

PROCEDURE FOR ADOPTION OF COURT RULES

COURT RULE NO. 1

- 1.1 Court rules, prior to adoption, shall be presented at (2) two successive monthly meetings of the Fond du Lac County judges.
- 1.2 Proposed rules shall be posted for public review in the Courthouse by the Clerk and copies shall be forwarded to the President and Secretary of the Fond du Lac County Bar Association at least thirty days prior to formal adoption.
- 1.3 Notice of proposed rules as described in Sections 1.1 and I .2 shall constitute sufficient public notice.
- 1.4 Rules shall be adopted by written order of a majority of Fond du Lac County Circuit Judges, subject to approval of the Chief Judge.
- 1.5 Order adopting rules shall specify an effective date.
- 1.6 Court rules as adopted shall be filed with the Clerk, and the Clerk shall provide copies to the President and Secretary of the Fond du Lac County Bar Association and the Chief Judge.

TRAFFIC AND NON-TRAFFIC
FORFEITURE PRETRIALSCOURT RULE NO. 2

- 2.1 The judges of the Fond du Lac County Circuit Court find that prompt pre-trials of forfeiture cases are necessary to reduce the contested caseload, reduce the number of mailed notices, and reduce the appearance of unnecessary witnesses, civilian and law enforcement.
- 2.2 Prosecuting attorneys of forfeiture cases for all the law enforcement agencies in Fond du Lac County are required to attend all returns dates for their respective agencies.
- 2.3 The prosecuting attorney shall, immediately after the entry of a not guilty plea, confer with the defendant and attempt to resolve the contested case.
- 2.4 The prosecuting attorney shall on the same day of the pre-trial file a written pre-trial disposition report for each case settled by pretrial, signed by both the prosecuting attorney and the individual defendant.
- 2.5 This pre-trial requirement shall only apply when the defendant appears personally on the return date to enter the plea; it does not apply to not guilty pleas made by mail or otherwise in advance of the return date. The clerk shall schedule a pre-trial date for

cases having not guilty pleas made in advance of the return date.

2.6 Failure of a defendant to appear at a pre-trial scheduled by a mailed "notice and order to appear," may result in default judgment and/or permit the prosecutor to cancel witnesses for the trial date and move for default judgment upon non-appearance on the trial date.

Family Court matters shall include all actions defined in Chapter 767 and Chapter 769, Section 813.12 and Section 813.125 of the Wisconsin Statutes. This Court Rule is not meant to replace or supersede Wisconsin Statutes, but are additional requirements for local practice.

3.1 SERVICE

- (a) Upon service of a Summons and Petition, each party will receive a Preliminary Scheduling Order requiring the parties to exchange specific information within 90 days of filing. Failure to comply with the Preliminary Scheduling Order may result in the imposition of sanctions by the Court or delay in scheduling such matters for contested hearings or trial.
- (b) All pleadings shall contain the following for both parties: a current or last known address, an email address, and a telephone number.
- (c) In addition, any pleading for hearings scheduled via Zoom (or other virtual program authorized by the Chief Judge), shall contain the meeting invitation and connection instructions, and shall be served upon the other party as part of the pleadings.
- (d) Pursuant to Wis. Stat. 767.15, when any party or one or more of his or her children is presently receiving, has received, or has applied for public assistance i.e., W-2, Wisconsin Works, Medical Assistance, Badger Care, Food Stamps, Child Care Assistance, Kinship Care or Foster Care, applied for services through the Child Support Agency, or an arrearage is owed to the State of Wisconsin, the moving party or the party receiving public assistance shall provide notice to Fond du Lac County Child Support Agency of the filing of any pleading and of any hearing scheduled on the pleading. Notice of all Family Court hearings shall be given to the Fond du Lac County Child Support Agency. Notice shall be provided to the Fond du Lac County Child Support Agency five days (eight days if by regular mail) prior to any scheduled hearing, and if no hearing is set, within twenty (20) days of service on the other party. Failure to provide timely notice to the Child Support Agency is grounds for adjournment of the hearing or reconsideration of the resulting orders.
- (e) If the pleading is an Order containing a provision for child support or maintenance, in addition to the requirements of paragraph (c) above, the Order shall contain the following: name, address, email address and/or phone numbers of the employers of the parties, name and birth date of any minor children, and the language required by Wis. Stat. §§767.225, 767.51 1, 767.513, 767.54, 767.57, 767.58, 767.75.

- (f) All Orders or Stipulations containing a provision for child support that deviates from the statutory guidelines must comply with the requirements of Wis. Stat. § 767.51 1(ln). Any Stipulation or Order that does not contain the required language will not be approved or filed by the Court.

- (g) Where either party is receiving, has received during the pendency of the action, or has applied for public assistance, any Stipulation and the Marital Settlement Agreement shall be submitted to the Fond du Lac County Child Support Agency for approval as to form, after signature of all parties, including any guardian ad litem, and before submission to the Family Court Commissioner for approval.
- (h) Verification of service on the other party, including the Child Support Agency shall be filed 24 hours before any scheduled hearing or the matter may be dismissed.

