

# Clark County Circuit Court Rules (Sixth Judicial District) version 10-01-2016

WHEREAS, the court finds that the just, efficient and orderly administration of the business of the Circuit Court in service to the people of Clark County requires the adoption of Local Court Rules supplementing the Rules of Civil Procedure and other statutory directives,

NOW, THEREFORE, the following Local Court Rules of the Circuit Court have been adopted for the Circuit Court of Clark County.

*All rules are effective at 12:01 am February 19, 2001, unless otherwise specified.*

- Part 1: Publication and Revision of Circuit Court Rules
- Part 2: Rules of Decorum
- Part 3: General Rules
- Part 4: Civil Practice
- Part 5: Criminal Law Practice
- Part 6: Small Claims Practice
- Part 7: Victim & Witness Issues
- Part 8: Family Law Practice
- Part 9: Court in the Class/Traveling Court

## **Part 1: Publication and Revision of Circuit Court Rules**

**100** The Clerk of Court shall post the Local Rules for public review in the Clark County Courthouse, and shall forward copies to the president and secretary of the Clark County Bar Association, the court administrator for the Sixth Judicial District, the State Bar of Wisconsin, the State Law Library and the Office of the Director of State Courts at least fifteen days prior to formal adoption. The Clerk of Circuit Court shall make copies available to the public.

**101** Notice of proposed rules as described in Sec. 100 shall constitute sufficient public notice.

**102** Rules shall be adopted by written order of the Clark County Circuit Court Judge, subject to approval of the Chief Judge of the Sixth Judicial District.

**103** Orders adopting rules shall specify an effective date.

**104** Once adopted, court rules shall be filed with the Clerk of Circuit Court, and the Clerk of Circuit Courts shall provide copies to the Judge, president and secretary of the Clark County Bar Association, State Law Library, and State Bar Association.

## **Part 2: Rules of Decorum**

**200** Court shall be formally opened each day in which court business is transacted either by the Clerk of Court, the Court Security Officer or the Bailiff.

**201** As the judge enters the courtroom, the Clerk of Court, Court Security Officer or the Bailiff shall require all present to rise and stand. When the judge has reached the bench, the Clerk of Court, the Court Security Officer or the Bailiff shall open court. All shall be seated and the business of the court shall proceed.

**202** In recessing, the judge shall announce: "The court is now in recess."

**203** The flag of the United States shall be displayed at, on, or in close proximity to the bench or on standard to the right of the judge at all times while court is in session.

**204** Lawyers shall never lean upon the bench or appear to engage the court in a manner that would lessen the dignity of the proceedings in the eyes of the jury and the public.

**205** Witnesses shall be examined from a position at the counsel table except when handling exhibits unless a lectern is provided by the court, in which case the examination shall be either from the position at the counsel table or the lectern. Persons examining witnesses may either stand while examining a witness from the counsel table or remain seated. In no case shall a witness be crowded during examination.

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

**207** 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.

**208** 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.

**209** Lawyers, Court Reporters, Deputy Clerks, and Bailiffs shall, while in attendance upon the court, wear professional attire so as not to lessen the dignity of the court or of proceedings in the eyes of the jury and public.

**210** 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.

**211** Witnesses shall be examined with courtesy and respect, and their good faith presumed until the contrary appears.

**212** The swearing of witnesses shall be an impressive ceremony and not a mere formality.

**213** In jury cases, which are disposed of upon a motion for nonsuit or directed verdict, the judge in dismissing the jury should briefly explain the procedure and why a verdict was not necessary.

**214** The judge shall wear a robe while presiding on the bench, provided that judicial discretion may be exercised otherwise in proper situations.

## Part 3: General Rules

### 300 Telephone Proceedings

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. Parties are encouraged to utilize the procedures in the manner specified by Sec. 807.13 and Sec. 967.08 Wisconsin Statutes. Where practical, the court and all interested parties shall be informed of a party's intent to utilize such procedures at least 48 hours before the scheduled proceeding. 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.

### 301 Fax Rule (Effective 12:01 am October 1, 2016)

**Preamble.** Limited filing of documents with the Clerk of Circuit Court pursuant to Sec. 801.16, Stats., through the use of the plain-paper facsimile machine is permitted under these local rules. Facsimile filing shall be kept to a minimum and utilized only when necessitated by time constraints or other special circumstances. It shall not be used as a substitute for the timely filing of original documents through E-filing or as otherwise required/permitted by law.

#### 301-A Limitation.

Only the following documents that do not require a filing fee may be filed by facsimile transmission:

- **Not Guilty Pleas** in TR, FO, JO and other non-mandatory appearance forfeiture matters, subject to the following limitations:
  - not to exceed 1 page in length
  - filed by a pro se non-represented person or entity, not an attorney
- **Payment Plan Requests** in all case types for monies payable to the Clerk of Court's Office or Juvenile Clerk of Court's Office, subject to the following limitations:
  - not to exceed 1 page in length
  - filed by a pro se non-represented person or entity, not an attorney
- **Reports of Health Care Professionals/Examiners** in GN, ME, JM, CI, CM, CT and CF cases. This exception does not include reports of employees of any Clark County Agency (such as Social Services, Community Services etc.)
- **Requests for Copies of Court Records**, not to exceed 1 page in length

No other documents or combination of documents shall be filed by facsimile unless the assigned judge or court commissioner (on a case-by-case basis) grants an exception, in writing or on the record in open court. If such an exception is granted, the party or attorney shall certify on the first page of the filed document that the assigned judge or court commissioner has approved the facsimile transmission and the date of such approval. See § 801.16(2)(d).

#### 301-B Facsimile Number

Documents filed under this rule may only be transmitted to the following number: 715-743-5187

### **301-C Party's Responsibility.**

The party transmitting the facsimile document is solely responsible for ensuring its timely and complete receipt. The circuit court, judge or clerk is not responsible for periods when a circuit court facsimile machine is not operational for any reason and is not responsible for errors or failure in transmission that result in missing or illegible documents.

### **301-D Original Documents Not to be Filed**

The party submitting a document by facsimile transmission shall **NOT** submit the original document for filing. The clerk of circuit court shall discard any duplicate papers subsequently received by the clerk of circuit court, assigned judge, or court commissioner. See § 801.16(2)(e).

### **302 Filing of Documents**

All documents shall be filed with the Clerk of Courts' office. Original documents (or fax documents under Rule 301) shall **NOT** be filed with the judge or any other court office. Courtesy **COPIES** of all motion documents (without attachments or exhibits) shall be provided to the judge. Courtesy copies of documents provided to the judge or any other court office shall be clearly marked in the upper right corner with the word "**COPY**" or other similar identifying mark.

