

# Forest County Circuit Court Rules

*(Ninth Judicial District)*

- RULE 1: Rules of Decorum
- RULE 2: Facsimile Transmissions
- RULE 3: Foreclosure Mediation Program
- RULE 4: Jury Fees
- RULE 5: Small Claims – Service of Process
- RULE 6: Civil Procedures
- RULE 7: Criminal Procedures
- RULE 8: Family Court Procedures

The Forest County Local Circuit Court Rules are hereby amended and created, effective September 1, 2014. All prior Local Court Rules are vacated. If any of the following rules conflict with any Supreme Court Rule or statute, said Supreme Court Rule and statute shall control.

## **RULE 1: RULES OF DECORUM**

a) Attorneys shall at all times:

1. Be civil in their dealings with one another and with the public and conduct all court and court-related proceedings, whether written or oral, including discovery proceedings, with civility and respect for each of the participants. In particular, no one should ever crowd the jury box; lean upon the bench; use the first names of or otherwise exhibit familiarity with witnesses, jurors, opponents, or the Court; or appear to engage the Court or other participants in a manner which would lessen the dignity of the proceedings in the eyes of the public.
2. Abstain from uncivil, abusive, hostile, or obstructive conduct – including disparaging, demeaning, or sarcastic remarks or comments about another person.
3. While in court or while participating in legal proceedings, dress in a manner showing proper respect for the court, the proceedings, and the law. In particular, male attorneys should wear neckties; female attorneys should wear appropriate professional/business attire.
4. Advise clients, witnesses and others appearing in court with them that proper conduct and attire is expected within the courthouse and, where possible, prevent clients, witnesses, or others from creating disorder or disruption.
5. Be punctual for all scheduled proceedings.

6. Conduct themselves consistent with the standards and rules contained in Supreme Court Rules 20 and 62.
- b) All parties, attorneys and court observers shall have their cell phones turned off or silenced when the court is in session.
- c) No food or drink will be allowed in the court room unless authorized by the court.
- d) All parties, attorneys and court observers shall refrain from loud talking and discussions and shall conduct themselves in a manner that does not interrupt or interfere with any court proceedings while the court is in session.

## **RULE 2: FACSIMILE TRANSMISSIONS**

Facsimile Transmissions will be accepted for filing if they comply with the following provisions:

- a) Facsimile documents transmitted to the court shall be accepted for filing only at the following numbers:
  1. Documents filed with the Forest County Clerk of Court: (715) 478-3211
  2. Documents filed with the Forest County Register of Probate: (715) 478-2430
- b) The facsimile transmission must not exceed 15 pages without prior approval of the judge.
- c) Only documents that do not require a filing fee may be submitted by facsimile, and there shall be no additional charge for submitting such documents by facsimile.
- d) Papers filed by facsimile transmission after regular business hours of the Clerk of Court's office are considered filed the next business day.
- e) Facsimile papers are considered filed upon receipt by the Clerk of Court and are the official record of the Court and may not be substituted. The transmitting party shall send no additional copies of the facsimile transmission. The Clerk of Court shall discard any duplicate papers subsequently received. Parties who have transmitted documents by facsimile to the Court shall retain in their own files any "original" document that was used for the facsimile transmission. In the event the authenticity of the faxed document is challenged, the party who faxed the document to the Court shall have the burden to show authenticity.
- f) The party transmitting the facsimile document is solely responsible for insuring its timely and complete receipt. The Court and Clerk of Court are not responsible for errors or failures in transmission that result in missing or illegible documents or periods when the Court's facsimile machine is not operational for any reason.

- g) Any document required to be served on others which is faxed to the Court shall be faxed or served at the same time to all other parties.
- h) Documents that are not to be filed but are for the Judge's review or to be used by the Court for reference or other purposes may be transmitted by facsimile transmission to the Judicial Assistant at (715) 478-2430 and are subject to the same rules as set forth above.

