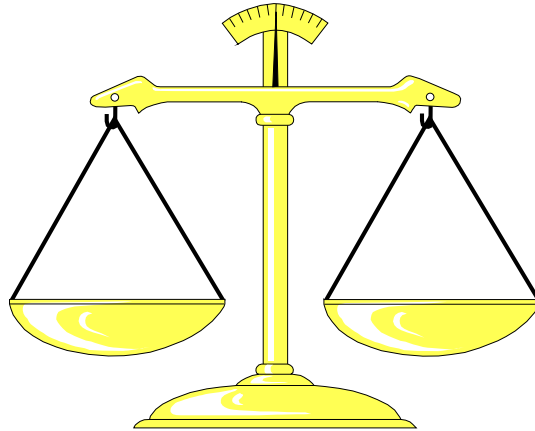


KEWAUNEE COUNTY



CIRCUIT COURT

RULES

H o n . D e n n i s J . M l e z i v a
C i r c u i t J u d g e

M a r c h 1, 2013

KEWAUNEE COUNTY CIRCUIT COURT RULES

Page No.

RULE 1: PUBLICATION AND REVISION OF CIRCUIT COURT RULES 1

RULE 2: GENERAL PROVISIONS 1

RULE 3: FACSIMILE TRANSMISSIONS 3

RULE 4: RULES OF DECORUM 4

RULE 5: THREATS TO THE JUDICIARY AND COURT EMPLOYEES 6

RULE 6: CASE PROCESSING TIMES 7

RULE 7: SCHEDULING/ADJOURNMENTS 8

RULE 8: LATE SETTLEMENT ASSESSMENTS 10

RULE 9: CIVIL 10

RULE 10: ALTERNATIVE DISPUTE RESOLUTION 13

RULE 11: SMALL CLAIMS 14

RULE 12: FAMILY LAW 14

RULE 14: CRIMINAL LAW AND TRAFFIC 18

RULE 15: ADOPTIONS 21

RULE 16: JUVENILE 21

RULE 17: PROBATE 21

RULE 1: PUBLICATION AND REVISION OF CIRCUIT COURT RULES

100 Effective date: December 1, 1998

101 Court rules, prior to adoption or revision, shall be presented at a regularly scheduled meeting of the Kewaunee County Bar Association after written notice by the Kewaunee County Circuit Judge. This requirement and Rule 102 may be suspended for good cause upon order of Kewaunee County Circuit Judge.

102 Effective date: March 1, 2013

Proposed rules shall be posted for public review in the Kewaunee County courthouse by the clerk of court and copies shall be forwarded to the president and secretary of the Kewaunee County Bar Association at least thirty (30) days prior to formal adoption.

103 Notice of proposed rules as described in Rule 101 and Rule 102 shall constitute sufficient public notice.

104 Rules shall be adopted by written order of the Kewaunee County Circuit Judge, subject to approval of the Chief Judge.

105 Orders adopting rules shall specify an effective date.

106 Effective date: March 1, 2013

Once adopted, court rules shall be filed with the Kewaunee County clerk of court, and the clerk of court shall provide copies to the president and secretary of the Kewaunee County Bar Association, the eighth judicial district court administrator, the State Bar of Wisconsin, the State Law Library, and the office of the Director of State Courts.

107 The clerk of court shall print and make available to the public at cost, all rules adopted or amended under this section.

RULE 2: GENERAL PROVISIONS

200 Effective date: December 1, 1998

201 Closure of Proceedings. Unless good cause has been shown to the judge, a party moving that any judicial proceedings required by law to be public be closed to the news media must notify the court and the media coordinator in writing at least seventy-two (72) hours prior to the time set to hear the motion. The purpose of this rule is to permit legal counsel to appear on behalf of the media and be heard. The burden shall be upon the moving party to show cause why the proceedings should not be public as required by state statute.