### **303 Duties of Bailiff**

It shall be the duty of the bailiff to maintain order at all times as litigants, witnesses and the public assemble in the courtroom during the progress of the trial and during recesses of the court. This includes the duty to admit persons to the courtroom and direct them to seats, and to refuse admittance to the courtroom in such trials where the courtroom is occupied to its full seating capacity.

It shall be the duty of the bailiff to take charge of and supervise the jury during the course of a trial, during court recesses and during times of jury deliberation, to assure that no unauthorized persons come into contact with members of the jury. If such an attempt is made, the bailiff shall notify the judge at once.

The bailiff shall assist jurors as necessary with personal problems if they arise, and shall inform the judge of any unusual problems of jurors which should be called to his or her attention.

The bailiff shall at no time discuss with the jurors any litigants, witnesses or attorneys, or any issues involved in the trial, nor make any effort to assist the jurors in their deliberations.

### **304 Media Coverage**

All electronic media and photographic coverage of any judicial proceedings shall be in accordance with SCR Chapter 61. The following guidelines shall be utilized for photographing court proceedings

- a: Jurors and prospective jurors shall not be photographed
- b: Motorized camera drives and flash or strobe lights shall not be used;
- c: TV cameras, microphones and cords shall not be placed so as to interfere with the

usual traffic patterns within the courtroom nor placed remotely from the operator.

d: TV cameras will be located in the southwest corner of the courtroom (immediately to the right as you enter the main entrance) and may not be moved or removed except during a recess or at the end of the day's proceeding.

e: The reporter and equipment operator will identify themselves to the Clerk of Court, Bailiff or the Court Security Officer and have all equipment set up and ready for use prior to the commencement of any proceeding in which cameras are intended to be used.

### **305 Requests for Court Time**

All persons contacting the court to request the scheduling of in court proceedings (hearings, trials, preliminary examinations, etc. and all other court time) shall provide an estimate to the judge and/or judicial assistant of the time needed for such matter. The party generating notices shall include the following statement in bold face type:

“This matter has been scheduled for \_\_\_\_ hours \_\_\_\_ minutes. If any party believes more time is needed that party shall contact the judicial assistant to reschedule”

### **306 Piggyback Motions Prohibited**

No party shall schedule a motion at the time of a previously scheduled motion in a matter without first (a) contacting and obtaining leave of the court or the judicial assistant, and (b) complying with rule 305.

### **307 Scheduling**

Attorneys are required to have their calendars with them in court so that dates can be set in the courtroom when possible. In the event that an attorney does not have a calendar in court, a date will be set in accordance with the judge's calendar. Telephone scheduling can be arranged by calling the judge's judicial assistant. See Rule 402.

## **Part 4: Civil Practice**

### **400 Joinder of issue**

All civil cases will be reviewed for proof of service and answer 140 days after filing. If at that time the case file does not reveal that the case has reached issue, the court may initiate a dismissal order or default proceeding. All parties effectuating service shall file Proof of Service within 20 days after service is accomplished on a party.

### **401 Scheduling Conferences**

Upon filing of an action, the Clerk of Court shall issue an order for a telephonic scheduling conference before the court or the court's Judicial Assistant. The plaintiff/petitioner shall serve an authenticated copy of the order upon the defendant(s)/respondent(s) at the time of service of the summons and complaint. The plaintiff/petitioner shall initiate the conference call and ensure that all parties are connected to the call.

## **402 Motions - Scheduling Procedure**

All motions shall be heard at a date and hour set by the judge's judicial assistant. The scheduling number is 715-743-5172. *It is the party's responsibility to schedule the motion with the court prior to the filing of the motion—the hearing date shall be inserted in the motion documents prior to filing.* 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 date and time. See also rules 305 and 306.

## **403 Motion Filing Procedure (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 15 days before the hearing.
- (b) The opposing party shall file with the Clerk of Court and serve upon all other parties a written response with a citation of authorities at least 7 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 3 days before the hearing date.

## **404 Motions for Summary Judgment**

### **404-A General/Timing/Briefing Schedule**

- (a) The Court has adopted certain procedures to be followed in filing and responding to Motions for Summary Judgment which are intended to supplement the statutory guidelines of Section 802.08 Wis. Stats., and to facilitate the methodology imposed upon the trial court by the appellate courts in reviewing motions for summary judgment. Failure to comply with these requirements shall be considered cause for imposing sanctions that may include dismissal, contempt, costs, or such other and further sanctions, as the Court may deem appropriate under the circumstances.
- (b) The parties may file motions for summary judgment within the time set in the scheduling order, but in no event less than 120 days prior to the trial date. In the absence of a briefing schedule otherwise established by the court, the response brief under rule 404-C shall be filed within 30 days after the filing of the motion and the rebuttal brief under rule 404-D shall be filed within 15 days after the filing of the response brief.
- (c) A hearing date may be set if requested by any party at any time prior to 10 days after the filing of the response brief under rule 404-C. See rule 401 with regard to the procedure to request a hearing. If any party does not request a hearing, the court will decide the motion on the basis of the submittals.

### **404-B Motion Procedure**

A motion for summary judgment made pursuant to Section 802.08 Wis. Stats., shall be served and filed in the following form:

- (a) The motion itself together with such materials permitted by Sec. 802.08 Wis. Stats., as the movant may elect to serve and file; and

(b) Either (i) a stipulation of facts between or among all the parties to the action, or (ii) a statement of the findings of fact proposed by movant, or (iii) a combination of (i) and (ii).

1. Whether a movant elects a stipulation or a statement of proposed findings, or both, it is movant's obligation to present no more and no less than the set of factual propositions which movant considers necessary to judgment in movant's favor, and as to which movant considers there is no genuine issue. The factual propositions should include all of the "basic" facts necessary to a decision on the motion, including those going to jurisdiction, to the identity of the parties, and to the background of the dispute.

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

3. At the close of each numbered paragraph shall be set forth one or more references to the PLEADINGS, DEPOSITION TRANSCRIPTS, ANSWERS TO INTERROGATORIES, ADMISSIONS on file or AFFIDAVITS or other supporting movant's contention there is no genuine issue as to that factual proposition. Affidavits must be made on personal knowledge setting forth such facts as would be admissible in evidence, and showing affirmatively the affiant is competent to testify to the matters stated therein.

