

# Adams County Circuit Court Rules

(Seventh Judicial District)

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## **Rule 1 - Adoption, Amendment and Publication of Adams County Court Rules:**

**1.01** Effective August 17, 2020, these rules have been adopted by the Adams County Circuit Judge and supersede all previously adopted Adams County Circuit Court Rules.

**1.02** Court rules and amendments thereto shall be adopted by written order of the Adams County Circuit Judge, subject to the approval of the Chief Judge of the Seventh Judicial District.

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

**1.04** Once adopted, all rules or amendments shall be filed with the Adams County Clerk of Circuit Court. The clerk shall then provide copies of the adopted rules to those persons, offices or organizations listed in sec. 753.35, Wisconsin Statutes, and print and make available, at cost, all rules adopted or amended.

## **Rule 2 - Rules of Decorum:**

**2.01** The standards of courtesy and decorum in SCR Chapter 62 are hereby adopted in their entirety.

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

**2.03** Lawyers shall never engage the court in a manner that would lessen the dignity of the proceedings in the eyes of the jury or public.

**2.04** Witnesses shall be examined with courtesy and respect.

**2.05** 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.

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

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

**2.08** During examination of jurors on *voir dire* (questioning of the prospective jury panel), the lawyer or party conducting the examination shall, insofar as practical, use collective questions, avoid repetition, and seek only material information.

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

**2.10** All lawyers, and court staff 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. Male lawyers shall wear ties and jackets. Court staff shall not wear attire that includes a logo.

Where circumstances require it, the presiding judge, in his or her discretion, may approve exceptions to this rule.

**2.11** Lawyers shall advise their clients and witnesses of the formalities of the court and seek their full cooperation therewith. It is expected that lawyers will guide clients and witnesses as to appropriate attire.

### **Rule 3 - General and Procedural Rules:**

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

**3.02 Telephone Testimony.** The rules of civil and criminal procedure that permit the use of telephone or electronic means of communication in certain specified proceedings are adopted in full. Permission from the court is required for any telephonic appearance. Parties are encouraged to utilize the procedures in the manner specified by Sec. 807.13 and Sec. 967.08 Wisconsin Statutes. A party or attorney wishing to appear by telephone or to have a witness appear by telephone shall, at least 72 hours before the hearing, do the following:

- a. Contact the other party(s) and ask if there is any objection to the telephonic appearance.
- b. Submit a written request to the court explaining the basis for the request and whether the other party(s) object. Parties using these procedures shall be responsible for ensuring that all interested parties are available at the time of the scheduled proceeding and for all communication costs.

### **3.03 Motion Practice.**

- a. Except as provided in Rule 3.03c., a party shall obtain a hearing date from the office of the clerk of circuit court and include it on the motion before filing the motion. The hours, date and time will be held for 72 hours and will not be permanently reserved and placed on the court calendar until the motion is filed.
- b. No party shall schedule a motion at the time of a previously scheduled motion in a matter without first making a written request and obtaining leave of the court.
- c. Motions for withdrawal of counsel may be filed without scheduling a hearing, provided the motion and supporting affidavit are sent to the applicable party with a cover letter giving said party 11 days in which to file written objection with the court. If an objection is timely filed, the clerk will schedule a hearing.

### **3.04 Continuances/Rescheduling.**

- a. Continuances may be granted only in the discretion of the court. Consent or stipulation of counsel or the parties will not be binding upon the court.
- b. The following procedure should be used for rescheduling requests:
  - i. A request to reschedule a hearing must be made in writing, must explain the basis for the request, and is subject to the approval of the judge or commissioner for that hearing.
  - ii. Prior to submitting a rescheduling request, the requesting party should contact the other party(s) and ask if there is any objection.

- iii. In criminal cases, the district attorney's office should contact the victim(s), if any, regarding a rescheduling request and advise the requesting party of any objection. If the request is being made by the district attorney's office, the victim's perspective should be referenced in the request.
- iv. When submitting the request to the court, the requesting party should advise as to whether the other party(s) or victim(s) objects to the request.

### **3.05 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. A copy of the same shall be provided to the contemnor and his or her counsel, with a cover letter noting an 11 day period for requesting a hearing prior to the imposition of the sanction.

### **Rule 4 – Civil Practice:**

**4.01 Joinder of Issue.** All civil cases will be reviewed for proof of service and answer 120 days after filing. If at that time the case file does not reveal that service has been effectuated, the court may initiate a dismissal order. All parties effectuating service shall file proof of service within 20 days after service is accomplished on a party.