202 All papers, pleadings, motions, etc., shall be on substantial paper and contain the case number assigned in the caption. Where appropriate, only approved forms shall be used.

The clerk of court shall receive all filings of pleadings regardless of the assigned Judge. All pleadings should be addressed to the clerk of court for filing. The clerk of court may opt to forward copies of documents to the assigned judge if he/she is located outside the county. The clerk of court and the register in probate shall refuse to accept for filing any document not in compliance with this rule and the appropriate state statutes.

- 203 Parties are to include the State Bar Code and the appropriate case classification type and case code number on all pleadings filed with the court.
- 204 Borrowing of court files is regulated and the clerk of court or the register in probate shall take a receipt for all files or papers withdrawn from their respective offices. No court file or paper may be withdrawn for use outside of the courthouse except upon the order of a judge of the court who shall limit the period during which it may be withdrawn.
- 205 In all actions, except felony and misdemeanor proceedings, in which a party seeks waiver of costs and fees due to indigency, a "Petition for Waiver of Fees/Costs, Affidavit of Indigency and Order" must be completed. An appropriate form is available in the clerk of court's office. Under extraordinary circumstances the presiding judge may waive these requirements if the waiver of the requirements will permit justice to be served.
- 206 Except on stipulation of counsel, when counsel submits a document to the court for signature, a copy shall be simultaneously forwarded to all other counsel and/or unrepresented parties. Objections to the form or content of the document submitted shall be filed in writing with the court within five (5) business days of service or mailing. Failure to file written objections shall be deemed a waiver of objections. The document will be deemed signed unless objections have been filed. Notification of signing will be made upon a form or postcard to be included by submitting counsel. Conformed copies of documents will not be mailed by the clerk of court unless the requesting person has provided a self-addressed envelope with proper first class postage affixed.
- 207 There are hereby delegated to the judicial assistant, clerk of court, register in probate, the deputy clerks of court and deputy register in probate the following ministerial and clerical duties: calendaring traffic regulation/crimes, civil, criminal, probate, small claims, ordinance and family cases for hearings and/or trial, and administering oaths or affirmations to witnesses, jurors, interpreters, and bailiffs, and such other duties as designated by the court.
- 208 The nonrefundable jury fee is payable at or before the scheduling conference or at a time set in the Scheduling Order or within ten (10) days of initial appearances in forfeiture matters.
- 209 Counsel should use good judgment in subpoenaing witnesses to appear in court. Counsel should respect the time necessary in order to select a jury and not have witnesses waiting inordinately for their opportunity to testify.

- 210 Guardians ad litem shall not incur any expenses for experts, either as a witness or as a consultant, without prior approval of the judge.
- 211 All exhibits must be marked prior to any court hearing. Counsel/parties maintain the responsibility to coordinate this marking with the clerk and shall be prepared to provide a description of each exhibit to the clerk at the time of marking.

RULE 3: FACSIMILE TRANSMISSIONS

300 Effective date: December 1, 1998

301 Effective date: March 1, 2013

Wisconsin Statute sec. 801.16(2)(a) allows the adoption of a local rule that addresses the usage of facsimile documents in the court.

A. Facsimile documents transmitted directly to the clerk of court at 920-388-7049 and to the register in probate and juvenile court clerk at 920-388-0852 shall be accepted for filing only if:

1. The court has a facsimile machine capable of reproducing documents that meet Supreme Court Rule 72.01 concerning retention of filed documents. Only plain-paper facsimile machines currently comply with this requirement.
2. The court has a facsimile machine physically located within the offices of the clerk of court, or the register in probate and juvenile court clerk.
3. The document does not exceed fifteen (15) pages in length, excluding cover sheet.
4. No filing fee is required.
5. No additional fee or charge must be paid by the court for accepting or receiving the facsimile document.

B. 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.

302 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. No additional fee or charge must be paid by the court for accepting or receiving the facsimile document.
- c. They are plain paper documents.

