

# **Barron 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**

### **200 Filing Court Papers**

200.1 All papers filed with the Clerk of Court shall be on 8.5 X 11 inch paper, except for Court exhibits and wills.

200.2 The Clerk of Court or Register in Probate shall return any paper not in conformity with § 200.1 to the person or party attempting to file it.

200.3 No person may attach more than 10 pages to any petition for a restraining order.

### **201 Calendars for attorneys**

### **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**

### **204 Continuances**

### **205 Court Commissioner**

### **206 Entry of order/judgments (Five-day Rule)**

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

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

- a. They are faxed to the following number which is a dedicated plain paper facsimile machine located in the Barron County Clerk of Court's office: **715/537-6269**.
- b. The document does not exceed fifteen (15) pages in length, excluding the cover sheet.
- c. No filing fee is required.
- d. No additional fee or charge must be paid by the Circuit Court for accepting or receiving the facsimile document.

**207.2** 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 Barron County Clerk of Court are considered filed the next business day.

- 207.3** The party transmitting the facsimile document is solely responsible for insuring its timely and complete receipt.
- 207.4** The Circuit Court, Judge and Clerk, are not responsible for:
- a. Errors or failures in transmission that result in missing or illegible documents.
  - b. Periods when the Circuit Court facsimile machine is not operational for any reason.
- 207.5** 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.
- 207.6** The Judge assigned to a particular case 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 Wis. Stat. 801.16.
- 207.7** Documents that are not to be filed, but are to be used by the Court for reference or other purposes may be transmitted by facsimile transmission at the discretion of the Judge or Clerk.
- 207.8** E-mail Communication with the court.  
No party or lawyer shall communicate directly or indirectly with a Judge by email regarding any pending or closed case. Party includes, but is not limited to, social workers, probation agents, corrections/police officers or pro se individuals. Lawyer includes legal assistant, secretary or other office staff of the lawyer.
- No substantive issue on any pending or closed case may be communicated to the Judicial Assistant by email. All substantive issues must be communicated by letter or motion and e-filed. Pro se parties may submit written correspondence which will be scanned and filed by the clerk. All lawyers are required to opt-in to any criminal or civil case, whether pending or closed, and e-file communication intended for the Court. A copy of the e-filed communication must be mailed to a pro se party at the time of filing.

A party or lawyer may communicate directly with a Judicial Assistant by email for scheduling, case assignments, requests for telephone appearance or jury trial notification (i.e. trial status and order of trials pursuant to policy), provided that the other party or lawyer is copied on the email communication.

## 208 Fees

### 209 Filing a name change

**Before the Court will approve your name change, you MUST:**

1. File a Petition For Name Change and pay the filing fee to the Barron County Clerk of Court.
2. File a certified copy of your birth certificate with your Petition.
3. Obtain a hearing date from the assigned Judge's judicial assistant.

4. Publish you Petition and Notice of Hearing with your local newspaper for three consecutive weeks.
5. Obtain an Affidavit of Publication from the newspaper following the last publication of notice.
6. Present the Affidavit of Publication to the Judge at your hearing.
7. Present to the Court a proposed final order for the Judge's signature.
8. Following the hearing, present to the Barron County Clerk of Court the completed Vital Statistics Form (attached hereto) and a check for \$22.00 payable to the Center for Health Statistics.
9. If you are changing the name of your child (including a non-marital child), both parents must sign the petition. If other parent cannot be located, termination of parental rights is necessary.

The Court cannot grant your name change unless you have followed all the steps above.

210 Holding of court in location other than the county seat

211 Issuing of Writs

212 Judicial Assignments

#### **212.01 INTAKE COURT**

The three branches of the Barron County Circuit Court shall preside alternately over intake court. The intake court rotates between the branches for three (3) weeks at a time. (effective January 8, 2018)

#### **212.02 ASSIGNMENT OF CASES**

- A. Case assignments made under this Order continue until final disposition, unless otherwise required by law. A case assignment does not change in the event of a bindover in a felony case or other finding of probable cause.
- B. Requests for modification or enforcement of a final order of judgment in family matters shall assigned by the Clerk equally to each branch.
- C. The following shall be assigned to the intake judge and, as set forth below, shall remain with that judge unless transferred by mutual agreement of the branches:
  1.
    - a. All Criminal Cases [felony (CF), misdemeanor (CM) or criminal traffic (CT)]: the first appearance before a branch, i.e. bail hearing or initial appearance, determines case assignment;
    - b. Any traffic citation (TR) or forfeiture (FO) case arising from the same incident charged in the felony (CF), misdemeanor (CM), or criminal traffic (CT) case shall be assigned to the judge assigned to the CF or CM case regardless of the initial appearance date for the TR or FO case.
  2. All traffic and ordinance violations

