

Ashland County Circuit Court Rules

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Rules

Tenth Judicial District Rules

- 101 District Rule adoption and promulgation
 - 101.01 Pursuant to §753.35 (2), the Tenth Judicial District Court Rules are incorporated herein by reference.

Court Practice

- 201 Calendars for attorneys
 - 201.01 An attorney appearing in court, whether in person, by phone, or by videoconference will have his or her calendar with him or her so that continued or further proceedings may be expeditiously scheduled.
 - 201.02 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 schedule the matter for hearing with notice 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, the court will exercise discretion regarding whether counsel will be permitted to withdraw if scheduled proceedings will be delayed.

202 Closure of Proceedings

202.01 Media Coverage

Unless good cause be shown, or otherwise required by statute, a party moving that any judicial proceeding be closed to the public must notify the Court and the media coordinator in writing at least 72 hours before the time set to hear the motion. The purpose of this rule is to permit legal counsel to appear on behalf of the media and be heard. The burden shall be upon the moving party to show why the proceedings should not be public.

203 Confidential Records

203.01 The following records and files are presumed to be confidential and will not be accessible without an order of the court: juvenile files, probate files, paternity files, presentence investigation reports, medical reports, psychological evaluations, confidential judge and court commissioner notes that are work-product, and financial disclosure statements.

204 Continuances

204.01 All stipulated requests for the continuance of a hearing/trial require the verified consent of the parties in writing, by phone, or on the record and must be for good cause shown. Non-stipulated requests for continuance must be on written motion and hearing and for good cause shown by the moving party. 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 in which to file a motion for continuance.

204.02 Continuances can impede the efficient administration of justice and will be granted sparingly. The need for a continuance is to be documented. The court may require proof of medical or other emergency before or after granting a continuance.

205 Court Commissioner

205.01 The family court commissioner shall be appointed pursuant to Wis. Stat. § 757.68 and SCR 75.02(1). The family court commissioner shall have all of the powers and duties specified in his or her annual appointment order. 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)

206.01 Judges and court commissioners shall hold proposed orders for a minimum of five (5) business days upon receipt. If no objection is received by any other party, they may sign the orders as submitted.

207 Facsimile/E-mail Transmission of Documents to the Court

Facsimile documents transmitted directed to the Ashland County Clerk of Court shall be accepted for filing **only if:**

- They are faxed to the following number which is a dedicated plain paper facsimile machine located in the Ashland County Clerk of Court's office: **715/682-7919.**
- The document does not exceed fifteen (15) pages in length, excluding the cover sheet.
- No filing fee is required.

Papers filed by facsimile transmission are considered filed when received by the Clerk of Court, except that any papers filed by facsimile transmission completed after regular business hours of the Ashland County Clerk of Court are considered filed the next business day.

The party transmitting the facsimile document is solely responsible for insuring its timely and complete receipt.

The Circuit Court, Judge and Clerk, are not responsible for:

- Errors or failures in transmission that result in missing or illegible documents.
- Periods when the Circuit Court facsimile machine is not operational for any reason.

Any subsequently received copies or originals (by mail or personal delivery) of documents filed with the Court by facsimile transmission will be discarded by the Court. The fax documents, upon receipt by the Court, are the official records of the Court and cannot be substituted.

208 Fees

Unless a petition for waiver of fees is approved by the Court, the Clerk of Court will collect the full statutory filing fee before filing any document.

209 Name Change

209.01 A petition for name change must be filled out by the petitioner or the parents if the petitioner is a child who is under the age of fourteen (14). The petitioner must also complete the notice of hearing. A date and time for the hearing of the petition will be assigned. The petitioner will be given a copy of the petition and notice of hearing. A copy of the notice of hearing must be published in the official county newspaper for three (3) weeks. An affidavit of publication must be filed with the clerk of court prior to the name change hearing.

209.02 After the judge has granted the name change, the petitioner, if born in Wisconsin, must complete a new vital statistics form and pay a recording fee. If the petitioner was not born in Wisconsin, he or she must ask the clerk for an additional certified copy of the order for change of name to send to the appropriate state of birth. Two certified copies of the order will be provided at no charge. One copy shall be recorded with the Ashland County Register of Deeds. A recording fee may also be charged by the Register of Deeds.

210 Holding of Court in Location Other Than the Courthouse

210.01 The court may, from time to time, travel to other cities, villages and towns to hold sessions of the court in places located within the boundaries of Ashland County. Such travel shall only be done after the court has made a determination that the proposed location is appropriate, has adequate facilities, and that such action is consistent with Wis. Stat. § 753.24.

211 Issuing Writs

212 Judicial Assignments

213 Jury Fees

213.01 Civil Actions. In all civil cases, the fee for either a six person jury (\$36.00) or twelve person jury (\$72.00) shall be paid either at the time of commencement of the action or the time specified in the scheduling order. If the jury fee is not paid in a timely manner, the matter shall be tried to the court as a bench trial unless otherwise ordered by the assigned judge.