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

- 304 The court or clerk is not responsible for:
- a. Errors or failures in transmission that result in missing or illegible documents.
 - b. Periods when a court facsimile machine is not operational for any reason.
- 305 Papers filed by facsimile transmission are considered filed when transmitted except that papers filed by facsimile transmission completed after regular business hours of the clerk of court's office are considered filed the next business day per §801.16(2)(c), Wis. Statutes.
- 306 A judge assigned to a particular matter may authorize, in advance, the filing of particular documents in a case that do not conform to these rules if good cause is shown and they are in conformance with §801.16, Wis. Stats.
- 307 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.

RULE 4: RULES OF DECORUM

- 400 Effective date: December 1, 1998
- 401 Court shall be formally opened each day in which court business is transacted either by the bailiff or the clerk of court.
- 402 As the judge enters the courtroom, the bailiff or clerk shall require all present to rise and stand. When the court is opened by proclamation and the judge has reached the bench the bailiff or the clerk shall say "Hear ye! Hear ye! Hear ye! The Circuit Court for the County of Kewaunee is now open. Silence is commanded." All shall be seated and the business of the court shall proceed.
- 403 In the recessing, the judge shall announce: "The court is now in recess," or the equivalent.
- 404 When the trial is to a jury, the jurors shall take their places in the jury box before the judge enters the room unless circumstances indicate otherwise.
- 405 The flag of the United States shall at all times while court is in session be displayed at, on, or in close proximity to the bench, or on standard to the right of the judge.
- 406 Judges, court commissioners, lawyers, clerks and court personnel shall at all times do all of the following:
1. Maintain a cordial and respectful demeanor and be guided by a fundamental sense of integrity and fair play in all their professional activities.

2. 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.
3. Abstain from making disparaging, demeaning or sarcastic remarks or comments about one another.
4. Abstain from any conduct that may be characterized as uncivil, abrasive, abusive, hostile or obstructive.
5. While in court or while participating in legal proceedings, dress in a manner showing proper respect for the court, the proceedings and the law. Judges shall wear black robes while presiding on the bench except when exceptional circumstances exist.
6. Advise clients, witnesses, jurors and others appearing in court that proper conduct and attire is expected within the courthouse and, where possible, prevent clients, witnesses or other from creating disorder or disruption.
7. In scheduling all hearings, meetings and conferences, be considerate of the time schedules of the participants and grant reasonable extensions of time when they will not adversely affect the court calendar or client's interests.
8. Conduct themselves in a manner which demonstrates sensitivity to the necessity of preserving decorum and the integrity of the judicial process.

407 Judges, court commissioners and lawyers shall be punctual in convening and appearing for all hearings, meetings and conferences and, if delayed, shall notify other participants, if possible.

408 Lawyers shall do all of the following:

1. Make all reasonable efforts to reach informal agreement on preliminary and procedural matters.
2. Attempt expeditiously to reconcile differences through negotiation, without needless expense and waste of time.
3. Abstain from pursuing or opposing discovery arbitrarily or for the purpose of harassment or undue delay.
4. If an adversary is entitled to assistance, information or documents, provide them to the adversary without unnecessary formalities.
5. Abstain from knowingly deceiving or misleading another lawyer or the court.
6. Clearly identify for the court and other counsel changes that he or she has made in documents submitted to him or her by counsel or by the court.
7. Act in good faith and honor promises and commitments to other lawyers and to the court.

409 Adherence to standards of professionalism and courtesy, good manners and dignity is the responsibility of each judge, court commissioner, lawyer, clerk, and other personnel of the court who assist the public.