3.2 PROCEEDINGS BEFORE THE COURT COMMISSIONER

- (a) Confer and Consult. In all actions before the court, the attorneys shall attempt to confer and consult with the opposing party or counsel a minimum of 24 hours prior to the scheduled hearing to attempt to resolve the matter or narrow the issues for review. Lawyers shall make all reasonable efforts to reach an agreement on preliminary and procedural matters. Lawyers should not expect to use court hearing time to discuss issues and should be prepared to start all hearings on time. If at a hearing, it is clear that attorneys have not attempted to confer and consult at least 24 hours prior to the scheduled hearing, the court may adjourn the hearing until this requirement is satisfied.
- (b) Discovery. Hearings before the Court Commissioner shall not be used for discovery purposes. The Court Commissioner may curtail discovery which is not relevant to the pending hearing and may modify a Motion or an Order to Show Cause which would require parties to bring materials to a hearing which would be more appropriately obtained through discovery procedures. Unless ordered otherwise by the assigned Judge, a determination of whether a motion to compel discovery will be heard by the Judge or Commissioner shall be based on which court official is likely to hear the underlying dispute.
- (c) Continuance Requests and Scheduling. Unilateral phone calls or letters to continue a hearing without consideration of the rights or inconvenience of other parties, attorneys, and court personnel, will not be considered. Unless for extraordinary circumstances, requests for continuances will only be granted upon agreement of the moving party, unless just cause for an emergency can be shown. A party or attorney requesting that any hearing or trial be set over to a later date shall make diligent efforts to ascertain the position of all other unrepresented parties and attorneys, including the attorney for the state, prior to contacting the Court. Requests for rescheduling shall be made in writing only. Requests for rescheduling shall contain the reason for the request as well as the position on the request of all other parties and attorneys or a statement that, despite the described efforts to contact the others, the requestor has been unable to ascertain their positions on the request. Requests for continuance shall be made not less than five (5) working days before a scheduled hearing, unless otherwise agreed by the parties. Unless the Court notifies the

parties and attorneys that the request or stipulation for continuance has been granted, parties must appear at the originally scheduled time.

- (d) Appearances. Except as noted below and subject to the requirements ¶3.3, below, hearings before the Court Commissioner will be held via Zoom (or other virtual program authorized by the Chief Judge), unless otherwise directed at the discretion of the Commissioner. A moving party requesting an in-person or a telephone appearance shall make that request at the time of scheduling the hearing. A responding party objecting to appearance by virtual means shall inform the Court no later than seven (7) days prior to the hearing. A completed Financial Disclosure Statement, proposed Parenting Plan and any documentary evidence to be relied upon at the hearing, must be filed a minimum of two (2) working days prior to all scheduled hearings.
- (e) Offers of Proof. At hearings before the Court Commissioner, the parties or counsel shall present supporting evidence via offers of proof unless otherwise requested by a party or counsel no later than seven (7) days prior to the hearing, and if sufficient time has been scheduled on the Court's calendar. If the Commissioner elects to require testimonial evidence in lieu of offers of proof, the matter may be adjourned to another date that is better able to allow for additional time for live testimony versus offers of proof. Evidentiary hearings requiring sworn testimony will be held in-person, unless otherwise directed.
- (f) Audio / Visual Recording. Other than the official Court Reporter or other Court authorized recording device, the privilege to photograph, televise, or record in any manner, may only be exercised upon prior permission of the Court. No other person shall be permitted to use visual or audio recording equipment, including but not limited to Zoom or other computer apps or devices, during a Court hearing.

3.3 VIRTUAL PROCEEDINGS (BY TELEPHONE/ VIDEO CONFERENCING)

- (a) Virtual Proceedings are court proceedings and the official record is created by the court reporter or any digital recording made at the direction of the court official. Nobody shall record or otherwise rebroadcast virtual proceedings without the permission of the Judge or Court Commissioner presiding over the proceeding.
- (b) Participants engaging in any type of virtual proceeding shall be compliant with the Rules of Decorum, including Fond du Lac County Local Rule 10, and shall conduct themselves as if physically present in the courtroom including, but not limited to, no drinking, smoking, or eating.

- (c) Participants shall insure that they have a strong internet connection and should test the connection ahead of the scheduled Court hearing. Participants should practice joining virtual proceedings prior to the hearing in order to familiarize themselves with the virtual platform.
- (d) Virtual Proceedings are "in court-on the record" proceedings and participants are subject to sanctions for contempt of court.
- (e) Participants shall be appropriately attired for the courtroom when video conferencing. Participant's background display shall be neutral, avoiding clutter and distraction, and incourt appropriate when videoconferencing. Participants shall display their surname electronically when video conferencing, and shall not include nicknames, phrases or comments.
- (f) Sufficient lighting should be used so that the speaker is readily observable when video conferencing. The camera should be at eye level and participant's head and shoulders should be visible at all times when video conferencing. Participants must secure the areas of their remote location to eliminate all distractions and background noise.
- (g) If the Court is conducting proceedings by video conferencing, participants shall appear by video (not telephonically) if the technology is available. If appearing telephonically, participants shall wait until prompted by the Court Commissioner to speak and will verbally identify themselves prior to speaking so as to alert all observers and the court reporter as to who is speaking.
- (h) Virtual hearings require additional pre-hearing preparation. Any documents or exhibits to be introduced during a hearing must be filed a minimum of two (2) working days in advance of the hearing. The party seeking the document or exhibit's admission is required to provide a copy of the document or exhibit to the opposing party prior to the proceeding. If an opposing party is not registered as an electronic filer, the party seeking to submit documents or exhibits must provide verification that they have provided copies to the opposing party in sufficient time in advance of the hearing to allow the opposing party to review the documents or exhibits prior to the hearing.