4. References to the record shall include:

a. in the case of a pleading, the numbered paragraph of that pleading;

b. in the case of a deposition transcript, the name of the witness and the page of the transcript;

c. in the case of an answer to an interrogatory, the number of that interrogatory and the identity of the party to whom it was directed;

d. in the case of an admission in response to, or resulting from a failure to respond to, a request for admission made pursuant to Sec. 804. 11 Stats., the number of the requested admission and the identity of the party to whom it was directed;

e. in the case of an admission on file that is not in response to, or resulting from a failure to respond to, a request for admission made pursuant to Sec. 804. 11 Stats., the form such admission takes and the page or paragraph of the document in which that admission is made. Admissions made solely for the purpose of the motion for summary judgment should be so designated.

(c) A statement of the conclusions of law proposed by movant, in numbered paragraphs.

(d) The motion for summary judgment in the form required herein, shall be served and filed together with a supporting brief. The supporting brief shall not exceed 25 double spaced pages without prior leave of the court.

#### **404-C Response**

On or before the date determined under Rule 404-A(c), any party who elects to oppose the motion for summary judgment shall serve and file the following:

(a) Such materials permitted by Sec. 802.08 Stats., which the party may elect to serve and file in opposition to the motion.

(b) A response to the movant's statement of proposed findings of fact.

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

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

3. The references to the record shall be made with that specificity required by rule 404-B(b)4., above.

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

a. a stipulation of facts between or among all of the parties to the action; or

b. a statement of the findings of fact proposed by the opposing party; or

c. a combination of "a" and "b".

d. With respect to such presentation of factual propositions not stated by the movant, the opposing party shall comply with the requirements set forth in rule 404-B(b)., above.

(c) A response to the movant's statement of proposed conclusions of law.

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

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

(d) The response in the form required by rule 404-C, shall be served and filed together with a brief in opposition to the motion for summary judgment. The response brief shall not exceed 25 double spaced pages without prior leave of the court.

#### **404-D Rebuttal**

On or before the date determined under Rule 404-A(b), the movant may, but is not required to, serve and file in rebuttal any or all of the following items:



- (a) Such materials permitted by Sec. 802.08 Stats. which movant may elect to serve and file in rebuttal.
- (b) A statement in rebuttal to the response or responses to any numbered paragraph of movant's initially proposed findings of fact, and a statement in rebuttal to any numbered paragraphs of findings of fact initially proposed in the response or responses. To the extent that the statement in rebuttal requires record references not earlier made by movant, the references shall be made with that specificity required by rule 404-B.4., above.
- (c). A statement in rebuttal to the response or responses to any numbered conclusion of law initially proposed by the movant, and a statement in rebuttal to any numbered conclusion of law initially proposed in the response or responses.
- (d) A statement in rebuttal to the response or responses with respect to the form of judgment.
- (e) In addition to the rebuttal materials set forth above, the movant may, but is not required to, serve and file a rebuttal brief. The rebuttal brief shall not exceed 7 double spaced pages without prior leave of the court.

#### **404-E Decisional Process**

In deciding the motion for summary judgment:

- (a) The Court will conclude that there is no genuine issue as to any proposed finding of fact initially proposed by the movant, except to the extent an opposing party's response asserts that a genuine issue exists; and
- (b) The court will conclude there is no genuine issue as to any finding of fact initially proposed in a response, except to the extent that movant's rebuttal asserts a genuine issue exists.
- (c) As to any finding of fact, whether initially proposed by the movant or in a response, as to which it is asserted a genuine issue exists, the court will make a determination as to the existence or non-existence of such genuine issue.
- (d) The court is not required to give any weight to a piece of evidence unless it is set forth in the manner described.
- (e) The court is not under any obligation to search the record for factual matters that might support either the grant or the denial of the motion. It is the duty of the parties to bring to the court's attention by specific reference to the record, as outlined above, all factual and legal matters material to the resolution of the issues in dispute.

#### **405 Discovery Issues**

##### **405-A Discovery Disputes (motions to compel, quash, for protective order, etc.) Good Faith Effort to Resolve Required**

- (a) All motions regarding discovery matters pursuant to Chapter 804 Wis. Stats., 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 agreement. Such statement shall recite the date, place and name of all parties participating in such consultation.

(b)The party seeking discovery shall state specifically what information is sought and the reasons supporting the production. The party refusing to produce the information shall state why the information sought is not discoverable. Blanket contentions of work product are insufficient. Specific reasons must be stated for each denial of information.

#### **405-B Limitations on Discovery**

Absent leave of the court, following notice and hearing, written interrogatories are limited to 60 questions including subparts (for example, question “1” with subparts “a, b and c” counts as 4 questions). The court may upon its own initiative after reasonable notice, or pursuant to a motion, limit the number of depositions 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:

- (i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive;
- (ii) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or
- (iii) 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.

#### **406 Large Claim Civil Default Judgments**

Except as to mortgage foreclosures (see rule 407), no notice to defendant is required before entry of a default judgment in large claim civil actions where personal service was obtained upon the defendant.

In cases where personal service was not obtained upon the defendant (i.e., substitute or published service), notice of motion for default judgment and an affidavit of service of the notice upon the defendant shall be given to defendant by regular mail at defendant’s last known address and filed with the court. The notice shall provide that in the event the defendant does not request a hearing from the court, in writing, on plaintiff’s motion within 10 days of the date of the notice, default judgment shall be entered. Upon the expiration of the time to request a hearing, if no hearing has been requested the court shall sign the judgment. The court shall schedule any hearing requests as soon as practicable. In actions where damages are not liquidated, a hearing shall be conducted to determine the amount of the judgment. The court may order a hearing to determine the amount of judgment in any case.

The judge may in an individual case require further notice or proof regarding service, damages, or costs if appropriate.

#### **407 Foreclosure Proceedings**

All default judgments in foreclosure proceedings shall be scheduled for a hearing in open court, due notice of which shall have been given to all defendants at least 7 days before the hearing. If all parties consent or no defendant appears at the scheduled hearing, the court may grant a default based on affidavits or testimony.

## **408 Scheduling**

Attorneys are required to have their calendars with them in court so that dates can be set in the courtroom when possible. In the event that an attorney does not have a calendar in court, a date will be set in accordance with the judge's calendar. Telephone scheduling can be arranged by calling the judge's judicial assistant. See Rule 403.

## **409 Pretrial Procedures**

### **409-B Pretrial Conference**

In all civil matters, the court shall schedule a pretrial conference approximately 7 to 20 days prior to trial. In all pretrial conferences, 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

Not less than 15 days prior to the pretrial conference or, if no pretrial conference is set, then not less than 15 days before trial, the parties shall file and serve the following:

- Proposed instructions and verdict form. Note: the court will generally give the Pattern Wisconsin Civil Jury Instructions. Pattern instructions may be requested by number. Pattern instructions containing alternative paragraphs to be selected or blanks to be filled in must be submitted in final form. Special instructions submitted must contain citations to the applicable law.
- Motions in limine (motions pertaining directly to the trial). The motion shall include a brief statement of the facts necessary to an understanding of the motion and shall cite the proposition of law with a citation to the authorities (statutes or case citations) in support of the relief requested. Briefs on all motions shall be no more than four, double-spaced pages.
- Any trial brief a party is going to submit.