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

- 411 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.
- 412 When a lawyer or party is addressing the jury, he or she shall not crowd the jury box.
- 413 During examination of jurors on voir dire, the lawyer or party conducting the examination shall, insofar as practical, use collective questions, avoid repetition and seek only material information.
- 414 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.
- 415 Witnesses shall be examined with courtesy and respect, and their good faith presumed until the contrary appears.
- 416 The swearing of witnesses shall be an impressive ceremony and not a mere formality.
- 417 During jury trials, objections to questions or evidence shall be made solely by stating: "objection" and the succinct legal ground therefore [i.e., relevancy, hearsay, etc.] without argument or elucidation. Responses from opposing counsel are to be made only upon a request to be heard and leave of the presiding judge.
- 418 In jury cases which are disposed of upon a motion for dismissal or directed verdict, the judge in dismissing the jury should briefly explain the procedure and why a verdict was unnecessary.

RULE 5: THREATS TO THE JUDICIARY AND COURT EMPLOYEES

- 500 Effective date: December 1, 1998
- 501 The Kewaunee County sheriff's department is the primary law enforcement agency to receive reports of threats and investigate such reports within their normal investigative procedures. The Kewaunee County sheriff's department shall identify a liaison officer for reporting purposes.
- 502 If a threat does not appear to impose imminent danger, the threat shall be reported to the Kewaunee County sheriff's department as outlined in the Kewaunee County Courthouse Alarm/Incident Procedure. If a threat appears to be immediate, the Kewaunee County sheriff's department shall be immediately notified and requested to provide an independent evaluation concerning the urgency of the threat and recommendation as to further procedures.

- 503 All threats, regardless of their degree, shall be reported in order to allow for an independent evaluation by the Kewaunee County sheriff's department.
- 504 In conjunction with the Kewaunee County sheriff's department, written procedures shall be developed which assist the threatened person in collecting and preserving the appropriate evidence needed by the Kewaunee County sheriff's department for investigative purposes.
- 505 In conjunction with this policy the Kewaunee County sheriff's department's Operational Guidelines for Courtroom Security will detail other security procedures to be followed.
- 506 Judge and court staff shall inform the chief judge via the district court administrator of any threat and the subsequent steps that have been taken pursuant to the guidelines by filing a copy of the incident report with the district court administrator along with the response taken. An appropriate form is available in the clerk of court's office.

RULE 6: CASE PROCESSING TIMES

600 Effective date: December 1, 1998

601 Effective date: March 1, 2013

The following case processing time guidelines are designed to provide a guide to the judiciary and bar. Unless otherwise indicated, the guidelines represent the time period from filing to final disposition. The objective of these guidelines is that 95% of cases be disposed of within these time frames.

<i>Case Type</i>	<i>Months</i>
<i>Felony - from initial appearance</i>	<i>12</i>
<i>Misdemeanor (from initial</i>	<i>6</i>
<i>Criminal Traffic - from initial</i>	<i>6</i>
<i>Contested TR/FO</i>	<i>6</i>
<i>Juvenile - Ordinance (Contested)</i>	<i>6</i>
<i>Personal Injury/Property Damage</i>	<i>18</i>
<i>Contract/Real Estate/Money</i>	<i>12</i>
<i>Divorce</i>	<i>12</i>
<i>Other Family</i>	<i>12</i>
<i>Paternity - Uncontested</i>	<i>6</i>
<i>Paternity - Contested</i>	<i>12</i>
<i>Contested Small Claims</i>	<i>6</i>
<i>Estates</i>	<i>12</i>
<i>Informal Proceedings</i>	<i>12</i>
<i>Trusts</i>	<i>12</i>
<i>Guardianships</i>	<i>3</i>
<i>Commitments</i>	<i>6</i>
<i>Adoptions</i>	<i>6</i>

<i>Other Probate</i>	12
<i>Delinquency</i>	3
<i>CHIPS</i>	3
<i>Other Juvenile</i>	6
<i>Termination of Parental Rights</i>	6

602 It will be the practice of the court to schedule every case for a next action or review date at every stage in the life of the case.

