**

The two branches shall operate upon a two-week rotation or intake system. The "intake court" shall be responsible for handling all emergency or time sensitive proceedings, including criminal bond hearings, Chapter 51 probable cause hearings, juvenile temporary physical custody hearings and emergency guardianship hearings. The intake judge should initially be contacted for scheduling these hearings and addressing these concerns. The non-intake court will be a second option should the intake court be unavailable.

### **2.0 CASE ASSIGNMENTS**

Subject to the specific provisions for criminal and juvenile cases outlined in Paragraphs (2.1 and 2.2), all cases filed during a two-week intake period shall be assigned to the intake court and shall remain the responsibility of the intake judge through conclusion. Post judgment motions and hearings shall remain the responsibility of that judge with the exception of child support order to show cause and review hearings, which shall be scheduled depending upon the availability of the respective courts and time that is accessible upon the two-week intake rotation.

#### **2.1 Criminal Cases**

- All cases will be assigned under the two-week intake procedure described in Paragraph 1.0. If a defendant has pending cases before a judge, then that judge will be assigned all subsequently filed cases. A "pending case" is either a case that has not yet advanced to final judgment or a post conviction case that requires scheduling of a Sentencing After Revocation (SAR). The status of a proceeding requiring the scheduling of an SAR will be dictated by the filing of a Revocation Order and Warrant from the Department of Corrections. The initial appearance(s) for all cases filed will be scheduled in accordance with the calendar of the judge to whom the case is assigned.

#### **2.2 Juvenile Cases**

##### **2.21 Delinquency**

- All cases will be assigned under the two-week intake procedure described in Paragraph 1.0. If previous cases concerning the same child have been filed, then all subsequently filed cases shall be assigned the same judge.
- If cases are filed that involve children with one or both of the same parents, then those cases shall be assigned to the same judge. If previous cases concerning the same child have been filed then all subsequently filed cases shall be assigned the same judge.
- All post judgment proceedings shall be set before the court that entered the judgment. These proceedings shall include but not be limited to:
  - Sanction Motions
  - Motions to Extend/Modify the Dispositional Order

## 2.22 JIPS

- All cases will be assigned under the two-week intake procedure described in Paragraph 1.0. If previous cases concerning the same child have been filed, then all subsequently filed cases shall be assigned the same judge.
- If cases are filed that involve children with one or both of the same parents, then those cases shall be assigned to the same judge. If previous cases concerning the same child have been filed then all subsequently filed cases shall be assigned the same judge.
- All post-judgment proceedings shall be set before the court that entered the judgment. These proceedings shall include but not be limited to:
  - Sanction Motions
  - Motions to Extend/Modify the Dispositional Order

## 2.23 CHIPS

- All cases will be assigned under the two-week intake procedure described in Paragraph 1.0. If previous cases concerning the same child have been filed and have are either pending or have been advanced to either judgment, then all subsequently filed cases shall be assigned the same judge.
- If cases are filed that involve children with one or both of the same parents, then those cases shall be assigned to the same judge. If previous cases concerning the same child have been filed then all subsequently filed cases shall be assigned the same judge.
- All post-judgment proceedings shall be set before the court that entered the judgment. These proceedings shall include but not be limited to:
  - Sanction Motions
  - Motions to Extend/Modify the Dispositional Order

## 2.3 Time Sensitive Cases

- Proceedings including but not limited to:
  - Injunction Hearings
  - Juvenile Initial Appearances
  - Criminal Preliminary Hearings
  - Emergency Guardianship/Protective Placement
  - Mental Health Final Hearings
- Any cases filed during the rotation of the intake court that include any time sensitive or time limitation concerns will still be assigned to the intake judge. The intake and calendaring system will include provisions where each court will reserve time during each non-intake week to address time sensitive proceedings that were assigned during that court's intake cycle.

## 2.4 Child Support (CSUP) Order to Show Cause and Review Hearings

- All post-judgment review hearings may be scheduled according to the calendar availability of the two circuit court branches. While the calendaring approach taken within the two-week intake procedure is expected to include reserved time for intake court to address CSUP contempt or review, either court is authorized to address any pending post-judgment review issue, provided that substitution of judge has not been previously filed.

## 2.5 Family Law Post-Judgment

- With the specific exception of CSUP enforcement and review proceedings, all post-judgment family court proceedings shall be scheduled before the court that entered the original judgment. These hearings will include but not be limited to the following:
  - Child Custody/Placement Modification or Enforcement Motions
  - Property Division Enforcement or Modification
  - Maintenance Enforcement or Modification Motions,

## 2.6 Post-Judgment Guardianship and Mental Health

- All non-emergency motions and orders to show cause shall be scheduled before the judge that entered the original order.
- Emergency and time sensitive motions shall be scheduled before the judge that entered the original order.

## 3.0 Small Claims

### 3.1 Statutory Directive

- These rules are promulgated pursuant to Section 799.22(4) Wis. Stats.

### 3.2 Pleadings

- All pleadings shall be in writing with complete itemizations, invoices/billings or creditor affidavits regarding the claim.

#### 3.21 Filing Required Before Service

- Service of a summons and complaint before filing and authentication thereof is not authorized.