Not less than 5 days prior to the pretrial conference or, if no pretrial conference is set, then not less than 5 days before trial, the parties may file and serve a response to the foregoing submittals.

At the pretrial conference the parties shall be prepared to discuss the following:

- Settlement
- Stipulations and evidentiary questions that may arise.
- Length of trial, Voir Dire (jury examination) issues, Jury Strikes and similar issues.
- Instructions and Special Verdict
- Other matters which may aid in trial of the action.

## **410 Trial and Hearing Procedures**

### **410-A Exhibits**

Each party shall bring sufficient copies of the party's exhibits so that copies are available for the

witness, the court and opposing party (ies).

#### **410-B Stipulations/Resolution of Cases**

The court shall be informed of all agreed facts and issues in writing prior to trial. The deadline for the parties to notify the court of their intent to enter an agreement resolving the case is ten calendar days (including Saturdays, Sundays and days on which the Clerk of Court's office is closed) before the date set for trial. The court shall have the discretionary authority to assess jury costs under Sec. 814.51, Wis. Stats., for abuse of the settlement process.

#### **411 Continuance of Trial Date**

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.

All other requests for continuance must be made by motion and for good cause shown by the party or with the party's written consent.

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

## **Part 5: Criminal Law Practice**

### **500 Assignment of Cases**

#### **Felonies & Misdemeanors**

Where two or more defendants are charged in one complaint, the Clerk of Court's Office will open a file for each defendant.

#### **Felonies**

Where a defendant has a pending felony file, any subsequent felony criminal cases, including traffic felonies, will be assigned to the felony court.

#### **Misdemeanors & Traffic**

Where a defendant has a pending traffic file and a subsequent misdemeanor charge is filed, the traffic case will be reassigned to the misdemeanor court.

#### **Traffic**

If none of the above applies, then all Criminal Traffic (CT) and Traffic (TR) cases will follow the case in that category bearing the lowest (earliest) file number. If a defendant has pending both CT and TR cases, the TR case will follow the lowest numbered CT case. After a defendant has entered a change of plea and been convicted under any of the above circumstances and new charge(s) are filed, the above do not apply.

### **501 Continuances**

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

Non-stipulated requests for a continuance must be on motion and hearing with good cause shown by the party. All requests for continuance are subject to the approval of the court.

## **502 Motion Practice**

All motions shall, at the time of filing, be accompanied by affidavits or other papers setting forth, with particularity, the grounds therefore and shall include the following:

1. A brief statement of the facts necessary to an understanding of the motion;
2. A brief summary of the law applicable to the motion, with citation to legal authorities;
3. A brief argument applying the facts of the specific case to the law.

The basis and grounds for the motion must be stated with specificity. General assertions of a violation of Constitutional rights and general assertions of insufficiency will not be considered specific. Such nonspecific motions may be denied sua sponte by the court with notice of such denial to the parties and with leave to renew the motions in a timely manner.

## **503 Witnesses**

Attorneys will be expected to list their potential witnesses during voir dire for the benefit of the jury.

## **504 Jury Instructions/Verdicts**

Proposed jury instructions and verdicts shall be filed with the court no later than three days before trial. The court will generally give the Wisconsin Criminal Jury Instructions (WCJI). WCJI instructions may be requested by number only. WCJI instructions containing alternative paragraphs to be selected or blanks to be filled in must be submitted in final form. Special instructions submitted must contain citations to the applicable law.

## **505 Scheduling Orders**

The judge may supplement these rules with scheduling orders.

## **506 Misdemeanor and Criminal Traffic Case Procedures**

Misdemeanor and Criminal Traffic cases shall proceed under the following steps:

- A. Bail Hearing. At the Bail Hearing, the court shall set the monetary and non-monetary conditions of the defendant's bail.
- B. Initial Appearance.
  1. The court shall set the matter for a pre-trial conference between the defense attorney/defendant and the District Attorney's office approximately two weeks after the initial appearance; and
  2. The court shall set the matter for a Status Conference approximately four weeks after the initial appearance.
- C. Pre-Trial Conference. The purpose of the pre-trial conference is to provide an opportunity for the parties to engage in meaningful discussion in an attempt to resolve the case. Defendants represented by counsel need not appear at the Pre-trial Conference.

- D. Status Conference/Motion and Discovery Filing Deadline. The purpose of the Status Conference is to determine whether the matter has been resolved, must be set for a motion hearing, or set for trial. *Pleas will only be heard at the Status Conference as time permits*—if the parties reach a plea agreement at the Pre-trial Conference, they should inform the Judicial Assistant so that the matter can be rescheduled for a Plea Hearing.

The Status Conference date shall also serve as the deadline for the filing of all pre-trial motions (to suppress, to dismiss, etc.) and as the deadline for the filing of discovery requests. All such motions will be scheduled for hearing while the parties are present at the Status Conference. All such discovery demands or motions shall be complied with or objected to, in writing, within 10 days of receipt. Any motions to compel discovery shall be filed within 10 days of receipt of an objection or other event of noncompliance or such objection or noncompliance shall be deemed waived.

If no pre-trial motions are filed, the matter will be set for final pre-trial conference and trial. The court will advise the parties of the priority of their trial on the trial date. No attorney shall be scheduled for more than two trials on any one day without such attorney's consent.

- E. Motion Hearing. Motion hearings will be conducted as necessary to determine pre-trial motions.
- F. Final Pre-Trial Conference. A Final Pre-trial Conference shall be scheduled approximately two weeks prior to trial. The purpose of the Final Pre-trial Conference is to inform the court of special issues for trial such as:
- Motions in Limine
  - Stipulations
  - Special requirements for trial
  - Other similar matters
- G. Plea Deadline and Plea Hearing. The deadline for defendants to notify the court of their intent to enter a plea is the Final Pre-Trial Conference.

Following such date, the case can be resolved only as follows:

1. The defendant entering a plea of guilty/no contest to all counts in each complaint set for trial;
2. The prosecutor dismissing all counts in each complaint set for trial; or
3. Trial on all counts in each complaint set for trial.

The court shall have the discretionary authority to assess jury costs under sec. 814.51 of the Wisconsin Statutes for abuse of the plea process.

In all cases in which an attorney represents a defendant, the defendant must complete and sign a plea and waiver of rights form and notice of appeal rights form prior to the plea hearing being called.