603 A Notice and Order of Dismissal shall be prepared, and if signed, mailed to litigants or their counsel for all case types specified below when there has been no apparent activity in the case for the period of time specified below. No Notice and Order of Dismissal shall be prepared if activities have been suspended due to the issuance of an arrest warrant; bench warrant; in traffic cases, an operator's license suspension order; or the filing of a Petition in Bankruptcy:

<i>Traffic/Ordinance [from Initial Appearance]</i>	4 months
<i>Personal Injury/Property Damage</i>	9 months
<i>Contract/Money Judgment/Other Civil</i>	6 months
<i>Divorce</i>	6 months
<i>Small Claims</i>	3 months
<i>Child Support</i>	6 months
<i>Paternity-Contested</i>	6 months
<i>Paternity-Uncontested</i>	3 months
<i>Probate</i>	12 months

604 Objections to dismissal shall be made in writing to the judge having jurisdiction of the action to be dismissed. The judge may deny the objections, vacate the order of dismissal or schedule a hearing.

605 In all probate matters, delay in disposition of an estate will result in the appointment of a new personal representative and/or attorney for the estate and not in the issuance of a Notice and Order of Dismissal.

606 Nothing in these rules shall restrict the inherent power of the judge of this court to make additional orders, rules or policy that would expedite the efficient and effective disposition of litigation.

RULE 7: SCHEDULING/ADJOURNMENTS

700 Effective date: December 1, 1998

701 Requests for adjournments must be in writing, addressed to the judge, served on all opposing parties and received by the judge not later than ten (10) days prior to the scheduled matter. In civil matters the parties shall join, in writing, in any request for adjournment. The time limits may be waived for good cause.

- 702 Ex parte requests for adjournments are to comply with SCR 20:3.5, "Code of Professional Conduct for Attorneys."
- 703 Adjournments are not a matter of right and will only be granted for good cause.
- 704 All adjournments shall be made to a date certain, and no adjournment shall be indefinite or day-to-day.
- 705 Unless otherwise directed by the court, the party receiving the adjournment shall be solely responsible for notifying opposing counsel and, where appropriate, all parties, witnesses, and interpreters that the hearing, trial, etc., has been adjourned.
- 706 If necessary, scheduling conflicts will be resolved in favor of the first scheduled hearing, unless, for good cause, the presiding judge rules otherwise.
- 707 Where applicable, the Rules of Civil and Criminal Procedure and specific local court rules will control all requests for adjournments.
- 708 All law enforcement requests for adjournments shall contain written approval of the prosecuting attorney and shall be served on opposing counsel or unrepresented parties at the time it is forwarded to the presiding judge.
- 709 Any change in a scheduling order, motion date or pre-trial shall be by motion of counsel or further order of the court. Individual correspondence will not be considered for changes requested. The matter will be heard by either: Motion filed and set for a specific date and time by the judicial assistant, clerk of court or register in probate and heard prior to the default of whatever item change is requested for; or by conference call arranged and paid for by party requesting changes with all attorneys and/or appropriate parties.
- 710 It is hoped that continuances will be avoided as much as possible, however, in the event one is requested for any matter, the following are required: An affidavit citing the reason for continuance specifically spelled out, in writing, signed by attorneys for all parties, and signed by clients of all attorneys.
- 711 Motions, defaults and ex parte matters will be heard as scheduled. The court will not refuse to hear motions, defaults or ex parte proceedings at other times if reasonable necessity exists.
- 712 Counsel are required to keep the court advised in writing of future engagements in the trial of jury cases so that day calendars may be prepared that will not result in conflicts with engagements in other courts. When so advised, the court, as a general rule, will refrain from placing a case on the day calendar that will result in such a conflict. Exceptions to such general rule may be made when the circumstances, in the court's judgment, warrant such action.

713 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 his or her calendar in court, a date will be set in accordance with the judge's calendar.