3. All DNR regulation violations
  4. All emergency mental, alcohol and drug commitments, protective placements, and Chapter 980 petitions. All these cases remain in the intake court, not with the intake judge.
  5. Temporary guardianships.
  6. All Chapter 48 and Chapter 938 cases, except:
    - If the child/juvenile or his/her siblings already have a case in the Barron County Juvenile Court, it will be assigned to the Branch that handled the previous case(s); or
    - If the child/juvenile is subject to a family court case in this County, the case shall be assigned to the family court judge.Notwithstanding the above exceptions, the intake judge shall hear all Temporary Physical Custody requests regardless of the case assignment.
  7. Small Claims cases will be assigned to the Intake Judge who is presiding on the return date of the case.
- D. Arrest warrants and search warrant applications shall be made to the intake court or to another Branch if the intake court is unavailable. Signing the warrant does not constitute case assignment.
- E. The following cases shall be assigned by lot by the Clerk of Court, Register In Probate and Juvenile Clerk:
1. Civil action under Chapter 801
  3. Actions affecting the family under Section 767 (support actions will be consolidated with the pending divorce action)
  4. Paternity cases, other non-support cases and URESA actions (exception: where the payor has actions for other children or families which are filed prior to the current case, the current case should be assigned to the Judge handling the payor's prior case(s).)
  5. Writs
  6. Administrative appeals
  7. Non-emergency mental and alcohol commitments, protective placements
  8. All probate, guardianships, conservatorships, name changes and adoptions (adoptions filed in conjunction with a TPR are assigned to the Judge assigned to the TPR)
  9. TPRs (any separate petitions filed for TPR which involve children from a single family will be treated as one assignment to a single Judge. TPRs will also be assigned to the Judge who has handled the CHIPS case or cases.)
- F. Petition for temporary restraining orders and injunctions based upon allegations of abuse or harassment shall be assigned to the Branch which conducts the first hearing.

- G. Any time cases are consolidated, the consolidation will always be to the case initially filed unless ordered otherwise by the Court.

212.04 **LIMITATIONS OF JURISDICTION**

This Order is intended to equalize and rotate caseloads and not to limit the jurisdiction of any Branch over any matter. Nothing in this Order shall limit jurisdiction of any Branch over any matter brought before it. Each Branch shall be free, in its discretion, to exercise jurisdiction over any matter when another Branch is unavailable.

212.05 **FAMILY COURT COMMISSIONER**

The Barron County Family Court Commissioner shall hear:

- A. All initial temporary hearings in all divorce and family matters.
- B. All initial paternity actions,
- C. All uncontested and stipulated divorces, annulments or legal separations.

213 Jury Fees

**214 Rules of Decorum**

- 214.01 Court shall be formally opened each day in which a jury trial is being conducted. This will be done by the bailiff or the clerk of court. As the Judge enters the courtroom, the bailiff or clerk of court shall require all present to rise and stand. When the Judge has reached the bench, the bailiff or the clerk of court shall say "Hear ye! Hear ye! The Circuit Court for the County of Barron is now in session, the Honorable \_\_\_\_\_ presiding. All shall be seated and the business of the court shall proceed."
- 214.02 On all other business days, the clerk of court shall call for order and require all to rise as the judge enters the courtroom.
- 214.03 In the recessing, the judge shall announce: "The Court is now in recess".
- 214.04 When the trial is to a jury, the Judge shall return to the bench before the jury is called in. All are required to stand 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 or lectern 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 The Court will do the majority of questioning and counsel cannot repeat the Court's questions or ask information provided on the jury questionnaires.
- 214.10 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.
- 214.11 Witnesses shall be examined with courtesy and respect, and their good faith presumed until the contrary appears.
- 214.12 The swearing of witnesses shall be an impressive ceremony and not a mere formality
- 214.13 Lawyers will treat the Court and opposing counsel with respect and dignity.
- 214.14 In jury cases which are disposed of upon a motion for non-suit or directed verdict, the Judge in dismissing the jury should briefly explain the procedure and why a verdict was unnecessary.
- 214.15 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.
- 214.16 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.