- H. Motions in Limine. All Motions in Limine (such as motions seeking to admit or exclude evidence at trial) must be filed at or before the Final Pre-trial Conference so that they can be scheduled prior to Trial.
- I. Day of Trial. Counsel (or pro se defendants where appropriate) shall appear at 8:30 a.m. to review trial issues such as requested instructions and verdict form. Jury selection will commence at 9:00 a.m.
- J. Sentencing. Where practical, the court will endeavor to impose sentence immediately upon an adjudication of guilt, unless there appears good cause for adjournment. The District Attorney and Defense Counsel/Defendant shall be prepared to present the following information to the court prior to sentencing:
- Any sentence credit for time served.
  - The amount of costs (other than statutory costs) to be imposed with any fine.
  - The amount of restitution and to whom it is to be paid.
  - The distribution of any cash bail bond paid by the defendant or on the defendant's behalf.

### **507 Felony Case Procedures**

Felony cases shall proceed under the following steps:

- A. Bail Hearing. At the Bail Hearing, the court shall set the monetary and non-monetary conditions of the defendant's bail.
- B. Initial Appearance.
1. The court shall advise the defendant of his right to a Preliminary Examination and the applicable time limits. If the time limits are waived, the court shall
    - set the matter for a pre-trial conference between the defense attorney/defendant and the District Attorney's office approximately two weeks after the initial appearance; and
    - The court shall set the matter for a Pre-Arrest Status Conference approximately four weeks after the initial appearance.
  2. If the defendant waives the Preliminary Examination, the case shall be set for a Pre-Arrest Status Conference.
  3. If the preliminary hearing or time limits are not waived, the court shall set the matter for a Preliminary Examination.
- C. Preliminary Examination. The purpose of the Preliminary Examination is to determine that there is probable cause to believe the defendant committed one or more felony offenses.
- D. Pre-Trial Conference. The purpose of the pre-trial conference is to provide an opportunity for the parties to engage in meaningful discussion in an attempt to resolve

the case. Defendants represented by counsel need not (but may) appear at the Pre-trial Conference.

- E. Pre-Arrest Status Conference. The purpose of the Pre-Arrest Status Conference is to determine whether the matter has been resolved, must be set for a motion hearing, or set for trial. *Pleas will only be heard at the Pre-arrest Status Conference as time permits*—if the parties reach a plea agreement at the Pre-Trial Conference, they should inform the Judicial Assistant so that the matter can be rescheduled for a Plea Hearing.
- F. Arrest. The purpose of the Arrest is to formally notify the defendant of the charges by means of the Information. Following Arrest, the court shall schedule the matter for a Post-Arrest Status Conference with the court’s Judicial Assistant. With consent of the parties, the Arrest shall be conducted in conjunction with the Pre-Arrest Status Conference. *Pleas will only be heard at the Arrest as time permits*—if the parties reach a plea agreement at the Arrest, they should inform the Judicial Assistant so that the matter can be rescheduled for a Plea Hearing.
- G. Post-Arrest Status Conference/Motion and Discovery Filing Deadline. The purpose of the Post-Arrest Status Conference is to determine whether the matter has been resolved, must be set for a motion hearing, or set for trial. *Pleas will only be heard at the Post-Arrest Status Conference as time permits*—if the parties have reached a plea agreement, they should inform the Judicial Assistant so that the matter can be rescheduled for a Plea Hearing.

The Post-Arrest Status Hearing date shall also serve as the deadline for the filing of all pre-trial motions (to suppress, to dismiss, etc.) and as the deadline for the filing of discovery requests. All such motions will be scheduled for hearing while the parties are present at the Status Hearing. All such discovery demands or motions shall be complied with or objected to, in writing, within 10 days of receipt. Any motions to compel discovery shall be filed within 10 days of receipt of an objection or other event of noncompliance or such objection or noncompliance shall be deemed waived.

If no pre-trial motions are filed, the matter will be set for final pre-trial conference and trial. The court will advise the parties of the priority of their trial on the trial date. No attorney shall be scheduled for more than two trials on any one day without such attorney’s consent.

- H. Motion Hearing. Motion hearings will be conducted as necessary to determine pre-trial motions.
- I. Final Pre-Trial Conference. A Final Pre-trial Conference shall be scheduled approximately two weeks prior to trial (where possible, corresponding with the plea deadline). The purpose of the Final Pre-trial Conference is to inform the court of special issues for trial such as:
  - Motions in Limine
  - Stipulations



- Special requirements for trial
  - Other similar matters
- J. Plea Deadline and Plea Hearing. The deadline for defendants to notify the court of their intent to enter a plea is the Final Pre-Trial Conference.

Following such date, the case can be resolved only as follows:

- a. The defendant entering a plea of guilty/no contest to all counts in each complaint/information set for trial;
- b. The prosecutor dismissing all counts in each complaint/information set for trial; or
- c. Trial on all counts in each complaint/information.

In all cases in which an attorney represents a defendant, a plea and waiver of rights form must be completed and signed by the defendant prior to the plea hearing being called.

The court shall have the discretionary authority to assess jury costs under sec. 814.51 of the Wisconsin Statutes for abuse of the plea process.

Motions in Limine. All Motions in Limine (such as motions seeking to admit or exclude evidence at trial) must be filed at or before the Final Pre-trial Conference so that they can be scheduled prior to Trial.

- K. Day of Trial. Counsel (or pro se defendants where appropriate) shall appear at 8:30 a.m. to review trial issues such as requested instructions and verdict form. Jury selection will commence at 9:00 a.m.
- L. Sentencing. The court finds that justice generally requires that the court receives and considers a Pre-Sentence Investigation (PSI) report prior to imposition of sentence. Where the parties stipulate that the court may proceed to sentencing without a PSI, the court in its discretion may (a) proceed to sentencing, (b) schedule sentencing for the next convenient date or (c) order a PSI notwithstanding the parties' stipulation. The District Attorney and Defense Counsel/Defendant shall be prepared to present the following information to the court prior to sentencing:
- Any sentence credit for time served.
  - The amount of costs (other than statutory costs) to be imposed with any fine.
  - The amount of restitution and to whom it is to be paid.
  - The distribution of any cash bail bond paid by the defendant or on the defendant's behalf.

### **508 Pre-sentence Reports**

**Preparation of Order:** In all cases in which the court orders a Pre-sentence investigation (PSI) the district attorney's office shall prepare an order for PSI for the court's signature. The order

shall specify the date of sentencing, the date by which the PSI shall be completed and any other matter pertaining to the PSI ordered by the court.

**Defendant represented by Counsel:** Presentence reports are confidential. Clients may only review them in the presence of counsel. Counsel must ensure that no one but the client reviews the PSI.