3.4 PRE-TRIALS / PARENTING PLAN

- (a) Each parent is responsible for completing a proposed parenting plan on their own behalf and seeing that the original is filed with the Court and that both attorneys, the other parent if not represented by an attorney, and the guardian ad litem if appointed, receive a copy, in advance of any scheduled pre-trial hearing. The proposed parenting plan must be filed a minimum of two (2) working days in advance of any pre-trial. This deadline is in addition

to any other requirements for the filing of a proposed parenting plan, including for mediation or for the GAL.

- (b) Other minimum documentation to be presented at any pre-trial hearing will consist of all documentation required pursuant to the Preliminary Scheduling Order, including a Proposed Marital Settlement Agreement and a completed Financial Disclosure Statement with current income verification attached. All required documents must be filed a minimum, of two (2) working days in advance of any pre-trial.
- (c) Unless notice is given or good cause is shown, actions in which the petitioner or joint petitioner(s) fail to appear at a pretrial or scheduling conference will be dismissed for failure to prosecute the action.

3.5 DEFAULT FINAL HEARINGS

- (a) In order to obtain a default or stipulated final hearing in a divorce case, the petitioner(s) shall submit to the Court Commissioner's Office a signed Marital Settlement Agreement, reviewed and/or approved by the Child Support Agency, if applicable. In addition, both parties must submit a fully completed Final Financial Disclosure Statement with current income verification and most recent tax returns attached.
- (b) The moving party shall, prior to scheduling a default or stipulated final hearing, provide the Clerk with a completed DHSS Divorce Certificate Divorce/Annulment Worksheet, Certificate of Mailing, Final Financial Disclosure Statement and Findings of Fact, Conclusions of Law and Judgment of Divorce.

3.6 CONTESTED FINAL HEARINGS

Minimum documentation to be presented at trial by the moving party as exhibits will consist of all documentation required pursuant to the Preliminary Scheduling Order.

3.7 FINANCIAL STATEMENTS EXHIBITS DOCUMENTARY EVIDENCE

- (a) A financial disclosure statement and verification of income for three (3) months prior to the hearing date must be filed by both parties a minimum of two (2) working days in advance of any hearing concerning child support, maintenance, property division, or any other financial matter, including but not limited to temporary order hearings, contempt hearings, final divorce hearings and hearings on motion to modify financial matters. A

copy must be provided to the other party. Failure of either party to timely file a complete Financial

Disclosure Statement as required shall authorize the Family Court Commissioner or Circuit Court Judge to accept the statement of the other party as accurate and complete. Failure to timely file a Financial Disclosure Statement in advance of any hearing may result in the matter being dismissed, denied or adjourned to a later date.

- (b) Any exhibits or documents a party wishes the Court to consider must be filed a minimum of two (2) working days in advance of any hearing. Failure of either party to timely file documentary evidence in advance of any hearing may result in the matter being dismissed, denied or adjourned to a later date. The party seeking the document or exhibit's admission is required to provide a copy of the document or exhibit to the opposing party prior to the proceeding. If an opposing party is not registered as an electronic filer, the party seeking to submit documents or exhibits must provide verification that they have provided copies to the opposing party in sufficient time in advance of the hearing to allow the opposing party to review the documents or exhibits prior to the hearing.

3.8 ORDERS AND FIVE (5) DAY RULE

- (a) An order rendered by the Family Court Commissioner shall be reduced to writing by the moving party unless otherwise directed by the Family Court Commissioner.
- (b) All Orders for child support shall indicate how child support was calculated, and if the child support order contains a deviation from the percentage standards, the amount of deviation and the reason for the deviation pursuant to Wis. Stat. § 767.51 1(ln). If an Order fails to state a deviation and a reason for a deviation, child support shall be considered to have been calculated using the percentage standard.
- (c) In lieu of obtaining an opposing party's signature approving as to form any order, when the Court renders an oral ruling which must be reduced to writing, the party drafting such order or judgment may submit the proposed order or judgment to all parties prior to submitting such order or judgment to the Court for its approval. The submission shall clearly reflect that the proposed order or judgment is being submitted under the five (5) day rule. An objection by any party to the form of the proposed order or judgment must be received by the Court within five (5) days of the receipt of the draft. Five (5) days shall not include weekends and holidays and shall be computed pursuant to Wis. Stat. 801.15(1). If a party is not registered as an electronic party, the submission must include verification that the Order was sent to the opposing party and the Court will hold the Order for a minimum of an additional three (3) days to allow for mail service. Upon expiration of the five (5) day period, the Court may sign the order or judgment as submitted, modify the order or judgment if the Court deems it appropriate, or schedule the matter for further proceedings.

If the parties are unable to resolve disputes as to proposed orders, the parties shall obtain a transcript of any hearing on the record, splitting the cost of preparation of the transcript equally.