### **RULE 3: FORECLOSURE MEDIATION PROGRAM**

Alternative Dispute Resolution:

- A. Unless otherwise directed by the Court, ADR will be used pursuant to section 802.12 Wis. Stats. (Alternative Dispute Resolution) in all areas where appropriate.
- B. In foreclosure actions, the Court shall require the plaintiff to inform the Defendant in writing, using the forms adopted by the Court, at the time of service, that ADR procedures (Sec. 802.12 Wis. Stats.) may be requested by either party. This rule shall apply only to homestead property that is owner occupied.

### **RULE 4: JURY FEES**

When a civil or criminal case scheduled for jury trial settles within two business days of the start of trial, the court shall impose actual costs in his/her discretion, in accordance with Wis. Stats. section 814.51

### **RULE 5: SMALL CLAIMS – SERVICE OF PROCESS**

- a. Service of the Summons and Complaint in small claims actions, except actions for eviction or replevin, may be by mail as provided in §799.12(3) Wis. Stats.
- b. Service by mail shall be limited to residents of the county where the action is commenced.
- c. Service in eviction actions shall be by personal service.
- d. Service in replevin actions may be by certified mail, return receipt requested, or by personal service.

### **RULE 6: GENERAL COURT PROCEDURES**

- a) Motions: Motions properly filed in all actions will be scheduled by the Judicial Assistant. The party filing the motion shall first obtain a date & time for the motion from the Judicial Assistant; confirm that date and time are available to opposing counsel or parties and then notice all of the necessary parties. Any motion that is filed and not properly notified by the party filing the motion within a reasonable time prior to trial will be deemed to have been forfeited or waived.

- b) **Appearing Telephonically:** Requests to appear in any non-evidentiary proceedings by telephone shall be made within a reasonable amount of time prior to the event. Anyone who receives permission to appear telephonically must notify all other parties and/or counsel of their intent to do so. Any party appearing by phone shall be responsible for calling the court at the scheduled time. In the event the hearing is delayed, the party must remain available and call the court as directed by the court staff. Oral testimony at evidentiary hearings will be governed by §807.13 Wis. Stats.
- c) **Continuances:** Continuances may be granted in the discretion of the judge. The court may grant a continuance upon its own motion or upon the request of the parties. A request for an adjournment shall be made by written motion or orally in court if all parties stipulate to the adjournment. Any request or stipulation for an adjournment will be granted only if good cause is shown and the court determines that justice will be served by the adjournment.
- d) **Five Day Rule:** Unless otherwise directed by the court, when submitting to the court any proposed order, findings, conclusions of law or judgment, a copy shall be submitted to opposing counsel, with the condition that if no written objection is made to the court within five business days of receipt, approval is presumed.
- e) **Forms and pleadings:** In all actions and proceedings in circuit court, the parties shall use the standard court forms adopted by the judicial conference under §758.18 Wis. Stats. A party may supplement a standard court form with additional material. Any additional material or attachments to the standard forms shall be 8 ½” by 11” in size. If the judicial conference has not created a standard court form for an action or pleading undertaken by a party, all documents and pleadings, together with any attachments, shall be 8 ½” by 11” in size and in a format consistent with any statutory or other court requirement. This provision does not apply to original wills filed with the Register of Probate.
- f) **Briefs and Memorandums:** A copy of any briefs or memorandums filed in court, together with supporting affidavits must be provided to the Judge at the time said documents are filed with the clerk of court.
- g) **De Novo Review:** Any request for a De Novo review of the Court Commissioner’s decisions must be in writing and filed with the Clerk of Court and mailed to the opposing party within 10 days of the Court Commissioner’s oral decision or within 15 days from the date of mailing of the Court Commissioner’s written decision.
- h) **Appointed Attorney in Civil Cases:** The Court may, but is not required to, appoint an attorney at public expense for an indigent litigant when it is determined that counsel is necessary to protect the litigant’s right to basic human needs, including sustenance, shelter, safety, health and child custody. In exercising the court’s inherent authority in this respect the court will consider all relevant factors including but not limited to the following: the resources available to the litigant, the nature of the interests involved in the cases, the complexity of the factual or legal issues, the capability of the litigant to adequately present the case and the potential financial impact on the County. If counsel is appointed, the court may require the litigant to reimburse the County for the cost of the appointed counsel.