RULE 8: LATE SETTLEMENT ASSESSMENTS

800 Effective date: December 1, 1998

801 The court requests trial counsel to pursue settlement at the earliest possible time. When any attorney feels the court can be helpful, a request for a pretrial conference can be made. Recognizing the great inconvenience and expense that can be caused to parties, jurors, and witnesses, early settlements will be promoted by attorneys who are prepared to discuss all aspects of the case.

802 When a civil jury trial is settled within two (2) business days of the trial date, a jury fee for a twelve (12) person jury or for a six (6) person jury, as applicable, shall be assessed. The presiding judge may waive the late settlement assessment upon a showing of good cause.

RULE 9: CIVIL

900 Effective date: December 1, 1998

901 The following rules shall be in effect unless provided otherwise in the Scheduling Order.

902 All civil cases will be reviewed for service and answer within eighty (80) days after filing. If at that time it is found that a case has not reached issue, a dismissal order or default proceeding shall be initiated by the court.

903 On all cases set for scheduling conference, each counsel shall be prepared to supply the court with a written statement about the case, what motions, interpleaders and discovery are contemplated, whether independent medical is desired, what coverage questions are unresolved, if any exist, whether pleadings are final (subrogated or assigned claims), and what settlement demands and offers exist.

904 Unless personal appearance is specifically required or a motion is or will be filed and scheduled to be heard or is appropriate to be heard, the scheduling conference may be by telephone subject to the following: the person desiring the telephone conference will make all the arrangements, the person desiring the telephone conference will pay for the call, and the person desiring the telephone conference will give 48 hours advance notice to all the attorneys, unrepresented parties and the court. Attorneys shall have their calendars available so future dates can be set. Each attorney shall supply the court and counsel with a copy of a Scheduling Conference Statement in advance.

905 Unless provided otherwise in the Scheduling Order, a motion for summary judgment shall be filed with the clerk of court and a copy with the judge together with any brief or other

supporting documents. If movant does not desire to file a brief or other documents, a statement waiving his/her right to file such brief or other documents shall be filed. The respondent shall have twenty (20) days from the filing of the movant's brief within which to file a responsive brief and supporting documents, or waive in writing the right to do so. If the respondent fails to file a brief and supporting documents or waiver of the same within the twenty (20) day period, it shall be presumed that respondent has waived this right and the court shall accept no further supporting documents or briefs. A decision shall be based upon the record as timely filed.

- 906 When filing a motion, all motions (pre-trial and otherwise) must be scheduled by calling the judicial assistant who will provide a date and time for argument. Use standard motion practices with written motions and be certain to submit a brief statement of the motion and its purpose with supporting reasons and local authorities in every case. The brief may be in letter form. The brief shall be served and filed with the clerk of court; a copy shall be served and filed on all opposing counsel; and a copy shall be filed with the judge with the Notice of Motion at least days ten (10) days prior to any scheduled hearing date. Briefs in opposition to such motions must be filed no later than two (2) business days prior to the hearing of the motion. Briefs in opposition to such motions must be either personally served upon opposing counsel no later than two (2) business days prior to the hearing or if service is made by mail, no later than three (3) business days prior to the hearing. Briefs filed in an untimely fashion may be disregarded by the court.
- 907 Except as to mortgage foreclosures, notice to the defendant is not required prior to entry of a default judgment where personal service was obtained upon the defendant.
- 908 In cases where personal service is not obtained upon the defendant (i.e., substitute or published), Notice of Motion for Default Judgment shall be given to defendant by regular mail at defendant's last known address. The notice shall provide that in the event defendant does not request a hearing from the court, in writing, on plaintiff's motion within ten (10) days of the date of the notice, default judgment shall be entered.
- 909 Hearings on motions shall be heard by the court as soon as practicable. Upon the expiration of the time to request a hearing, plaintiff may apply to the court for default judgment, by an affidavit of the notice to defendant.
- 910 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 the judgment in any case.
- 911 Any judge may, in an individual case, require further notice or proof regarding service, damages or costs if appropriate.
- 912 No default mortgage foreclosure shall be granted except upon a hearing in open court by affidavit or testimony, due notice of which shall have been given to all defendants ten (10) days prior to the hearing.