3.9 INCOME WITHHOLDING ORDER

Any order, either stipulated to or contested, establishing or modifying child support, family support or maintenance must be accompanied by an Order for Income Withholding or an Order Terminating/Suspending Income Withholding if the payer is employed. Said Order shall be prepared by the moving party unless otherwise prepared by the Child Support Agency.

3.10 ARREARAGES

- (a) Unless otherwise provided by the Court, all child support, family support or maintenance arrearages for temporary maintenance and support incurred as a result of prior orders and before the granting of a Judgment of Divorce/Separation shall be carried forward as an arrearage in the Judgment of Divorce/Separation. Except as otherwise ordered, dismissal of a divorce/separation action upon stipulation of the parties or for failure to prosecute will result in expungement of all arrears except those owed to the state.
- (b) Unless the parties agree otherwise, or if it is shown by credible evidence that the records of the Wisconsin Support Collection Trust Fund are not accurate, the amount of any arrearage shall be as shown by the account history provided by the records of the Wisconsin Support Collection Trust Fund.

3.11 DE NOVO HEARINGS

- (a) The party requesting the de novo review must notify in writing all interested parties not registered for electronic filing of the time and date for the hearing.
- (b) An order based on the decision of the Family Court Commissioner must be on file prior to the de novo hearing.
- (c) Should a party request a hearing de novo, the Court will not proceed with any enforcement actions requested by that same party before the hearing de novo. The Family Court Commissioner will not hear any motions to modify an order or temporary order if the matter is pending a de novo hearing. The order in existence will remain in effect until the Circuit Court renders its decision.

- (d) The Circuit Court's subsequent de novo hearing order shall apply retroactively to the effective date of the Family Court Commissioner's order unless otherwise provided by the Circuit Court.

3.12 DISMISSAL FOR INACTION

Unless notice is given or good cause is shown, actions in which no one appears at a scheduled pretrial, return date, telephone scheduling conference, motion hearing, or default trial will be dismissed for failure to prosecute the action.

3.13 EX PARTE ORDERS

- (a) All requests for ex parte orders, whether prejudgment or post-judgment shall be submitted to the Family Court Commissioner, or if the Family Court Commissioner is unavailable, to the assigned Circuit Court Judge.
- (b) Motions for ex parte orders must be accompanied by:
 - 1. One or more affidavits of parties or lay witnesses alleging facts of which the affiant has personal knowledge and which, if true, constitute an emergency or other urgent circumstance justifying the issuance of the proposed order; or:
 - 2. One or more affidavits of competent expert witnesses based on facts of record or alleged in proper affidavits, constituting an emergency or other urgent circumstance justifying the issuance of the proposed order.
- (c) All requests for an ex parte order shall contain a return date before the Family Court Commissioner within seven (7) days of filing and shall contain language which (a) extends the ex parte order only until the date and time of the hearing and (b) specifically permits modification or revision by the Family Court Commissioner or Circuit Court Judge.
- (d) If service is not obtained by the date of the hearing, a separate application for a new ex parte order must be obtained from the Family Court Commissioner or assigned Circuit Court Judge.
- (e) It is the responsibility of the person or attorney who has obtained the ex parte order to notify all counsel of record, including any guardian ad litem, and pro se parties of the ex parte order and the date and the time of hearing. The party obtaining an ex parte order shall provide copies of the pleadings and ex parte order to all counsel of record, including any guardian ad litem, and pro se parties at least 48 hours prior to the scheduled hearing.

3.14 GUARDIAN AD LITEM

- (a) A guardian ad litem may be appointed by stipulation or following a motion hearing, wherein appropriate statutory findings have been made and/or mediation has been attempted. A guardian ad litem appointed by stipulation of the parties shall only be appointed upon payment of the full guardian ad litem deposit as ordered by the Court. Parties are jointly and severally liable for payment of guardian ad litem fees. Guardian ad litem fees are considered expenses for the support or benefit of the minor child(ren).
- (b) Upon appointment of a guardian ad litem in any action affecting the family, each party to the action, unless otherwise ordered by the Court, shall make a prepayment toward the guardian ad litem fees in the amount ordered by the Court. Failure of either party to pay guardian ad litem fees during the pendency of any action may result in the imposition of sanctions by the Court, dismissal of the guardian ad litem appointment or delay in scheduling matters for contested hearings or trial.
- (c) The guardian ad litem may not commence work until the entire initial retainer deposit due from both parties is paid. Any fees incurred by the guardian ad litem prior to the initial retainer deposit being paid will not be collected by Fond du Lac County and will be the responsibility of the guardian ad litem to collect. Likewise, Fond du Lac County will not collect fees for less than 1 hour of billed guardian ad litem services.
- (d) If any party believes that he or she is indigent and entitled to a waiver or reduction of the prepayment toward the guardian ad litem fees, that party shall file a Petition for Waiver/Reduction of Custody Study and/or Guardian ad Litem Fee Deposit; Affidavit of Indigency and Order provided by the Office of the Family Court Commissioner. The Court may waive all or part of the advance fee, and may order the non-indigent party to pay the entire deposit.
- (e) Petitions for waiver or reduction of costs and fees shall be submitted for review by the Family Court Commissioner. The Family Court Commissioner may question the petitioner regarding income, employment and related information alleged and/or request supporting documentation. Payment or receipt of child support and/or maintenance, liquid assets, equity in real estate, and/or other substantial assets shall also be considered. The Family Court Commissioner may grant the waiver, deny the waiver but defer payment to a date certain, or deny the waiver and require payment as ordered. In the event of a waiver, at any time before or upon the conclusion of the case, the Family Court Commissioner may order either or both of the parties to pay the costs and fees in part or in full. Furthermore, reimbursement may be ordered when a party is no longer indigent.