- 214.17 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.
- 214.18 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.
- 214.19 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.
- 214.20 Rules Inside the Courtroom
1. All computers, cellphones and electronic devices must be silenced and stowed out of sight when court is in session, except for attorneys and parties at counsel tables when necessary for the presentation or scheduling of the case.
  2. No audio or video recording.
  3. No weapons.
  4. No food, water or beverages, except for water with prior permission of the court.
  5. No caps, hats or hoods. Proper attire for court is required.

215 Substitutions and Recusals  
216 Telephonic hearings/motions  
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.

302.02 Initial Pretrial Scheduling

The initial pretrial will be set within 30 days of issue being joined. It will be held by telephone with plaintiff being responsible for arranging the conference call.

303 Pretrial

303.01 Initial Pretrial Order

The court will enter an order as set forth below requiring mediation between the parties. The court will not set the matter for trial until mediation has been completed.

STATE OF WISCONSIN          CIRCUIT COURT          BARRON COUNTY

vs.	Plaintiff,	<b>PRETRIAL ORDER AND SCHEDULING ORDER</b> (Mediation)
	Defendant.	Case No.

TO:

**IT IS ORDERED:**

1. Mediation will be conducted by: .
2. Mediation will involve all parties and principles with decision-making authority and will be completed no later than . All parties will share the cost of mediation.
3. Jury fee has been paid. If not paid as ordered the matter will be tried to the Court.
4. The pleadings are complete.
5. Names and addresses of the plaintiff's expert witnesses, with a brief summary of credentials, shall be furnished in writing to opposing counsel and filed with the Court by .
6. The names and addresses of the defendant's expert witnesses, with a brief summary of credentials, be furnished in writing to opposing counsel and filed with the Court by .
7. The defense medical (and vocational) examinations be completed on or before and that a written report thereof be furnished to opposing counsel on or before .
8. All motions for summary judgment or other dispositive motions be filed with the Court by .
9. All motions for summary judgment or dispositive motions shall be filed in accordance with the attached Standard Summary Judgment Procedure.
10. If mediation is unsuccessful, a telephonic trial scheduling conference will be held on at **a.m.** shall make the arrangements for the conference call.
11. If mediation is successful, the parties will notify the Court in advance of the scheduling conference

Dated:

BY THE COURT:

STATE OF WISCONSIN

CIRCUIT COURT

BARRON COUNTY

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vs.                      Plaintiff,

**FINAL SCHEDULING ORDER**

Defendant.

Case No.

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**IT IS ORDERED:**

1. This case is set for a 12-person jury trial / Court trial on                      at                      . A panel of                      jurors will be selected with the plaintiff having                      strikes and each defendant having                      strikes. **Counsel shall meet in chambers at 8:00 a.m.**
2. If not completed prior to mediation, defense medical and vocational examinations are to be completed on or before                      , and that a written report of the examination(s) shall be furnished to opposing counsel on or before                      .
3. All motions shall be filed no later than the date of the final pretrial and heard at the convenience of the Court and counsel.
4. All discovery shall be completed by                      .
5. The final pretrial conference date is set for                      at                      a.m. Attorney                      will be responsible for initiating the call.
6. Three (3) days prior to the Final Pretrial the parties shall submit a joint report to include:
  - a. An agreed statement of all uncontested facts. In the absence of an objection to the admissibility of any uncontested fact, the statement will become part of the record. No proof will be received at trial on the matters covered by the statement.
  - b. Agreed statement of major factual issues.
  - c. The names and addresses of all prospective witnesses for each party. Witnesses not listed will not be permitted to be called except upon showing of good cause.
  - d. The itemized statement of special damages, if an element of the claim.
  - e. A schedule of all exhibits to be offered at trial designating those to which objection will be made with a brief statement as to the grounds for objections. Objections based on relevancy need not be noted.
  - f. A list of depositions or the portions thereof to be offered at trial.