### 3.3 Appearances

- If the defendant or the defendant's attorney appears in person on the return date, the court will permit an oral denial of the complaint. Such oral denial shall be followed by a written answer setting forth the basis for the denial within ten (10) days.
- Except for eviction actions or contempt proceedings, plaintiff or plaintiff's attorney need not be present on the return date. Any defendant may answer without appearing on the return date by filing an answer in writing by mail or by delivery to the Clerk of Court. Such answer must be received and filed with the Clerk of Court no less than two (2) hours prior to the return date and time.

### 3.4 Default Judgment

- Default judgment will be granted if a defendant does not appear or file a written answer and the complaint contains adequate documentation for the relief sought. Otherwise, the default will be noted but judgment deferred until the factual basis for the judgment is supplied. Judgment on claims subject to the Wisconsin Consumer Act require complaints which comply with the

requirements of 425.109(1)(d) and Household Finance v. Kohl, 179 Wis. 2nd 798 (Ct. App.1993). The complaint must set forth the figures for computing the amount owing.

### 3.5 Oral Pleadings Prohibited

- o Excepting entry of an oral answer at the return date and the filing of a subsequent answer, no oral counterclaims, affirmative defenses or motions will be permitted. Answers by telephone will not be permitted.

### 3.6. Service of Process

#### 3.61 Non-Eviction and Non-Contempt

- o Excepting eviction proceedings under Sec. 799.40 Wis. Stats., and contempt proceedings under Sec. 799.26 Wis. Stats., service of summons **may be made by mail** as provided within Sec. 799.12(2) and (3) Wis. Stats.
- o Any summons for actions served by mail shall contain notice to the defendant of the option to answer without appearance in court on the return date and the methods of answering permitted by this rule.

#### 3.62 Eviction

- o Service of summons in any action seeking eviction under Sec. 799.40 Wis. Stats., **shall be through certified mail**, return receipt requested, as authorized under Sec. 799.12(2) and (3) Wis. Stats. The plaintiff shall have paid the fee prescribed by Sec. 814.62(4) Wis. Stats., to the Clerk of Court before the service by certified mail procedures will be undertaken. The plaintiff in any eviction action may obtain personal or substituted service as provided in Section 801.11, Wis. Stats., rather than service through certified mail should the plaintiff prefer.

#### 3.63 Contempt

- o Service of summons in any action seeking contempt under Sec. 799.26 Wis. Stats., shall be by personal or substitute service as provided under Sec. 801.11 Wis. Stats. Any summons for any contempt action must inform the parties or their attorney that they must appear in person on the return date and be prepared to proceed with trial at that time.

### 3.7 Contested Cases-Procedure

- o Contested cases will be set for a status conference with the court. Cases that remain unresolved will be set for a trial before the court commissioner. If the court commissioner is unable to preside for any reason, then the case will be assigned to the intake judge at the time that the court commissioner notifies the Clerk of Court of the inability to preside. The court may enter a pre-trial order that requires pre-trial statements, identification of witnesses, and submission of exhibits as may aid in the disposition of the matter.

### **3.8 Consolidated Creditor Actions – Specific Provisions**

- Sec. 218.04(9j), Wis. Stats. allows a licensed collection agency to initiate one consolidated action against a single debtor on behalf of multiple creditors. Such actions must be brought under a single complaint that includes the name of the attorney who has either drafted the document or has supervised its preparation. The complaint must include a complete itemization, invoices/billings or creditor's affidavit in support of each creditor's claim. The collection agency will not be permitted to appear in court on behalf of any creditor and is not allowed to have its name included within any pleadings.
- Judgments entered upon Consolidated Creditor Actions will be entered separately as to each creditor that the court determines is entitled to recovery and each creditor shall be responsible for payment of an individual docketing fee when making a request to docket the judgment. Pursuant to *Paulson v. Allstate Ins. Co.*, 2002 WI App. 168, 256 Wis. 2nd 892, 649 N.W.2nd 645, each prevailing creditor will be entitled to recover statutory attorney fees. Costs may only be taxed once by the entire class of creditors and will be awarded to the creditor whose name first appears on the caption to the complaint. The collection agency or attorney representing the class of creditors will then be required to apportion costs between each creditor.

### **4.0 DE NOVO REVIEWS**

Pursuant to Sec. 757.69 (8) Wis. Stats. a party has the right to move the circuit court to review the decision of a Circuit Court Commissioner or Family Court Commissioner upon the filing of a motion for a hearing de novo.

#### **4.1 Family Court**

- The motion for hearing de novo must be filed within fourteen (14) days of the issuance of the issuance of an oral decision or the filing of a written decision of the Family Court Commissioner. The party requesting the de novo hearing shall notify all interested parties of the date and time of the de novo hearing. The order issued by the Family Court Commissioner shall remain in full force and effect unless the Circuit Court Judge grants a stay of the order.

#### **4.2 Injunction Hearings**

- The motion for hearing de novo must be filed within fourteen (14) days of the issuance of the issuance of an oral decision or the filing of a written decision of the Court Commissioner. The order issued by the Court Commissioner shall remain in full force and effect unless the Circuit Court Judge grants a stay of the order.

#### **4.3 Request for De Novo Review or Demand for Trial following a Default Judgment**

- There shall not be entitlement to de novo review for any party that seeks relief from an order from a court commissioner granting default judgment.