- (f) Guardian ad litem fees shall be shared equally between the parties, unless otherwise allocated by the Court based upon stated findings, but the parties shall in any event be jointly and severally responsible for payment of deposits and for full payment of all guardian ad litem fees billed to Fond du Lac County. Upon conclusion of the matter, a judgment will be entered in favor of Fond du Lac County for reimbursement of fees paid. Fond du Lac County may collect this judgment by any legal means including income assignments, tax refund intercepts, garnishments, and executions against real estate owned now or in the future by either party. Any amounts unpaid under the order of the Court may be referred to the office of the Fond du Lac County Corporation Counsel for appropriate legal action and collection proceedings.
- (g) No final judgment shall be granted by the Court without a provision regarding payment of the guardian ad litem fees and costs, including a date certain for payment of remaining fees and costs. Any final stipulation submitted by the parties for approval of the Court shall contain a provision regarding payment of remaining guardian ad litem fees, including a date certain for payment of the remaining fees and costs.
- (h) The guardian ad litem shall submit monthly statements to the parties, their attorneys, and the Court, showing how much of the retainer remains. If the retainer has been exceeded, the Court may order additional payments by one or more of the parties. If payments are not made by a responsible party, the court may order the guardian ad litem to stop work until the payments are made. Payments shall be made to Fond du Lac County within 30 days of any order for payment of additional guardian ad litem retainer fees.
- (i) Upon conclusion of the matter, the guardian ad litem shall submit a final bill to Fond du Lac County within 30 days of dismissal. All deposits paid to Fond du Lac County will be applied to the guardian ad litem 's fees, regardless of which party made the deposit as a joint and several obligation of the parties for the support and benefit of the child(ren).

3.15 CUSTODY STUDIES

- (a) Upon completion of the guardian ad litem investigation and recommendation, the guardian ad litem, either party, or the Court may request that a custody study be ordered. The Family Court Commissioner may order a custody study to be coordinated through Family Court Services. The responsibilities for Family Court Services and the purpose and scope of the study are as set forth in Wis. Stat. 767.405(14). In addition, the custody study may include a psychological evaluation and/or opinions of other experts.
- (b) An attorney for any party, the guardian ad litem and any unrepresented party may obtain a copy of a custody study report prepared by Family Court Services in any case involving

said guardian ad litem, attorney for any party or unrepresented party. The original custody study report shall be filed with the Court and sealed within the Court file. Copies of the reports shall be released to an attorney for any party. Copies of the reports shall not be distributed directly to the parties, but an attorney may share the reports by allowing a client to read the report in the attorney's office or some other supervised designation. If a party does not have an attorney, the party may arrange to review the report under supervision of Family Court Services.

- (c) Said report shall not be reproduced in any fashion by any attorney, guardian ad litem or unrepresented party. Any attorney, guardian ad litem or unrepresented party shall be advised that the contents of such report shall not be disclosed to any other person or persons other than a party to the case wherein the custody study has occurred. All copies of the report shall be returned to Family Court Services or the Court upon completion of the case.
- (d) Custody study fees, including fees for psychological evaluations must be paid in full prior to commencement of the study unless otherwise ordered by the Court. Failure of either party to pay fees as ordered may result in the imposition of sanctions by the Court, dismissal of the guardian ad litem and/or custody study or delay in scheduling matters for contested hearings or trial. If either party should fail to pay any fee assessed by Family Court Services, Family Court Services shall notify the Family Court Commissioner in writing and the Family Court Commissioner in his/her discretion may deny a request for a copy of the custody study report until the requesting party pays outstanding fees.
- (e) Custody study fees shall be shared equally between the parties, unless otherwise allocated by the Court based upon stated findings, but the parties shall in any event be jointly and severally responsible for full payment of all custody study fees billed to Fond du Lac County, including Family Court Services fees, guardian ad litem fees, psychological evaluation fees, and other expert fees.
- (f) Upon conclusion of the matter, a judgment will be entered in favor of Fond du Lac County for reimbursement of fees paid. Fond du Lac County may collect this judgment by any legal means including income assignments, tax refund intercepts, garnishments, and executions against aHd real estate owned now or in the future by either party. Any amounts unpaid under the order of the Court may be referred to the office of the Fond du Lac County Corporation Counsel for appropriate legal action and collection proceedings.

3.16 SELF-REPRESENTED/PROSE PARTIES

A person acting on his or her own behalf as an attorney, is held to the same standards and duties as an attorney admitted to the practice of law in the State of Wisconsin and is expected to know what the law requires and how to accomplish his/her purpose(s) in accordance with the applicable statutes and Court rules. No Court employee will instruct or inform any person

proceeding on a pro se basis, how to proceed, what form to use, whether the information included in the form is sufficient, or what to do.