213.02 Small Claims Actions. Pursuant to Wis. Stat. § 799.21(3), any party may, upon payment of the \$36.00 jury fee, file a written demand for a jury trial. In eviction actions, the demand shall be filed at or before the time of joinder of issue. In all other actions, the demand for trial by jury shall be made at the time a demand for trial is made for review of the decision of the circuit court commissioner pursuant to Wis. Stat. § 799.207.

213.03 Ordinance and Traffic Court Actions. Pursuant to Wis. Stat. § 345.43 any defendant may demand a jury trial within ten (10) days after the date s/he has entered a not guilty plea. If the jury fee is not paid in a timely manner, the matter shall be a bench trial unless otherwise ordered by the assigned judge.

213.04 Pursuant to Wis. Stat. § 814.51, if a jury demand is withdrawn within two business days prior to the scheduled commencement of the trial, jury fees representing the actual cost to call out the jury and then cancel the jury may be assessed.

214 Rules of Decorum

214.01 When the trial is to a jury, everyone in the courtroom will be required to stand when the jury enters and leaves the courtroom and afford the jury the same respect as is given the Judge.

214.05 The flag of the United States and the State of Wisconsin shall at all times, while Court is in session, be displayed at, on or in the close proximity to the bench, or on standard to the right of the Judge.

214.06 Lawyers shall never lean upon the bench or appear to engage the Court in a manner which would lessen the dignity of the proceedings in the eyes of the jury and the public.

214.07 Witnesses shall be examined from a position behind the counsel table except when handling exhibits. Persons examining witnesses may either stand while examining a witness or remain seated. In no case shall a witness be crowded during examination.

214.08 When a lawyer or party is addressing the jury, he or she shall not crowd the jury box.

214.09 During trial, no lawyer or party shall exhibit familiarity with witnesses, jurors, or opposing counsel and generally the use of first names shall be avoided. In jury arguments no juror shall be addressed individually or by name.

214.10 Witnesses shall be examined with courtesy and respect.

214.11 The swearing of witnesses shall be an impressive ceremony and not a mere formality

214.12 Lawyers will treat the Court and opposing counsel with respect and dignity.

214.13 Attorneys and parties shall be prepared to proceed at the time matters are scheduled. Failure to proceed on time may be grounds for sanctions, including but not limited to costs, dismissal, judgment, and ruling against the late party on the particular matter before the Court.

214.15 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 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, are considerate of the time schedules of the participants and grant reasonable extensions of time when they will not adversely affect the court calendar or client's interests.

(h) Conduct them in a manner which demonstrates sensitivity to the necessity of preserving decorum and the integrity of the judicial process.

214.16 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.

214.17 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, provides 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.

214.18 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.

215 Substitutions and Recusals

215.01 A request for substitution of the judge shall be filed with the Clerk of Court and the assigned judge.

215.02 If a judge disqualifies himself or herself pursuant to Wis. Stat. § 757.19, the judge shall describe the reasons in writing and with particularity. The judge will file the written reasons supporting the disqualification, along with a request for reassignment, with the chief judge of the tenth district, who shall then determine whether the disqualification is appropriate based on the reasons stated.

215.03 Attorneys for the parties who become aware of a reason for disqualification under Wis. Stat. § 757.19(2) shall promptly notify the judge and the other parties so that appropriate action can be taken under Wis. Stat. § 757.19(3), (4) or (5).

217 Use of Videoconferencing

Civil Practice

301 Service and Answer

Service and answer must comply with Wisconsin Statutes.

302 Scheduling

302.01 Review of Cases Filed

The court will review all civil cases 90 days after filing.

303.01 In 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 may in any case require all parties to be present personally at the pretrial.

303.02 In residential foreclosure actions, the plaintiff shall provide the defendant(s) with a Notice of Availability of Mediation and a Mediation Request Form. Requests for mediation accepted by the Court will be directed to the Wisconsin Foreclosure Mediation Network.

304 Discovery

304.01 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 by phone or in writing 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.

306 Judgments

Criminal Practice

401 Defendant's Presence Required

The defendant's presence is required in all criminal hearings, except in misdemeanor cases where a written authorization to appear is filed and with court approval.

402 Warrants and Warrantless Arrests

403 Bonds

403.01 Cash Bonds

The clerk is authorized to determine the manner and form in which cash bonds may be deposited.

403.02 No Contact Domestic Violence Bonds

As a condition of bond, the Court will order no contact with the victim in all domestic abuse cases unless the court is convinced that the victim wants contact and is safe.

404 Initial Appearances

405 Preliminary Hearings and Arraignments

The preliminary hearing will be held by the judge assigned to the case. Arraignments shall ordinarily be conducted immediately upon completion of the preliminary hearing, unless otherwise ordered by the court.

406 Commitment Orders

407 Discovery

407.01 Discovery in criminal cases is governed by Wis. Stat. § 971.23.

408 Jury and Bench Trials

408.01 Pretrial order and order setting case for trial

409 Motion Practice

409.01 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).