**Pro se Defendant:** Pro se defendants must review their presentence reports in the courthouse as directed by the sentencing judge.

**Availability:** The court will endeavor to make copies of presentence reports available ten business days in advance of the sentencing date only for these purposes and no other copies may be made. The original will be retained in a sealed envelope in the court file. All copies shall be turned into the court for destruction immediately after sentencing.

### **509 Persons in Custody**

**Escort by Security Officer:** Persons brought into the courtroom from the jail, or otherwise in custody, shall be escorted by a security officer at all times except as otherwise directed by the court for purposes of facilitating attorney-client conferences. At such time the security officer shall remain immediately adjacent to the conference room/area being utilized.

**Restraints:** Persons in restraints shall have their hand restraints removed upon entering the courtroom unless the security officer believes that hand restraints must remain for security reasons. Security reasons include, for example, violent nature of offense, risk of flight based on past record, etc. The decision of the security officer is subject to review by the court upon request of any party.

## **Part 6: Small Claims Practice**

(Effective: 12:01 am March 30, 2002)

### **600 Service of Summons**

In suits for money judgments, service of summons may be by personal service, substituted service or, if within Clark County, by mail sent by the Clark County Clerk of Courts.

In eviction actions, service of summons shall be by personal or substituted service.

In replevin actions, service of summons may be commenced by personal service, substituted service or, if within Clark County, by certified mail with restricted delivery.

### **601 Service by Publication**

Where personal, substituted, or mail service has failed, plaintiff may utilize service by publication to establish personal or in rem jurisdiction. Where personal or substituted service has failed in eviction actions, adjournment of the return date, posting, and mailing is the procedure.

### **602 Plaintiff's Appearance on Return Date**

The plaintiff shall appear on the return date for the purposes of (1) conferring with the defendant, should the defendant appear, about the possibility of settlement, (2) if settlement is not reached,

to schedule the matter for trial, or (3) should the defendant not appear, to complete the necessary paperwork to bring the case to finality.

In cases in which (1) the defendant does not appear, or (2) the parties have reached a settlement agreement, the plaintiff shall submit the paperwork necessary to bring the case to finality within 30 days of the return date. If the paperwork is not submitted as required the case shall be dismissed.

Failure of the plaintiff to appear may result in a dismissal of the action, at the discretion of the court commissioner/judge.

### **603 Defendant's Appearance on Return Date**

The defendant shall appear on the return date for the purposes of (1) conferring with the plaintiff, should the plaintiff appear, about the possibility of settlement, or (2) if settlement is not reached, to schedule the matter for trial. Failure of the defendant to appear may result in a default judgment being entered against the defendant, at the discretion of the court commissioner/judge.

If the defendant has appeared and the matter is not resolved the defendant shall, within 10 calendar days, file a written answer on forms provided by the Clerk of Courts Office. Upon filing the original answer in the Clerk of Courts Office, the defendant shall at the same time serve (by first-class mail or hand delivery) a copy upon the plaintiff. Failure to file the answer within such time shall be deemed a default and judgment may be entered in favor of the plaintiff, at the discretion of the court commissioner/judge.

### **604 Preparation for Return Date**

All parties shall be prepared to discuss the case on the return date, including but not limited to:

- Settlement
- Issues/nature of dispute
- Number of witnesses
- Time needed for trial

If an attorney appears on behalf of a party, the attorney shall have settlement authority and a working knowledge of the foregoing matters.

### **605 Trial/hearing Date**

At the trial/hearing date, the parties shall be prepared to proceed, including (but not limited to) the following:

- Exhibits (documents or other things) shall be available in court, and if in the form of documents, copies shall be brought for the commissioner/judge and the other party(s)
- Witnesses shall be available in court.

In cases in which the plaintiff or a counterclaimant has prevailed at hearing or trial, the successful party shall submit the paperwork necessary to bring the case to finality within 30 days of the hearing or trial date. If the paperwork is not submitted as required the case shall be dismissed.

### **606 Financial Disclosures/Supplemental Exams**

The moving party shall personally serve the defendant with any request for a bench warrant for the judgment debtor's failure to file a financial disclosure statement or for nonappearance at a supplemental examination.

## **Part 7: Victim & Witness Issues**

### **700 Recognition of the Interests of Victims & Witnesses**

The court concludes that in criminal matters the interests of victims should be recognized so that victims of crimes receive notice of case proceedings and have the option, should they wish to be involved, of meaningful participation. The court also concludes that in all matters the interests of witnesses should be recognized to avoid undue inconvenience and difficulty. At all times victims and witnesses shall be treated with proper respect and dignity.

### **701 Filing of Victim/Witness Compliance Statement**

At the beginning of each appearance in a matter subject to victim/witness notification and participation requirements, the District Attorney's office shall file with the Clerk of Court a Victim/Witness Compliance Statement

## **Part 8: Family Law Practice**

### **800 Rules of Civil Procedure**

**You are put on notice:** *The Circuit Court of Clark County will follow the Rules of Civil Procedure in divorce proceedings (Chapters 801 through 807, Wis. Stats.) and will follow Local Rules Part 3, and Rules 400, 402, 403, 405, 408, 410 and 411.*

### **801 Stipulated Divorce/Scheduling Date**

Upon filing of an action, the Clerk of Court shall issue an order for a stipulated divorce hearing/scheduling conference date six to eight months from date of filing the action (the "Notice Order"). The Notice Order shall include notification of the educational requirements under rule 813 for parties with children. The petitioner shall serve an authenticated copy of the Notice Order upon the respondent at the time of service of the summons and petition. Counsel and the parties shall appear in court in person on the date and time specified in the Notice Order.

If the parties have reached a stipulation as to all matters and are in compliance with these rules, the date specified in the Notice Order shall be utilized as the hearing date for a stipulated divorce and the matter brought to conclusion.

If the parties have not reached a stipulation as to all matters *or* are not in compliance with these rules, the date specified in the Notice Order shall be used as a scheduling conference.

### **802 Scheduling Procedure**

In all matters which proceed to a scheduling conference under the Notice Order, the scheduling procedure shall be as follows:

- A. If child custody/placement is not at issue, the case shall be set for a final contested hearing and a scheduling order shall be entered concerning such matters as amendment of pleadings, discovery, etc.
- B. If custody/placement is at issue, the case shall be set for a status/scheduling conference on a date that will allow sufficient time (generally 7 months) for receipt of a Guardian ad Litem report and home study under rule 803.