Revised 09/2022

- 4.1 The judges of the Fond du Lac County Circuit court find that the use of a Form CR-227 at criminal plea hearings adds valuable written evidence of the voluntariness of the plea and an understanding waiver by the defendant of his rights attendant to a jury trial.
- 4.2 Use of the form shall be in addition to, and not a substitute for, an on-the-record interchange between the court and the defendant to establish the waiver of those rights and voluntariness of the plea; the extent of that on-the-record interchange shall be determined on a case-by case basis at the discretion of the presiding judge, prosecuting attorney, and the defense counsel.
- 4.3 The defendant is required in all criminal cases, including criminal traffic, to complete a Form CR-227 and submit it to the presiding judge at the opening of the plea hearing. The defendant's attorney shall personally assist the defendant in completion of the form; If the defendant is without counsel, the District Attorney shall be responsible for the completion and filing of the form.

4.4 Form CR-227 shall be a filed document and part of the record on appeal.

STATE OF WISCONSIN

CIRCUIT COURT

FOND DU LAC COUNTY

SMALL CLAIMS
PROCEDURE

COURT RULE NO. 5

5.1 SERVICE OF SUMMONS:

Service of summons in all actions under Chapter 799, except evictions actions and replevin actions, is authorized by mail as indicated in s.799.12(3) in lieu of personal or substituted service under s.801.11. Service by mail to obtain a personal judgment shall be limited to the county where the action is commenced.

It is further authorized in small claims, that when a judgment has been obtained in Fond du Lac County the service of a summons and complaint in a garnishment proceedings by mail will be permitted for those defendants and garnishee defendants residing outside of Fond du Lac County.

NOTE: If a garnishee defendant does not file the required answer on or before the return date indicated on the summons, judgment will not be granted against the garnishee defendant until such time as the garnishee defendant is brought before the court on an Order to Show Cause. The Order to Show Cause is to be served personally on the garnishee defendant.

5.2 PLEADINGS:

- A. Except in Chapter 425 actions, all Small Claims summons and complaints shall be on the uniform printed form available from the Clerk of Court.
- B. The simple form of Small Claims Complaint cannot be used in Chapter 425 actions. Instead, the plaintiffs will have to draft their own pleadings. The form of Summons is set forth in Wis. Stats. 425.205(2), and the contents of the complaint required are set forth in 425.205(3). In Chapter 425 actions the plaintiff must incorporate the Notice of Right to Cure Default form as an exhibit to his complaint.

- c. In money judgment actions, where the plaintiff is represented by a collection agency, the plaintiff should insert in Paragraph 3 of the Complaint the following: Name, address, and telephone number of agent for the plaintiff that the defendant may contact to discuss the account.
- D. In eviction actions the plaintiff should file with the original Complaint the Notice Terminating Tenancy and Proof of Service of that Notice.
- E. ANSWER: All defendants who appear pro se on the return date will be provided with one copy of the Answer form, which they must fill out and file with the Clerk no later than the return date if they contest the claim. A copy of the Answer will be mailed by the Clerk's Office to the Plaintiff, or attorney for the plaintiff, along with the Notice of Trial when that document is eventually sent.
799.060)

F. VERIFICATIONS: Garnishment pleadings need not be verified. 812.04(3).

Verification of the Complaint in a principal action on contract for recovery of money is indirectly required by Wis. Stats. 799.22(3). That section requires, in default judgments, that either the Judge or Clerk may enter a default judgment in such action upon receipt of a verified complaint, affidavit of facts, sworn testimony, or other evidence. The practical solution, because of the large volume of default judgments in contract actions, is to require that the original Complaint be verified.

5.3 RETURN DATES:

- A. Effective June 30, 2014 all Small Claims cases shall be returnable on Mondays at 9:00 a.m. or 9:30 a.m.
- B. All Small Claims cases shall be returnable before, and called by, the presiding Intake Judge.
- c. Both plaintiff and the defendant must appear on the return date, either in person, by attorney, or other authorized agent. 799.22(1)&(2)
- D. If the defendant is a nonresident of the State of Wisconsin, the defendant may join issue in any Small Claims action without appearing on the return date by answering by mail, provided such answer is received by the Clerk of Circuit Court of Fond du Lac County no later than the return date.

- E. Unless the court's calendar requires an adjournment, eviction actions shall be tried on the return date.

5.4 MEDIATION:

- A. If a dispute exists on the return date, both parties shall be required to attend a mediation orientation meeting, go through the mediation process and execute the mediation service documents, as presented, before being scheduled for a trial.

This will follow the call of the court calendar for that return date. A representative of the Fond du Lac Conflict Resolution Center, Inc. will be present in court to show the parties where to go.

- B. Failure to go through the mediation orientation meeting and mediation session, failure to appear at any subsequently agreed upon mediation session, failure to execute mediation service documents, as presented, and a failure to mediate in good faith, may result in the entry of a default judgment or a dismissal, with costs, with or without prejudice, as appropriate.
- C. If the parties cannot reach an agreement after attempting mediation, a hearing on the merits shall be held before the court, when scheduled. Notice of the hearing will be mailed to the parties, informing them of the scheduled date.