A Petition for Appointment of Counsel must be filed with the court which addresses each of the above listed factors and is accompanied by a fully completed Circuit Court Form GF-152 or similar form that the court may make available in the future.

## **RULE 7: CRIMINAL PROCEDURES**

- a) **Court Appearances:** The defendant is required to be present at all proceedings identified in §971.04 Wis. Stats. A defendant will be excused from attending any proceeding provided he/she has authorized his/her attorney, in writing as provided in §971.04(2) Stats.
- b) **Initial Appearances:** Unless otherwise directed by the court, incarcerated defendants may appear by video conferencing for the initial appearance. If the defendant has authorized an attorney to appear and act in all matters for them as authorized in §971.04(2) Stats., the attorney may, with the permission of the court, appear by phone or enter a plea of not guilty by mail provided the defendant has signed a bond and is not objecting to the jurisdiction of the court.
- c) **Pre-trial:** The defendant and defense counsel must appear in person at the pre-trial. Within a reasonable time prior to the pre-trial, the District Attorney shall provide the defendant with all information required by §971.23 Wis. Stats. and a written plea offer, if any. The defense attorney shall discuss the plea offer with the defendant prior to the date of the pre-trial to allow the defendant to make an informed decision regarding the plea offer. If a plea agreement is reached, the court will proceed with the plea and sentencing at that time. If a plea agreement is not reached at the time of the pre-trial, defense counsel shall advise the defendant of the consequences of the rejection of the plea offer and the matter will be set for a jury trial at the next available date.
- d) **Plea & Sentencing:** Unless good cause is shown to the court, the defendant shall be sentenced immediately following the plea. At the Plea and Sentencing hearing, the State shall be prepared to provide the court with all relevant information necessary for the court to impose a proper sentence including but not limited to: the defendant's criminal history/record; the amount of restitution, if any; victim impact statements, if any; verification of any presentence incarceration to be credited. The defense counsel shall be prepared to provide the court with all relevant information for the court to impose a proper sentence including but not limited to: a completed Plea Questionnaire and Waiver of Rights form; an Element Sheet, Jury Instruction or other attachment setting for the elements for the offenses the defendant will be entering plea to; verification of the presentence incarceration to be credited.
- e) **Appointed Counsel:** Counsel appointed by the court for indigent defendants shall keep accurate and adequate time records to be able to properly submit an itemized statement to the court upon the termination of their services to the defendant. In the event the attorney is appearing in court or providing services for more than one client at the same time, the travel expenses and time must be properly allocated among all such clients. If a final itemized statement is not available at the sentencing hearing, the attorney should be prepared to estimate what his final

fee will be so that the defendant has an idea as to the amount of reimbursement he will be responsible for. A final, itemized statement for services rendered shall be submitted to the court within 30 days of the sentencing hearing. The final billing statement shall be provided to the defendant and must contain a notification that if the defendant objects to the bill, the defendant must file a written objection with the court within 10 days of mailing of the bill. The court must be provided with verification that the defendant was provided with a copy of the final billing statement.

## **RULE 8: FAMILY COURT PROCEDURES**

- a) Parties with children shall be referred to mediation immediately after the Petition for Divorce has been served. A \$100 fee shall be paid to the mediator by each party at the first mediation session. Mediation can be waived if the parties file with the court a stipulation resolving all issues regarding the custody and placement of the children.
- b) If mediation is unsuccessful in establishing a stipulation regarding the custody and placement of the children, a Guardian ad Litem shall be appointed by the Court to represent the children. The parties shall be ordered to pay \$500 each directly to the Guardian ad Litem within 10 days of the receipt of the Order Appointing Guardian ad Litem.
- c) If the parties are pro se, the case will be scheduled for a contested hearing after the 120 day waiting period has expired. If the parties advise the court that a marital settlement agreement which resolves all issues has been reached and signed by the parties, the case will be scheduled for a stipulated divorce hearing.