### **803 Guardians ad Litem/Home Study**

#### **803-A Original Proceeding** (Amended 12:01 am, March 1, 2006)

- A. If custody/placement are at issue, either party may request an order that both parties participate in Clark County's mediation program. If mediation is successful, the agreement shall be prepared in writing, and the mediator shall obtain the signature of the parties and provide the agreement to the Clerk of Court. The Clerk of Court shall forward the agreement to the attorneys for the parties, if any, and to the guardian ad litem, if any, who shall indicate their approval or disapproval of the agreement and then shall return it to the Clerk of Court within 15 days from the date of mailing by the Clerk of Court. If approved by all parties, attorneys and guardian ad litem (as applicable) the Clerk of Court shall submit the agreement to the Court for approval.
- B. The Court, after consultation with the Family Court Commissioner and President of the Clark County Bar Association, shall set the amount of the guardian ad litem initial deposit. Inquiries concerning the current amount of the fee shall be directed to the family court commissioner or to the Clark County Clerk of Courts.
- C. If custody/placement remains at issue following mediation, the parties shall each make an initial deposit towards the guardian ad litem fee. Each party shall pay 50% of the initial deposit to the Clerk of Court's Office within 30 days of the conclusion of mediation. Petitioner's attorney shall prepare an order appointing the guardian ad litem. Upon receipt of the initial deposit amount, the court shall appoint a guardian ad litem to represent the interests of the children. On or before the 1<sup>st</sup> of each month following the receipt of the initial deposit, each party shall deposit with the Clerk of Court an additional \$50 until the Guardian ad litem fees are paid in full. Any overpayment shall be returned to the parties. If both parties are indigent, the court may direct that the county of venue pay the compensation. See Sec. 767.045(6) Wis. Stats. The court may order a separate money judgment and/or authorize tax intercept for unpaid guardian ad litem fees
- D. The Guardian ad Litem shall submit a written report to the court and to the counsel for the parties (or the party, if unrepresented) within 75 days of the date when appointed.
- E. Within 15 days of receipt of the Guardian ad Litem's report pursuant to C, above, the parties shall notify the court, in writing, of whether they agree or disagree with the Guardian ad Litem's recommendations. Failure to so notify the court shall be deemed an acceptance of the recommendations in the report.
- F. If both parties agree with the Guardian as Litem's report the matter shall proceed to the status conference set under rule 802 B or, alternatively, if all issues are resolved, the parties may

contact the judicial assistant to request a stipulated hearing date.

- G. If neither party agrees with the Guardian ad Litem's report, each party shall deposit one-half of the Home Study fee with the Clerk of Court's within 40 days of receipt of the Guardian ad Litem's report.
- H. If one party agrees with the Guardian ad Litem's report, and the other party does not agree with the Guardian ad Litem's report, the party that disagrees with the report shall deposit the entire Home Study fee with the Clerk of Court within 40 days of receipt of the report. Failure to submit the fee within the specified time shall be deemed a waiver of the right to challenge the Guardian ad Litem's report.
- I. Upon receipt of the Home Study report, the matter shall proceed to the status/scheduling conference set under rule 802 B unless the parties reach a stipulation and request a date from the judicial assistant for hearing of a stipulated divorce.

**803-B Custody/Placement Modification Proceedings** (Amended 12:01 am, March 1, 2006)

- A. If modification of custody or placement is at issue, either party may request an order that both parties participate in Clark County's mediation program. If mediation is successful, the agreement shall be prepared in writing, and the mediator shall obtain the signature of the parties and provide the agreement to the Clerk of Court. The Clerk of Court shall forward the agreement to the attorneys for the parties, if any, and to the guardian ad litem, if any, who shall indicate their approval or disapproval of the agreement and then shall return it to the Clerk of Court within 15 days from the date of mailing by the Clerk of Court. If approved by all parties, attorneys and guardian ad litem (as applicable) the Clerk of Court shall submit the agreement to the Court for approval.
- B. The Court, after consultation with the Family Court Commissioner and President of the Clark County Bar Association, shall set the amount of the guardian ad litem initial deposit. Inquiries concerning the current amount of the fee shall be directed to the family court commissioner or to the Clark County Clerk of Courts.
- C. If custody/placement remains at issue following mediation, the party requesting modification of the then existing order shall make an initial deposit towards the guardian ad litem fee within 30 days of the conclusion of mediation, and shall submit an order appointing guardian ad litem. Upon receipt of the initial deposit amount, the court shall appoint a guardian ad litem to represent the interests of the children. On or before the 1<sup>st</sup> of each month following the receipt of the deposit, the party requesting modification of the then existing order shall deposit with the Clerk of Court an additional \$50 until the Guardian ad litem fees are paid in full. Any overpayment shall be returned to such party. If both parties are indigent, the court may direct that the county of venue pay the compensation. See Sec. 767.045(6) Wis. Stats. The court may order a separate money judgment and/or authorize tax intercept for unpaid guardian ad litem fees.

In addition, both parties shall submit a Parenting Plan to the court within 30 days of the conclusion of mediation.

- D. The Guardian ad Litem shall submit a written report to the court and to counsel for the parties (or the parties, if unrepresented) within 75 days of the date when appointed.
- E. Within 15 days of receipt of the Guardian ad Litem's report pursuant to C, above, the parties

shall notify the court, in writing, of whether they agree or disagree with the Guardian ad Litem's recommendations. Failure to so notify the court shall be deemed an acceptance of the recommendations in the report.

- F. If both parties agree with the Guardian as Litem's report the matter shall proceed to the status conference set under rule 802 B or, alternatively, if all issues are resolved, the parties may contact the judicial assistant to request a stipulated hearing date.
- G. If neither party agrees with the Guardian ad Litem's report, each party shall deposit one-half of the Home Study fee with the Clerk of Court's within 40 days of receipt of the Guardian ad Litem's report.
- H. If one party agrees with the Guardian ad Litem's report, and the other party does not agree with the Guardian ad Litem's report, the party that disagrees with the report shall deposit the entire Home Study fee with the Clerk of Court within 40 days of receipt of the report. Failure to submit the fee within the specified time shall be deemed a waiver of the right to challenge the Guardian ad Litem's report.
- I. Upon receipt of the Home Study report, the matter shall proceed to the status/scheduling conference set under rule 802 B unless the parties reach a stipulation on all issues and request a date for hearing of a stipulated divorce.

#### **803-C Home Study Fee Amount** (Effective 12:01 am, March 1, 2006)

The Court, after consultation with the Family Court Commissioner and President of the Clark County Bar Association, shall set the amount of the Home Study Fee. Inquiries concerning the current amount of the fee shall be directed to the family court commissioner or to the Clark County Clerk of Courts.