**4.02 Motions – Scheduling Procedure.** Please see Rule 3.03

**4.03 Motion Filing Procedure** (default judgment, confirmation of sale and other routine motions likely to be uncontested).

- a. Said motions and supporting affidavits shall be scheduled for a hearing. The hearing shall be not less than seven calendar days after the date of filing.

- b. After filing, the moving party shall promptly send a copy of said motion to the other party(s).

**4.04 Motion Filing Procedure** (other non-summary judgment motions).

Unless otherwise provided by these rules or order of the court:

- a. The movant shall file with the clerk of court and serve upon all other parties the motion and all supporting documents at least 20 days before the hearing.

- b. The opposing party may file with the clerk of court and serve upon all other parties a written response with a citation of authorities at least ten days before the hearing date.

- c. The movant may file with the clerk of court and serve upon all other parties a written rebuttal with a citation of authorities at least three days before the hearing date.

**4.05 Motions for Summary Judgment.** Unless otherwise provided by these rules or order of the court, a party may file a motion for summary judgment. The motion shall be filed at least 60 days before the hearing on said motion. The movant's brief and affidavit(s) shall be filed with the motion. The response brief and affidavit(s) shall be filed at least 30 days before the hearing and the rebuttal brief shall be filed at least 15 days before the hearing.

**4.06 Scheduling Conference.** Except as provided in Rule 4.01, approximately 120 days after a summons & complaint are filed, the clerk shall set a telephone scheduling conference.

#### 4.07 Final Pre-Trial Conference.

a. In all civil matters, the court shall schedule a final pre-trial conference prior to setting a trial date. At the pre-trial conference, personal appearances by the parties and counsel shall be required unless otherwise directed by the court. The court will schedule the trial date(s) at the final pre-trial conference.

b. Unless otherwise provided for in a scheduling order, not less than 15 days prior to the pre-trial conference the parties shall file and serve a pretrial report. The pre-trial report shall include the following:

- i. A detailed summary of the facts of the case, issues, theories of liability or defense, and evidentiary issues. **The summary should not exceed five pages.**
- ii. Identification of each trial witness and a specific summary not exceeding one page per witness of the anticipated testimony of each lay and expert witness.
- iii. A list of all proposed stipulated facts.
- iv. Identification of each exhibit (except those to be used for impeachment only), including any objections (and the grounds therefor) regarding the admissibility of the other party's exhibits.
- v. An estimate of the probable length of the trial in half-day increments.
- vi. Designation of all depositions or portions thereof to be read into the record at trial as substantive evidence, unless used only for impeachment purposes.
- vii. **If a jury trial**, provide: (a) all proposed jury instructions, numbers only unless requesting modified or special instructions; (b) proposed special verdict form(s) and (c) motion(s) in limine; a brief in support of all motions in limine may be filed but shall not exceed four pages in length.
- viii. **If a court/bench trial**, provide: proposed findings of fact and conclusions of law.
- ix. Certification that alternative dispute resolution, if ordered, occurred. In addition to completing a report, parties are expected to confer and make a good faith effort to settle the case. Parties are also expected to arrive at stipulations that will save time during the trial. The pre-trial report shall itemize any stipulations.

c. Not less than seven days prior to the final pre-trial conference, a party may file and serve a response to a foregoing submission from another party.

d. At the final pre-trial conference, the parties shall be prepared to discuss the following:

- Settlement
- Motions in limine
- Stipulations and evidentiary questions that may arise
- Length of trial, *voir dire* (jury examination) issues, jury strikes and similar issues
- Instructions and special verdict forms
- Other matters which may aid in trial of the action

#### 4.08 Trial and Hearing Procedures.

a. Each party shall bring sufficient copies of the party's exhibits so that copies are available for the witness, the court and the opposing party(s).

b. The court shall be informed of all agreed facts and issues in writing prior to trial.

c. The deadline for the parties to notify the court of their intent to enter an agreement resolving the case is two (2) business days before the date set for trial. The

court retains the discretionary authority to assess jury costs under Sec. 814.51, Wis. Stats., for abuse of the settlement process.

#### **4.09 Continuance of Trial Date.**

a. All stipulated requests for continuance of trial date shall require the consent of the attorneys and the named parties in writing or on the record and must be for good cause shown.

b. All other requests for continuance must be made by motion and for good cause shown by the party making the request. Please see Rule 3.04.

c. All requests for continuance are subject to the approval of the court.