7. Mark and number all exhibits prior to the final pretrial conference. Exhibits should be numbered serially without designating the offering party. Plaintiffs to begin with 1. Defendants with 201. A copy of the list for each party, the Clerk of Court and Judge must also be submitted.
8. **IF THERE IS A TRIAL TO THE COURT:** Counsel for the parties will submit to the court three days in advance of the trial the following:
  - a. A trial brief on all contentions of the parties filing the brief including references of special evidentiary problems.
  - b. Proposed findings of fact, conclusions of law and judgment
9. **IF THERE IS A TRIAL TO THE JURY:** Counsel will provide the following to the Court 3 days in advance of the pretrial:
  - a. A trial brief on all contentions of the parties filing the brief including references of special evidentiary problems.
  - b. Proposed voir dire questions
  - c. Proposed jury instructions with proof of authority, substantive instructions in writing, boilerplate instructions designated by number.
  - d. Any jury instructions requested, civil or criminal, which are not a part of the pattern instructions from the Wisconsin Jury Instructions Manual, must be submitted electronically by either disk or e-mail in Word format.
  - e. Proposed verdict forms, special verdict forms and proposed special interrogatories must be submitted electronically by either disk or e-mail in Word format.
10. The parties shall submit separate reports or partial separate reports at the time of the pretrial conference if counsel cannot agree on the contents of a joint report and certify that after making diligent effort agreement could not be reached on a joint report.
11. The parties shall advise the Court of the estimated time of trial.
12. That as to voir dire, counsel shall not ask questions which only repeat the voir dire of the Court or the questions answered on the Jury List Questionnaire. Counsel will not ask questions that are hypothetical, argue law, or ask jurors to commit themselves in advance.
13. The Clerk of Circuit Courts will send you a completed set of the Jury Questionnaires for your panel three weeks prior to trial at your request and at your expense.
14. The jury will be allowed to take notes unless cause shown.

This Order shall control the subsequent course of action of this case unless modified on motion of a party or the Court for good cause.

If the request for jury trial is withdrawn within 7 days of the trial date or the matter is settled within 7 days of the trial date, the Court will hold a hearing for the purpose of determining whether this Court shall impose costs against either or both parties for one day's jury panel pursuant to Section 814.51 Wis. Stats.

This Order will control in the course of the trial and may not be amended except by consent of the parties and the Court to prevent manifest injustice.

Failure to comply with the terms of this Order shall be considered cause for imposing sanctions which may include dismissal, default judgment, contempt, money terms, orders limiting or barring the presentation of testimony or introduction of evidence at trial, or any combination thereof, or such other added and further sanctions as the Court may deem appropriate under the circumstances.

Dated: .

BY THE COURT:

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Circuit Judge

(FinalSchedulingOrder 05/07)

304 Discovery  
305 Other Motions  
306 Judgments  
306.01 Default Judgment

306.02 Summary Judgment

All summary judgment motions must comply with the procedure set below:

STATE OF WISCONSIN

CIRCUIT COURT

BARRON COUNTY

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## STANDARD SUMMARY JUDGMENT PROCEDURE

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1. Each party seeking summary judgment shall serve and file, with the motion for summary judgment:
  - a. A Statement of Proposed Undisputed Facts; and
  - b. A Statement of Proposed Conclusions of Law.

- c. A Brief in support of the motion. **The brief may not exceed 20 pages.** Excess pages will be ignored by the court.
2. A Statement of Proposed Undisputed Facts and a Statement of Proposed Conclusions of Law may be submitted as a combined document but the Brief in support of the motion for summary judgment must be submitted as a separate document.
  - a. Factual propositions shall be set forth in numbered paragraphs and, to the extent practicable, each paragraph shall state only one factual proposition.
  - b. After each paragraph, there must be a reference to the evidentiary basis per § 802.08(3), Stats., such as a deposition, discovery, pleading or affidavit.
3. Proposed Conclusions of Law shall be in numbered paragraphs, shall accurately characterize the law on the issue in question and shall be supported with a legal citation.
4. **30 days** after service of the motion for summary judgment, any party opposing a pending motion for summary judgment shall serve and file:
  - a. A response to the moving party's Proposed Undisputed Facts, and
  - b. A response to the moving party's Proposed Conclusions of Law, and
  - c. A brief in opposition to the motion for summary judgment. **The brief may not exceed 20 pages.** Excess pages will be ignored by the court; and
  - d. Any supporting papers, pursuant to § 802.08(3), Stats., that the party chooses to submit.
5. The responses to the moving party's Proposed Undisputed Facts and Proposed Conclusions of Law may be submitted as a combined document but the Brief in opposition to the motion for summary judgment must be submitted as a separate document.
  - a. The response to the moving party's Proposed Undisputed Facts shall state whether there is a genuine issue of fact as to the whole or a part of the factual proposition.
  - b. Any response asserting the existence of a genuine issue of fact shall cite to depositions, discovery responses, pleadings or affidavits which comply with § 802.08(3), Stats.
  - c. Unless the responding party places a factual proposition of the moving party in dispute, the court will conclude that there is no genuine issue of fact as to the finding initially proposed by the moving party.
6. Response to Proposed Conclusions of Law shall respond to each legal conclusion stated by the moving party. If the responding party believes the motion must fail because of conclusions of law not stated by the moving party, the respondent may state such other conclusions of law.
7. **15 days** after service of the brief in opposition to the motion for summary judgment, the moving party may submit a reply brief. **The brief may not exceed 10 pages.** Excess pages will be ignored by the court.