6.1 The purpose of this rule is to codify the existing practice with respect to hearings before the Family Court Commissioner and to expand his authority where authorized by statute to relieve the burden placed on the judges by adoption of the Intake Court System effective August 1, 1986.

6.2 PATERNITIES:

As authorized by Wisconsin Stats. 767.458 and 767.46, the Family Court Commissioner shall preside over all first appearances and pretrials in paternity proceedings, and shall determine support and enter judgments if the alleged father voluntarily acknowledges

¹.3 DIVORCE FINAL HEARINGS:

The Family Court Commissioner, pursuant to Wisconsin Stats. 767.13(5)(a), may preside at any hearing held to determine whether a judgment of divorce shall be granted, if both parties state that the marriage is irretrievably broken and that all issues, including but not limited to division of property or estate, legal custody, physical placement, child support, spousal maintenance and family support, are resolved, or if one party does not participate in the action for divorce.

paternity of the child. If paternity remains contested after pretrial hearing and receipt of blood test reports, the Family Court Commissioner shall notify the judge actually assigned the case so it can be set for trial.

6.4 ENFORCEMENT OR REVISION OF JUDGMENTS:

The Family Court Commissioner may, as authorized by Wisconsin Stats. 767.13(5)(b), conduct hearings and enter judgments in all post-judgment actions for enforcement of or revision of judgment for maintenance, child support arising out of divorce, paternity, or URESA proceedings, custody, physical placement, or visitation.

6.5 DOMESTIC ABUSE AND HARASSMENT INJUNCTIONS (813.12 & 813.125): The Family Court Commissioner shall review all domestic abuse petitions under Wisconsin Stats. 813.12, all harassment petitions under Wisconsin Stats. 813.125, issue temporary restraining orders where appropriate, and preside at the final hearings for injunctive relief under 813.12(4) and 813.125(4).

FACSIMILE TRANSMISSION OF DOCUMENTS

COURT RULE NO. 7

TO THE COURT

7.1 Facsimile documents transmitted directly to the courts shall be accepted for filing only if:

- a. The circuit court has a facsimile machine capable of reproducing documents that meet Supreme Court Rule 72.01 concerning retention of filed documents. Only plainpaper facsimile machines currently comply with this requirement.
- b. The circuit court has a facsimile machine physically located within the offices of the clerk of circuit court or the register in probate.
- C. The circuit court has a telephone line designated for a fax transmission.
- d. The document does not exceed fifteen (15) pages in length, excluding cover sheet.
- e. No filing fee required.

7.2 Facsimile documents transmitted to a non-court agency, party or company for reception and ultimate transmittal to the court shall be accepted for filing only if:

- a. No filing fee is required.
- b. The transmission complies with the local rule or has been approved by the assigned judge or court commissioner and certified by the party or attorney.

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

7.4 The circuit court, judge or clerk is not responsible for

- a. Errors or failures in transmission that result in missing or illegible documents.
- b. Periods when a circuit court facsimile machine is not operational for any reason.

- 7.5 A judge assigned to a particular matter 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 ss. 801.16. The attorney filing said documents shall certify that he/she has received said authorization.
- 7.6 Documents that are not to be filed but are to be used by the court for reference or other purpose may be transmitted by facsimile transmission at the discretion of the judge or clerk.
- 7.7 Facsimile papers are considered filed upon receipt by the clerk of circuit court and are the official record of the court and may not be substituted. No additional copies may be sent. The clerk of circuit court shall discard any duplicate papers subsequently received by the clerk of circuit court, assigned judge, or court commissioner.

MORTGAGE FORECLOSURE PROCEDURE

COURT RULE NO. 8

Court Rule No. 8:

That in all foreclosure actions, the plaintiff shall attach to the Summons and Complaint served upon the defendant/homeowner the following printed forms that can be downloaded from the Fond du Lac County website or will be available at the Fond du Lac County Clerk of Courts Office:

- a) Notice of Availability of Mediation
- b) Application for Mediation

STATE OF WISCONSIN

CIRCUIT COURT

CONCEALED WEAPONS IN COURTROOMS

COURT RULE NO. 9

It is Ordered that no one other than a Fond du Lac County Judge, or on-duty sworn law enforcement personnel may go armed with a weapon in any courtroom, Commissioner hearing room or chambers area, in the Fond du Lac County Courthouse without prior written consent of the Circuit Court Judge or Circuit Court Commissioner then and there presiding.

It is Ordered that violations of this order are punishable by contempt sanctions which may include, without limitations, fines, imprisonment and/or confiscation of weapons.

COURT DECORUM

COURT RULE NO. 10

- 10.1 In the courtroom, beverages (except as provided by the court), food, and gum chewing are not allowed.
- 10.2 Hats are not permitted to be worn in the courtroom. Hats are defined as: "A hat is a head covering which is worn for various reasons, including protection against the elements, ceremonial reasons, safety outside the courtroom, or as a fashion accessory." A "hat" does not include a head covering worn for religious reasons or for the wearer's physical safety inside the courtroom. The court may inquire as to the purpose of a head covering in the courtroom.
- 10.3 No backpacks or large bags will be allowed on the Court floor (2nd).
- 10.4 Newspapers, books, magazines are not to be read during court proceedings or brought into the courtroom.
- 10.5 Feet are not to be placed on chairs, benches, or front railing.
- 10.6 Silence is to be maintained, and noisy or restless children should be immediately removed by their caregiver.
- 10.7 All cell phones or electronic devices should be in the off position when in the courtroom.