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

**5.01** All Adams 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 court proceedings shall be in accordance with Supreme Court Rule (SCR) Chapter 61 and this rule.

**5.03** Cameras and recording 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 presiding court official at least 72 hours in advance of the hearing for which the request is made. The notice requirement may be waived or reduced, in his or her discretion, by the presiding court official.

**5.04** 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.

**5.05** The size and configuration of the courtrooms in Adams 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.

**5.06** 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.

**5.07** 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.

**5.08** Cameras shall not focus on any of the following:

- \* Documents on counsel tables;
- \* Private conversations at counsel tables;
- \* Sidebar conferences with the court.

In addition, audio recording/transmission equipment shall not record or transmit private conversations at counsel tables or sidebar conferences.

**5.09** 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.

#### **Rule 6 - Facsimile Transmission and Filing of Documents with the Court:**

**6.01** Attorneys and others subject to mandatory e-Filing shall comply with all rules applicable to e-Filing.

**6.02** Attorneys and others subject to mandatory e-Filing may not submit filings by facsimile. Facsimile documents transmitted by pro se parties to the court shall be accepted for filing only if permission is given in advance by the responsible court official, the clerk or the judicial assistant. If such permission is granted, the filing shall be subject to the following provisions:

- a. The document, inclusive of cover letter, shall not exceed 15 pages in length. Multiple transmissions in order to exceed such limit shall not be allowed.
- b. The transmission shall include a cover letter that clearly identifies the document(s) being filed and that assures all parties and/or counsel are receiving the same communication.
- c. The circuit court must not incur any fee or charge for accepting or receiving the facsimile document.
- d. The regular business hours of the Adams County Circuit Court are 8:00 a.m. to 4:30 p.m. Documents and papers will be considered filed on the date that they are received by facsimile, provided that the facsimile transmission is completed within these business hours. Facsimile transmissions completed after regular business hours shall be considered filed on the next business day.
- e. The party transmitting the papers or documents shall not send additional or "hard copies" of the facsimile transmission.
- f. Parties who have transmitted documents by facsimile to the court shall retain the "original" document used for the facsimile transmission within their own file.
- g. Any issue regarding the authenticity of the document submitted by facsimile shall place the burden of establishing authenticity upon the party who transmitted it.
- h. The responsibility for timely and complete receipt of a document or paper submitted by facsimile shall rest solely with the party who submitted it.
- i. Facsimile filing shall be kept to a minimum and shall only be requested when necessitated by unforeseen time constraints or other special circumstances. It shall not be used as a substitute for timely filing of original documents.

## **Rule 7 – Criminal Law Practice:**

**7.01 Initial Appearances.** In all misdemeanor cases in which bond has previously been set and the defendant has been booked, defense counsel may submit a letter to the court in lieu of the presence by counsel and the defendant at the initial appearance if all of the following requirements are met:

- a. The letter acknowledges receipt of the complaint and waives its formal reading.
- b. The letter enters a not guilty plea or references standing mute to the charge(s) in the complaint.
- c. The letter is accompanied by an authorization under sec. 971.04(2) Wis. Stats. that is signed by the defendant. Upon filing of such a letter from counsel and a signed authorization from the defendant, the presence of both counsel and the defendant at the initial appearance will be waived. Notice of the pre-trial and status report deadlines will be sent to counsel.

**7.02 Pre-Trial Conference/Status Report.** At the initial appearance in all misdemeanor cases, and in all felony cases in which the preliminary hearing is waived outright or if the time limits to it have been waived, the court shall schedule the case for a pre-trial conference with the district attorney and set a deadline for the defense attorney to e-file a status report. The pre-trial conference shall be scheduled for a date and time that is as soon as practicable. The status report deadline shall ordinarily be eight weeks after the

pre-trial conference. *It is the court's expectation that a preliminary hearing will only be requested in a status report if the defense attorney and defendant have communicated and such a hearing is desired. If a defense attorney loses contact with a defendant, a review hearing rather than a preliminary hearing should be requested.*

**7.03 Motion Practice.**

- a. See Rule 3.03.
- b. In order to allow adequate time to subpoena witnesses and prepare, any motion requiring an evidentiary hearing or extensive legal argument shall be filed, and notice given, at least 28 days before the hearing.