410 Pre-Sentence Investigation

410.01 Pre-sentence Reports. After a conviction in a felony case the court may order a presentence investigation. When a presentence 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 presentence 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 presentence investigation report. If the defendant is not represented by counsel, the defendant is entitled to view the presentence 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 presentence report shall keep the information in the report confidential.

411 Probation

411.01 Any person placed on probation shall report to the Wisconsin Department of Corrections Office in Ashland, Wisconsin within 48 hours of being placed on probation, unless the court specifies a shorter period of time. Failure to report may be considered a contempt of court.

Family Law Practice

501 Advanced payments on custody and psychological evaluations

501.01 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.

502 Child Support Warrants

502.01 When a bench warrant is issued due to the non-appearance of a party at a child support hearing, the following procedures will apply. (1) The party will be picked up and transported to the Ashland County Jail unless s/he purges his or her contempt by paying arrearages in full. The sheriff's department will contact the child support office and advise of the arrest. (2) The defendant will appear at the next regularly scheduled child support intake calendar. (3) During intake, the court may order a signature bond or keep the warrant in place and set the matter on for a review hearing with the judge assigned to the underlying family file.

503 Guardian ad litem

503.01 If, upon the request of either party, the court determines that a Guardian Ad Litem (GAL) should be appointed, unless otherwise ordered by the court, both parties will share equally the fee of the guardian ad litem and may be required to pay all or part of said fee in advance

504 Pre-trial

Foreclosure Practice

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Juvenile Practice

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- 707 Plea negotiations

Probate Practice

Small Claims Practice

901 Service

901.01 Alternatives for service of summons and complaint

Regular mail will be used for service of summons and complaint unless otherwise indicated. Out-of-state and replevin actions are limited to personal service ONLY. In addition to personal service, a summons and complaint in an eviction action may be served by certified mail or, if granted by the Court, publication.

902 Appearance

Plaintiff: Plaintiff(s) need not appear at the return date.

Defendant: Defendant(s) must either appear in person on return date or file a written answer before the return date and time with the Small Claims Clerk specifying the reasons the claim is contested.

The defendant must send a copy of the written answer to the PLAINTIFF.

Defendants who neither appear in person and file a written answer nor file a written answer by mail risk entry of a default judgment against them. Telephone answers ARE NOT acceptable

Both plaintiff and defendant must appear at trial.

903 Mediation Requirement

Unless otherwise ordered by the Court, all small claims cases will be set for mediation and the parties must attend before a trial will be scheduled. If a party fails to appear for mediation judgment will be entered in favor of the party appearing.

If the claim is not settled in mediation, a trial or motion hearing will be set, the parties will be notified of the date, and the following rules apply to the plaintiff and defendant.

904 Party Identification

904.01 Parties not Properly Identified

904.02 Change of Address

If either party has a change of address during the pendency of their case, they must notify the office of the Clerk of Courts.

904.03 Use of Work Address

906 Settlements

If case settles, a written notification must be provided to the Clerk of Court's Office prior to the next scheduled court appearance, or judgment may enter.

- 905 Return Date
- 907 Garnishment
- 908 Trial Procedures
- 908.01 Adjournments

All requests for adjournment of court trials MUST be in writing and should be received in the Clerk of Courts Office at least 5 days prior to the trial date. If not, the trial will be held on the date set.

Parties are urged to discuss with one another the possibility of out-of-court settlement prior to the trial date.

908.03 Attorneys

Both parties are informed they not required to have an attorney in a small claims case. However, they have the right to any attorney and may feel free to hire one at their own expense to assist in the presentation of the case.

Rules of Evidence

The trial will be conducted informally by the court with the court conducting the majority of the questioning. The rules of evidence do not apply, except for the rules of privilege.

908.05 Judgment

If judgment is granted for the plaintiff, a financial disclosure statement will be mailed to the debtor along with the notice of entry. This will be mailed by the Clerk of Court. This form (financial disclosure statement) MUST be completed by the debtor and sent to the creditor within 15 days of judgment, unless within that time the debtor satisfies the judgment in full. Failure to provide information to the plaintiff may result in contempt of court (WI. Stats. Chpt. 785).

If judgment is granted, a \$5.00 docket fee MUST be paid to the Clerk of Court. (THIS IS IN ADDITION TO THE FILING FEE). Without this fee, the judgment WILL NOT be docketed.

Traffic/Forfeiture Practice

1001 Obtaining Bonds on Traffic Citations

These rules, if approved by the Chief Judge of the 10th Judicial District will become effective January 1, 2013. These proposed rules will be posted for public review in the Ashland County Clerk of Circuit Court's Office and copies shall be forwarded to the president and secretary of the Ashland-Bayfield County Bar Association.

Signed this _____ day of September, 2015.

Robert E. Eaton
Circuit Judge, Ashland County

Approved this ____ day of _____, 2015.

Scott Needham
Chief Judge, 10th Judicial District