#### **803-D Guardian Ad Litem/Home Study Fee Allocation** (Effective 12:01 am, March 1, 2006)

Notwithstanding which party made the initial deposit and/or subsequent installment payments for the guardian ad litem fees or home study fees, the court may exercise its discretion to allocate such fees between the parties as appropriate both during the pendency of the case/proceeding and/or at the conclusion of the case/proceeding.

#### **804 Guardian ad Litem Fees**

The Guardian ad Litem appointed in an action affecting the family shall provide a monthly billing to the parties or their counsel. Unless appearance is waived, the guardian ad litem shall appear at the final hearing in divorce or paternity proceeding with a statement of fees. In a divorce action the court will consider the guardian ad litem fee a marital liability in the property division. In a paternity action, the court will allocate responsibility for payment of the fee in the judgment.

#### **805 Custody and/or Paternity Issues**

If custody or paternity is not raised in the pleadings or at the scheduling conference, the issue will not be tried unless a motion for good cause is brought before the court to amend the pleadings.

If, during a final divorce hearing, the court or family court commissioner is informed that the wife is pregnant, and there is a dispute as to paternity, or if both parties assert that the husband is

not the father of the unborn child(ren), a judgment of divorce may be granted. If a divorce is granted, the court or family court commissioner shall expressly reserve jurisdiction as to paternity, and appoint a guardian ad litem to represent the interests of the unborn child(ren) and take appropriate steps to establish paternity.

### **806. Questioning Minors in Custody Proceedings**

On certain occasions the court may deem it necessary to question minors in chambers. Counsel for all parties shall attend such examination unless waived on the record and the court accepts the waiver.

### **807 Court Mandated Discovery**

Each party shall file and serve the following items not less than two days prior to the pretrial conference:

1. In every case where property is contested, a completed FINAL DISCLOSURE OF ASSETS AND LIABILITIES AND PROPOSED PROPERTY DIVISION SCHEDULE.
2. In every case where child support is an issue, a completed STATEMENT OF POSITION AS TO CHILD SUPPORT.
2. In every case where child custody is an issue, a completed STATEMENT OF POSITION AS TO CHILD CUSTODY.
3. In every case where maintenance is an issue, a completed STATEMENT OF POSITION AS TO MAINTENANCE.
4. In every case in which taxes are a factor, a completed TAX ANALYSIS WORK SHEET.
5. In every case in which the parties have minor children, a completed STATEMENT OF COMPLIANCE, indicating the parties' compliance with rules 808 and 811.

### **808 Settlement Agreement Filing Deadline in all Stipulated Divorces**

In all matters set on the court's stipulated divorce calendar, the parties shall file with the court a fully executed marital settlement agreement at or before the time set for the hearing. . If the hearing is called and the matter is not ready, it will be moved to the foot of the court's calendar and be subject to possible adjournment.

### **809 Failure to Comply with Discovery and Pretrial Requirements**

Failure to file and serve the required discovery and pretrial documents will result in penalties, including:

1. Sanctions under Sec. 804.12(2)(a), Wis. Stats.
2. Sanctions under Sec. 802.10(7), Wis. Stats.
3. Removal of the case from the court calendar and adjournment until such time as compliance with all requirements is complete.



## **810 Notice to Child Support Agency**

### **810-A Notice by Clerk of Court**

The Judicial Assistant shall routinely send family court calendars to the Clark County Child Support Agency.

### **810-B Notice by Parties**

In all cases involving minor children, when any party is receiving any type of public assistance, has applied for public assistance, has received public assistance during the pendency of the action, or an arrearage exists in favor of the State of Wisconsin, the parties shall

(a) serve notice of the action, and/or

(b) serve notice of any request for change in legal custody, physical placement or child support

on the Clark County Child Support Agency at the commencement of the action or as soon as it is discovered that a party is receiving public assistance in accordance with Section 767.15, Wis. Stats. The parties shall provide the Clark County Child Support Agency with a copy of the financial disclosure statement, the final stipulation, if any, and the Findings of Fact, Conclusions of Law and Judgment of Divorce.

## **811 Educational Programs Concerning the Effects on a Child of Dissolution of a Marriage**

1. All parties to actions for divorce or legal separation with children shall complete an educational program, not to exceed four hours in length, concerning the effects on a child of marriage dissolution if there are minor children of the marriage.
2. Parties shall attend and complete the educational program within ninety days of the service of the Summons upon the respondent or within ninety days of filing in the case of a joint petition. The parties shall each provide proof of completion of the program to the Clerk of Court's Office.
3. The Family Court Commissioner or the Circuit Court may excuse a party from participating in the educational program upon written request and a showing of good cause.

## **Part 9: Reserved**

## **Part 10: Court in the Class/Traveling Court**

### **1000 Court in the Class/Traveling Court**

The court concludes that the people of Clark County have an interest in having a court system that is open and accessible to the public, available to the public for educational purposes, and is otherwise open to the needs of the public. To meet this interest, the court believes that a traveling court that visits other cities, villages, and towns within the county is appropriate.

### **1001 Traveling Court**

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 Clark County.

## **1002 Consultation**

Such travel shall only be done after such consultation with involved persons as the court, in the exercise of reasonable discretion, deems appropriate.

## **1003 Investigation of Site**

Such travel shall only be done after the court has made a determination, in the exercise of reasonable discretion, that the proposed location has adequate facilities for holding of a court session, consistent with section 753.24 of the Wisconsin Statutes.

# **Part 11: Guardian Ad Litem/Court Appointed Attorney Work**

## **1101 Educational and Eligibility Compliance**

On or before January 10 of each year, all persons desiring to maintain eligibility for guardian ad litem/court appointed attorney work in Clark County shall file the following with the Court's Judicial Assistant:

- A statement of intent to remain on the court's guardian ad litem list and/or appointed attorney list including: name, state bar number, address, telephone and facsimile numbers and e-mail address
- A statement of compliance with all applicable continuing legal education requirements

Failure to submit the required information will result in ineligibility for guardian ad litem and/or appointed attorney work.

## **1102 Billing Practices** (Amended 12:01 am, March 1, 2006)

All court appointed attorneys are retained on an hourly basis plus reasonable costs and expenses (other than mileage, as the county does not pay a mileage expense) unless otherwise specifically noted in the appointment order. Not less than monthly, the attorney shall submit a detailed statement to the court and to all interested parties 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 (no appointed attorney shall have minimum billing increments greater than one-tenth of an hour).
- A summary of the total amount of time spent on the matter for that month
- An itemized listing of costs and expensed incurred on the matter and date incurred
- Total amount currently due and past due

- A statement of payments received and/or credits applied during the month
- Trust balance, if any
- Amount owed by each party (for example in GAL family law appointments)