- 913 In all pretrial conferences or if otherwise ordered by the court, 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. Full compliance with the scheduling order will be expected unless addressed to the court. Any motions in limine must be made in writing, with a written discussion thereof and legal authorities, at least thirty (30) days before the trial date, with a copy served on opposing counsel. At least ten (10) days prior to the pre-trial conference, counsel shall meet to discuss: settlement, stipulation of factual issues and special damages, trial time contemplated by each side, the number and names of witnesses, and all other matters affecting the trial. Each counsel shall make a written letter report to the court regarding the results of the conference seven (7) days before trial. Counsel are to provide any additional information as required by the scheduling order or pre-trial order.
- 914 The clerk of court and the deputy clerks of court shall not sign "Prerogative Writs."
- 915 All judgments discharged in bankruptcy shall be removed from the docket only upon a petition, accompanied by a certified copy of the Discharge in Bankruptcy, and an order signed by the judge or successor who granted the judgment.
- 916 All cases arising out of the same transaction or the same act or acts of negligence may, on motion of any party, or on order of the court on its own motion, be consolidated for the purpose of trial. Cases may be adjourned only once to effect consolidation of the cases ready for trial with cases expected to be ready shortly for trial.
- 917 The rules for consolidation and adjournment for consolidation shall not apply when it appears to the court that application would work manifest injustice to any party.
- 918 In the selection of a jury for the trial of an action, the court shall inform the voir dire panel as to the cause and nature of the action, and introduce the parties and counsel, to the end that they may be sufficiently informed to answer questions touching upon their qualifications to act as jurors. The court shall next ask questions pertaining to the qualifications of the jurors followed by the parties or their counsel's voir dire examination of the prospective panel.
- 919 In the trial of jury cases, both criminal and civil, counsel on both sides will be required to make or waive their opening statements before the introduction of any evidence in the case.
- 920 Requests for instructions shall be submitted to the court before argument to the jury is begun unless the trial judge otherwise permits or orders. Each such instruction shall be on a separate sheet of paper, with one copy thereof, and each shall have on a separate sheet the citation of authorities relied upon to sustain such instructions. When an instruction is requested from Wisconsin Civil or Criminal Instructions, it shall include the language and alternative, if any, deemed applicable and shall not be cited solely by number, except when the exact language requested may be identified merely by number and title.

- 921 Immediately after the jury retires, counsel shall call to the court's attention obvious omissions or inadvertent errors contained in the instructions, in order that appropriate and timely correction may be made by the court.
- 922 Within reasonable discretion, taking into consideration all the evidence produced at the trial, the court may limit the arguments of counsel as to the time thereof. Counsel shall be advised of such limitation prior to the commencement of arguments.
- 923 After the jury has retired to deliberate upon a verdict in any action, the court shall state on the record, in the presence of counsel for all the parties, that it will be in session or will sit between stated hours for the purpose of further instructing the jury or receiving a verdict, and that if any counsel or party is not present at such time or times, their presence will be deemed waived.

RULE 10: ALTERNATIVE DISPUTE RESOLUTION

1000 Effective date: December 1, 1998

1001 Parties will be required to report to the court in writing as to the alternative dispute resolution process they have selected, the service provider and the provisions for payment of the provider's fees and expenses. In the alternative, the parties shall advise the court in writing of the reasons why alternative dispute resolution is not appropriate in a particular case. In the event the parties agree that alternative dispute resolution is appropriate, but cannot agree on the process, provider and other related issues, the court shall select the least expensive and most appropriate dispute resolution process, the service provider and the provisions for payment of reasonable fees and expenses of the provider. All parties will be directed to participate personally in the dispute resolution process.