**7.04 Rescheduling Requests:** See Rule 3.04.

**7.05 Jury Trial Deadline.** The deadline for settlement of a jury trial will be two business days prior to the time set for the start of the trial. Pursuant to sec. 814.51, Wis. Stats., the court reserves the right to assess one day's jury fees plus mileage if settlement is reached and the trial is canceled after that deadline. These sanctions will only apply if settlement is accepted on the basis of an offer that was tendered at least two weeks before the trial date.

**7.06 Statement of Plea Agreement.** At least two business days prior to the plea or plea and sentencing hearing in any case that includes a charged crime of a Class D felony or higher, counsel shall electronically file a statement of plea agreement identifying the agreement including the offense(s) to which the defendant will be pleading and the terms of any agreement as to sentencing.

**7.07 Victim Notice/Rights.** In order to comply with and facilitate the "Marsy's Law" amendment to the Wisconsin Constitution (Art. I, sec. 9m), the following provisions are adopted:

- a. Except for notices to victims that the clerk of court is statutorily required to provide, the district attorney's office shall be responsible for notifying victims of all court proceedings, including jury status conferences and any other off-the-record conferences.
- b. If a victim was not given notice of a proceeding and the victim states that he or she would have liked to have been present and heard, the victim may provide a written statement and the court can then decide whether to modify or reconsider any decision made at that proceeding.
- c. If a victim is present at a hearing and wants to be heard, the district attorney's office shall endeavor to notify the court before or during the hearing,
- d. Upon request of a victim, the clerk of court shall certify to the Department of Revenue any unpaid restitution debt. The certification shall be routinely made upon discharge of probation and entry of a civil judgment for unpaid restitution.
- e. Victims have the right to assert their rights and, if violated, to seek enforcement of such rights. In order to ensure notice to others, enforcement requests must be submitted in writing and detail what right(s) was violated and when/how the violation occurred.

**7.08 Probation Cases:**

- a. 'No new crimes' and 'full-time employment' will not be recommended as court-imposed conditions since they are standard probation rules imposed by the DOC.
- b. A condition of domestic violence treatment will be the norm in all domestic violence offenses.
- c. Sex offender assessment and any follow-up treatment will be the norm for sex offenses.

- d. Imposed and stayed sentences will be the norm for misdemeanor probation cases.
- e. Probation Review Hearings:
- i. Subject to the discretion of the judge on a case-by-case basis, probation review hearings will be scheduled, at the sentencing hearing, approximately nine months out in the following cases:
    - \* In all cases in which a probation term of more than 18 months is imposed;
    - \* In all cases in which restitution of \$1,000 or more is ordered;
    - \* In all cases in which DV treatment is ordered.
  - ii. The review hearing date and time will be set forth in the judgment of conviction.
  - iii. The agent will be expected to attend the review hearing in person or by phone. If unable to attend, the agent may file a written report in advance of the hearing.
- f. Civil Judgment Petitions: If a petition for civil judgment on a restitution order is filed by the Department of Corrections, the clerk will automatically schedule a hearing prior to expiration of the probation term so that a determination can be made on whether the probationer has made a good faith effort to pay the restitution amount and so the district attorney and victim have the opportunity to be heard. The probationer and the probation agent will be expected to attend the hearing; the agent may appear by telephone.

## **Rule 8 - Family Law Practice:**

**8.01 Divorce Education Program.** In all divorce, legal separation, annulment, paternity or other family 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 court prior to the scheduling of any contested hearing or trial. Upon a showing of good cause this requirement may be waived by the court. The 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. 767.405, 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 clerk of court to defray guardian ad litem fees and expenses. The amount of the deposit shall be \$200 from each parent. Both parties shall be required to reimburse Adams County for the full cost of the guardian ad litem fees and expenses; payment plans that are based on a party's ability to pay may be arranged with the clerk of court.

**8.04 Modifications/Revisions.** If filed within one year of such order, a motion for revision of a child placement order that was rendered by the judge shall be heard by the judge.

**8.05 Family Court Commissioner.** Except as provided in Rule 8.04, the following matters shall be referred to the family court commissioner:

- Temporary orders on motions or orders to show cause in new cases
- Establishment of paternity and/or support
- Motions for revision of placement or modification of support
- Matters directed by the judge to be heard by the family court commissioner



**8.06 Final Pre-Trial Conference.** Prior to the scheduling of a final hearing, a final pre-trial conference shall be scheduled. All parties and counsel shall attend the conference and each party shall file the following by the deadline set by the court:

- Updated financial disclosure statement
- Partial marital settlement agreement setting forth all terms upon which the parties have agreed
- A short brief (no more than five pages) addressing the contested issues – a proposed property division worksheet should be attached to the brief
- A list of anticipated trial witnesses and a brief summary of their anticipated testimony

**8.07 Marital Settlement Agreement.** Unless waived by the court official, a property division worksheet for all marital assets, including values, shall be attached to the marital settlement agreement.