(Summary Judgment Procedure 03/07)

## **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

Defendants must appear in person for an initial appearance in all criminal cases even if the defendant has signed an Authorization to Appear.

#### 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

Upon conviction, the clerk of court shall FAX a copy of the Judgment of Conviction to the Sheriff if it includes county jail or prison time.

#### 407 Discovery

#### 408 Jury and Bench Trials

##### 408.01 Pretrial order and order setting case for trial

All cases will be scheduled for trial after the defendant's first plea date, unless good cause is shown for an adjournment.

#### 409 Motion Practice

All motions must be in writing and state with particularity the grounds for the Motion. §971.30, Stats. Failure to comply with this requirement shall be grounds for dismissal.

#### 410 Pre-Sentence Investigation

A Pre-Sentence Investigation will be ordered in all felonies unless the court is persuaded that the parties can present enough background information to allow the court to proceed.

#### 411 Probation

### **Family Law Practice**



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### **Probate Practice**

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#### **801: Jurisdiction of the Probate Court**

- 801.01 Probate actions under Wis. Stat. Chapters 851 through 879.
- 801.02 Guardianship and protective placements under Chapters 54 and 55.
- 801.03 Adult Adoptions under Chapter 882.
- 801.04 Child Adoptions under Chapter 48.
- 801.05 Trust actions under Chapter 701.
- 801.06 Civil commitments under Chapter 51.

## 802: Responsibility within the Probate Court

802.01 Nothing contained in these rules will be construed to limit or restrict the assigned judge in exercise of his or her discretion nor restrict the Chief Judge in the exercise of his or her duties.

802.02 Responsibility of Register in Probate/Probate Registrar:

802.02.1 The Register in Probate office is responsible for the opening, reviewing, filing, maintenance and closing of all files and papers dealing with civil commitment, probate, trust, protective placement, adult adoption, guardianships (both adult and minor), as well as administrative matters dealing with probate court.

802.02.2 The Probate Registrar handles uncontested informal probate hearings.

802.03 Responsibility of Court Commissioners:

802.03.1 The Probate Court Commissioner, if appointed, handles uncontested hearings on formal probates and trusts matters.

802.03.2 The Circuit Court Commissioner may handle civil commitment probable cause hearings and temporary guardianship hearings.

## 803: Filing of Documents:

803.01 Filing of documents: all documents relating to Probate Court subject matter are to be filed at the Register in Probate office unless filed with the court at the time of the hearing.

803.02 Papers filed by facsimile transmission are considered filed when received by the Register in Probate at the dedicated plain paper facsimile machine located in the Register in Probate office: **715-637-6769. \*See also Court Rule 208 for further filing by facsimile requirements.**

## 804: Scheduling:

804.01 The Register in Probate office schedules formal probate cases on the intake judge's probate calendar.

804.02 Uncontested probate matters are scheduled with the Register in Probate.

804.03 Temporary and permanent guardianship, protective placement and conservatorship hearings are scheduled through the Register in Probate office.