This will include Attorneys, unless Presiding Judge allows.

- 10.8 While waiting in the waiting area the noise level should be kept to a minimum. Talking is permitted as long as it is considered to be low level or whisper. This is to not disturb the employees in the Clerk's office and Courts.
- 10.9 The court deputy or bailiff will remove any parties who fail to comply with these rules.

MEDIA POLICY

COURT RULE NO. 11

- 11.1 These rules of conduct in this policy do not limit or restrict the power, authority or responsibility otherwise vested in the trial Judge to control the conduct of proceedings before the Judge. The authority of the trial Judge over the inclusion or exclusion of the press or the public at particular proceedings or during the testimony of particular witnesses is applicable to any person engaging in any activity authorized by this rule.
- 11.2 A notice of intent to bring cameras or recording equipment into a courtroom or other hearing chamber, pursuant to SCR 61.02(2), shall be made orally or in writing to the office of the judicial officer conducting the hearing or trial. This notice shall be at least three (3) days in advance of the hearing/trial. This requirement may be waived by the court if good cause for waiver is demonstrated. A notice by one media representative shall be sufficient for all subsequent hearings and trials in said case. Each media organization must provide an individual notice; one notice shall not suffice for all other media representatives.
- 11.3 One (1) television camera per media market, each operated by one (1) person, and still photographers as permitted by the Court, are authorized in any court proceeding. The trial Judge may authorize additional cameras or persons at the request of the media coordinator or may limit the number of cameras if circumstances permit the increase or require the limitation. One (1) audio system for radio broadcast purposes is authorized in any court proceeding. Audio pickup for all media purposes shall be made through any existing audio system in the court facility, if practical. If no suitable

audio system exists in the court facility, microphones and related wiring shall be as unobtrusive as possible.

- 11.4 Priority consideration shall be extended to one of the cameras to televise an entire proceeding from beginning to end.
- 11.5 Only audio or visual equipment which does not produce distracting light or sound may be used to cover a court proceeding. Artificial lighting devices shall not be used in connection with any audio or visual equipment. Only equipment approved by the trial Judge in advance of the court proceeding may be used during the proceeding.
- 11.6 The trial Judge shall designate the location in the courtroom for the camera equipment and operators. The trial Judge shall restrict camera equipment and operators to areas open to the public, but the camera equipment and operators shall not block the view of persons seated in the public area of the courtroom.
- 11.7 Camera operators shall occupy only the area authorized by the trial Judge and shall not move about the courtroom for picture taking purposes during the court proceeding. Equipment authorized by these rules shall not be moved during the proceeding.
- 11.8 Modifications in the lighting of a court facility may be made only with the approval of the trial Judge. Approval of other authorities may also be required.
- 11.9 The media coordinator shall be responsible for receiving requests to engage in the activities authorized by this rule in a particular court proceeding and shall make the necessary allocations of authorizations among those filing the requests. In the absence

of advance media agreement on disputed equipment or personnel issues, the trial Judge may exclude all audio or visual equipment from the proceeding.

11.10 A party moving that any judicial proceeding required by law to be public should be closed to the news media must notify the court and the Media Coordinator at least three

(3) days prior to the hearing/trial. This requirement may be waived by the court if good cause for waiver is demonstrated. The motion will be heard before the commencement of the hearing. The burden shall be upon the moving party to show why Wis. Stats. 757.14 (Sittings, public) should not apply.

11.11 No livestreaming of any court proceeding without the permission of the presiding Judge.

HALLWAY POLICY

COURT RULE NO. 12

- 12.1 The purpose of this rule is to establish order and to not disturb the Court while in session. This will also help keep the hallway free of heavy traffic should there be an emergency reason to evacuate the Court floor.
- 12.2 While the Court is in session, if not in the Courtroom, all people should remain away from the Courtroom doors and adjacent walls so as to not disturb the Court/Court Reporter. This means if people are not going into open Court to observe or for the actual hearing all such people should be in the designated waiting area.
- 12.3 No loitering of large groups is allowed in the hallway because it impedes hallway traffic and creates safety concerns.
- 12.4 On Juvenile Days, all parties should check in with the hall clerk to obtain a number and then be seated in the waiting area. If large crowds are present, the Jury assembly room shall be open to alleviate crowds from standing in the waiting area. The hall clerk will notify all parties as to their turn for Court.
- 12.5 After Court all parties should move away from the Court to talk or discuss what happened in the proceeding. Proceed to the waiting area or conference room. This applies to small claims court as well.

- 12.6 For those standing in the hallway, as directed by Court personnel, talking should be limited to low level voice or whisper so as to not disturb the Court/Court Reporter.
- 12.7 No loitering or standing by the Juvenile/Jury Clerks window unless one is conducting business with the clerk at or through the window.