**8.08 De Novo Review.** A motion for de novo review of a decision of the family court commissioner that is made pursuant to sec. 767.17 must be filed within 30 days of the date the decision was rendered.

### **Rule 9 - Guardian ad Litem Appointments and Fees:**

**9.01 Attorney List.** The court shall maintain a list of attorneys who are willing to accept Guardian ad Litem (GAL) appointments from the court in contested divorce, legal separation matters, guardianships, civil commitments, child in need of protection or services (CHIPS), and any other matter requiring an appointment of a GAL. An attorney who wishes to be included on the list shall submit written verification of attendance at an approved GAL training seminar. The court shall make his/her own GAL appointments and shall individually review all requests for compensation sought by a GAL.

**9.02 Compensation.** A GAL shall be compensated at the hourly rates established by the Supreme Court Rule governing such rates. Any exceptions to this rate must be presented to and approved by the judge.

**9.03 Termination of Duties.** The duties and appointment of a GAL shall terminate upon completion of the proceedings or upon the minor child reaching the age of majority unless the court orders otherwise. A written provision discharging the GAL shall be included in the final order or judgment in each case.

**9.04 GAL Reimbursement.** The petitioner and/or party for whom a GAL has been appointed may be responsible for reimbursing the county for the compensation of the GAL.

### **Rule 10 - Small Claims Practice:**

**10.01 Forms, Filing Summons/Complaint.** Forms may be obtained from the clerk of court without charge. The summons/complaint is to be filed in the clerk's office with the proper filing fees.

**10.02 Mail Service; When Allowed.** A small claims summons/complaint for a money demand may be served by regular mail at a rate to be determined by the clerk of court, if the defendant resides in Adams County. Regular mail service is not allowed in eviction actions.

**10.03 Certified Mail Service.** Pursuant to sec. 799.12(3) Wis. Stats., the summons/complaint in eviction actions may be served by certified mail, return receipt requested, to a defendant residing in Adams County. The cost of said service shall be determined by the clerk of court and shall be paid to that office.

**10.04 Eviction Actions.** The complaint shall identify the parties, the real property that is the subject of the action, and state the facts that authorize the removal of the defendant(s). A copy of the notice terminating tenancy and the details regarding service should be attached to the complaint at the time of filing.

**10.05 First Appearance.** (return date)

a. Unless represented by counsel, plaintiff is required to appear in person before the court commissioner on the return date. Plaintiff's counsel may appear in person or in writing on plaintiff's behalf. Pursuant to sec. 799.22(4)(b)1. Wis. Stats., if a defendant has filed a written answer pursuant to par. b. herein, plaintiff's actual appearance shall be excused.

b. A defendant may file a written answer in lieu of a personal appearance. Such an answer must be filed at least 48 hours before the first appearance.

**Rule 11 – Billing Practices:**

**11.01** All court-appointed attorneys and guardians ad litem are retained on an hourly basis plus reasonable costs and expenses, unless otherwise specifically noted in the appointment order. Unless otherwise approved by the court, billings shall not be submitted until case closure. No later than sixty (60) days from the date of case closure, the attorney shall submit a detailed statement to the court and to all interested parties (does not include the State in criminal case appointments) containing (at a minimum) the following information:

- The court case number and party name.
- The date on which work was performed.
- A detailed description of the work performed.
- The amount of time spent on each item of work in increments of one-tenth hour.
- An itemized listing of costs and expenses incurred on the matter and date incurred.
- Total amount currently due.
- A statement of payments received and/or credits applied.

**11.02** The statement shall be accompanied by a draft payment order in the format required by the court. Please contact the clerk or register in probate for a sample format.

IT IS ORDERED that the preceding Adams County Circuit Court Rules are hereby adopted and approved and these rules do supersede all prior Adams County Circuit Court Rules.

Adopted this 3<sup>rd</sup> day of August, 2020.

BY THE COURT:

  
Daniel G. Wood, Circuit Court Judge

Approved:

  
Robert P. VanDeHey, Chief Judge, Seventh Judicial District of Wisconsin