804.04 Civil commitment hearings are scheduled through the Register in Probate office.

804.05 Adoption hearings are scheduled through the Register in Probate office.

## 805: Estates:

- 805.01 Wills: only original wills will be accepted for filing with the court.
- 805.01.1 Wills of a decedent which will not be subject to probate proceeding shall be filed and shall be accompanied by an affidavit.
- 805.01.2 Wills of living persons filed for safekeeping shall be accompanied by the statutory filing fee and other information as the Register in Probate may require.
- 805.02 Summary Settlement, Summary Assignment and Special Administration: Proof of Heirship must be filed with all opening papers for Summary Settlement, Summary Assignment and Special Administration petitions.
- 805.03 Ancillary proceedings: surety bond required for nonresident granted ancillary letters.
- 805.04 Selection of Personal Representative: only Wisconsin residents may be appointed as Personal Representative of an estate, with the following exceptions: non-residents may be appointed at the discretion of the court, if the nominated non-resident has a Wisconsin resident appointed co-personal representative; has retained a Wisconsin attorney; or posts bond in an amount determined by the court. The court reserves the right to require bond in any case. All non-resident personal representatives are required to have a resident agent.
- 805.05 Hearing or Waiver of Hearing: a hearing is not required when waivers are filed by interested parties. Hearings will be held if notice is required or upon request of the attorney for the estate, the personal representative, or the court.
- 805.06 Objection to Will filed: an objection to a Will filed must be in writing and filed with the probate court together with the statutory filing fee. When the objection is filed, the Register in Probate shall assign the case to a circuit court judge according to the properties of the probate draw and set a hearing date. The personal representative or attorney for the estate shall send notice of the objection and notice of the hearing to all interested parties.
- 805.07 Objections to claims filed: an objection to a claim must be in writing and filed with the probate court. When the objection is filed, a pre-trial telephone conference will be set before the Register in Probate. The personal representative or attorney for the estate shall send notice of the objection to all interested parties.
- 805.08 10<sup>th</sup> Judicial District time line to file an estate inventory: The estate inventory shall be filed no later than four (4) months after the issuance of letters, together with the statutory filing fee, unless the court has by order extended the time for filing.
- 805.09 Final Account: Filing of a final account in an informal is preferred. Documentation that the residual beneficiaries or heirs have been advised as to the amount of the personal representative and attorney fees must be filed with the court, when the final account is not filed in the probate office.
- 805.10 Tax clearances: a Wisconsin closing certificate for fiduciaries shall be filed and a federal estate tax closing letter (if the estate met the standard to file a federal estate tax return) shall be filed with the court prior to the closing of any estate.

- 805.11 Closing estates: signed receipts from heirs or beneficiaries and proof of the recording of the transfer of any real estate to beneficiaries or heirs must be filed with the court.
- 805.12 Extensions of time to closing estates: when an estate cannot be closed within the required time limits, a petition setting forth the reasons for the request of an extension of time to close the estate must be filed with the court. A proposed order shall also be submitted. The court will review each request individually. See Court Rule 809 below.
- 805.13 10<sup>th</sup> Judicial District time lines to close estates: Estate actions shall be disposed of within twelve (12) months from the date of the filing of the petition or application to open estate.

806: Trusts:

- 806.01 The trust inventory shall be filed within sixty (60) days of the closing of the probate estate from which the trust originates, or of the initial funding of the trust, whichever event occurs first. If the inventory is not timely filed, after notice from the register in probate's office, an order to show cause shall issue
- 806.02 Closing:
  - 806.02.1 At the time of the termination of the trust, all annual accountings for prior years and the final account must be on file with the court.
  - 806.02.2 The trustee shall petition the court to terminate the trust.
  - 806.02.3 A Wisconsin closing certificate for fiduciaries must be filed with the court before a trust may be closed and the trustee discharged.

807: Guardianship:

- 807.01 Guardianships:
  - 807.01.1 Guardian ad Litem: the Court shall appoint a guardian ad Litem for the proposed ward; the guardian ad Litem shall file a written report with the court prior to the hearing.
  - 807.01.2 Unless previously ordered by the court, the guardian must petition the court for reimbursement of expenses and/or guardian fees.
- 807.02 Protective Placements:
  - 807.02.1 A petition for protective placement may be filed with or anytime after the guardianship petition is filed.
  - 807.02.2 An Examining Physician's Report must be completed and filed with the court on all protective placement petitions.
- 807.03 Protective Placement Reviews (*Watts*):
  - 807.03.1 Summary hearings on *Watts* reviews will be held in front of the assigned judge and scheduled by the Register in Probate.
  - 807.03.2 If an objection to the protective placement is received, the matter will be scheduled in front of the assigned judge for further proceedings.
- 807.04 Termination of guardianships:

- 807.04.1 Guardianship of the person – deceased ward: upon notification to the probate court that the ward died, the court will issue an order of discharge of the guardian of the person.
- 807.04.2 Guardianship of the estate – deceased ward: upon notification to the probate court that the ward died and filing of: the final account as approved by the court; a proper receipt from the person/entity receiving the remaining assets in the ward's estate; the court will issue an order of discharge of the guardian of the estate.
- 807.04.3 Guardian of the estate for a minor: upon filing proof of the ward reaching the age of eighteen, filing the final account and receipt signed by the ward; the court will issue an order of discharge of the guardian of the estate.

808: Civil Commitments:

- 808.01 Commencement: all civil commitment matters under Chapter 51 originate with the county corporation counsel office.
- 808.02 Scheduling: the Register in Probate office will schedule all hearings regarding civil commitments.
- 808.03 Subject's Presence Required: the subject is required to appear in person at all hearings. Under certain circumstances to be determined by the Court, a subject may appear by telephone with counsel in his/her presence at the detention facility, if there is no objection by the subject or counsel. A statement from a physician or psychologist must be filed for the Court's consideration that indicates transportation would be a danger to the subject or others.
- 808.04 Use of Videoconferencing: Videoconferencing for all hearings regarding civil commitments may only be used pursuant to Section 885.60, Wisconsin Statutes. See also **Court Rule 217**.

809: District probate benchmarks:

- 809.01 The judges of the 10<sup>th</sup> Judicial District have set the case processing benchmark for closing estates at twelve (12) months from the date of filing the petition or application.
- 809.02 See Court Rule 805.12 above regarding extensions for time to close the estate.
- 809.03 The judges of the 10<sup>th</sup> Judicial District have set the time line to file an estate inventory at four (4) months from the date of the issuance of letters.

810: District forms:

- 810.01 Case management forms/guidelines/checklists created by the 10<sup>th</sup> Judicial District Registers in Probate shall be used when appropriate.
- 810.02 District forms shall not take the place of standard, statewide forms created pursuant to sec. 758.18, Wis. Stats.
- 810.03 Standard statewide forms are required for filing.

811: Guardian ad Litem and Adversary counsel:

- 811.01** Guardians ad Litem and Adversary Counsel will be appointed by the court. They will conduct their work in a manner specified by state law, Supreme Court rules and local court rules. Attorneys named on the guardian ad Litem appointment list shall maintain the required qualifications of the Supreme Court rules by attending courses approved for credit by the Board of Bar Examiners.
- 811.02 Method for Appointment: The Register in Probate office will maintain a list of the members of the Bar, subject to approval by the Barron County Circuit Court Judges. Appointments will be made at the discretion of the presiding court official in the case.
- 811.03 Notification of Appointment: The Register in Probate office will notify the attorney to be appointed and verify the attorney's availability and acceptance of the appointment.

**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. Return of property action must use restricted mail or personal service. Out-of-county, out-of-state and eviction actions are limited to personal service ONLY.

902 Appearance

902.01 Plaintiff

Plaintiffs NEED NOT APPEAR at the return date.

902.02 Defendants must EITHER appear in person or 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

All small claims cases except eviction cases must attend mediation 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 to the Court will be set, you will be notified of the date, and the following rules apply to the plaintiff and defendant.

Medical records filed by either party with the Clerk of Court's Office solely for use in a small claims court mediation session shall remain sealed until the mediation is completed. Thereafter, all such medical records shall immediately be destroyed.

#### 904 Party Identification

##### 904.01 Parties not Properly Identified

- a. Plaintiff's name must be typed or legibly printed.
- b. The plaintiff must include a physical address in addition to any P.O. Box.
- c. If the person signing the complaint is not the plaintiff (a natural person), then plaintiff's full-time authorized employee or attorney must type or legibly print his or her name and address, physical and P.O. Box, in the "Law Firm and Address" Box of the Complaint.
- d. Failure to follow the above identification rules will result in the Judge rejecting the filing.

##### 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 RETURN DATE, 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 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.

##### 908.02 Trial Dates

Always check the status of your trial at least 2 days before the trial date. Sometimes, if the trial is adjourned, the notice may not get to the parties in time.

##### 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.

##### 908.04 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. However, the court will not accept written statements of witnesses not present in court nor will other written evidence be accepted unless supported by a live witness.

#### 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. Failure to provide information to the plaintiff will 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

(CourtRulesFeb2019)