1002 Counsel will provide the court with a report concerning the success of the alternative dispute resolution process agreed to by the parties or ordered by the court as soon as practicable, but no later than ten (10) days before trial. In the event one or more parties take the position that alternative dispute resolution is not appropriate in a particular case, the court may set a hearing to determine whether or not an order should be entered regarding alternative dispute resolution despite the position or objection of any party.

1003 Effective date: March 1, 2013

In all residential foreclosure actions, the plaintiff shall attach to the Summons and Complaint served on all mortgagors named in the action the following forms printed on yellow paper and which are available at the Kewaunee County Clerk of Court's office:

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

RULE 11: SMALL CLAIMS

- 1100 Effective date: December 1, 1998
- 1101 Kewaunee County by this rule authorizes the service of summons in all small claims actions, except eviction actions, by mail in lieu of personal or substituted service. Regular mail is limited to Kewaunee County. Certified mail, personal or substituted service outside of the county is acceptable.
- 1102 The defendant may join issue in any small claims action, without appearing on the return date, by filing a written answer, provided such answer is received by the clerk of court and the plaintiff not later than 4:00 p.m. on the Friday preceding the return date.
- 1103 All pleadings under ch. 799, Wis. Stats., shall be in writing unless specifically ordered otherwise by the judge.
- 1104 The clerk of court shall maintain instructional handouts for both plaintiff and defendant. They will be available in the clerk of court's office. Attorneys are also subject to these rules.
- 1105 Small claims calendar call is held at 8:30 a.m. each Thursday that court is held or at such other date and time scheduled by the court.

RULE 12: FAMILY LAW

- 1200 Effective date: December 1, 1998
- 1201 At temporary hearings both parties shall bring wage statements from their respective employers for a period of twelve (12) weeks prior to the hearing date, a financial disclosure statement signed under oath, and copies of state and federal income tax returns for the two (2) prior years in the possession or control of each party. Failure to file these documents shall authorize the family court commissioner to accept the statement of the other party as accurate.
- 1202 The party petitioning for a temporary hearing shall give the other party at least forty-eight (48) hours' notice prior to said hearing.
- 1203 All stipulations for an order to suspend proceedings in divorce actions to attempt a reconciliation shall be submitted in the form designated by the court. An appropriate form is available in the clerk of court's office.
- 1204 The Stipulation and Order referred to in Rule 1203 shall indicate the date by which the parties must report to the court the status of the reconciliation together with the request for dismissal of the divorce action or a resumption of proceedings.

1205 If no report is received as required by Rule 1204, the court shall send notice to the parties that they will have fifteen (15) days to advise the court of their intentions. If no response is then received, the judge shall dismiss the action.

1206 Effective date: March 1, 2013

The cost for custody and physical placement mediation provided by family court services shall be \$200.00 or as otherwise set forth by statute, for all mediation beyond the initial session. The cost for a custody or physical placement study shall be \$300.00, or as otherwise set forth by statute. The court may order one or both of the parties to prepay these fees.

1207 Effective date: March 1, 2013

Fees for mediation and custody or physical placement studies are payable directly to the Clerk of Court, Courthouse, Kewaunee, WI 54216. The clerk of court will accept cashier's checks, cash, money orders, or checks drawn on an attorney's account. Personal checks of the parties will not be accepted. Payment cannot be accepted by the Family Court Services.

1208 In any action affecting the family in which a guardian ad litem is appointed by the court, a full or partial prepayment in the minimum amount of \$250.00 shall be paid to the clerk of court, upon acceptance of the appointment, to be held subject to further order of the court.

1209 The guardian ad litem shall be compensated at a rate that the court determines is reasonable. The court shall order either or both parties to pay all or any part of the compensation of that guardian ad litem. In addition, upon motion by the guardian ad litem, the court shall order either or both parties to pay the fee for an expert witness used by the guardian ad litem, if the guardian ad litem shows that the use of the expert is necessary in order to assist the guardian ad litem in performing his or her functions or duties under ch. 767, Wis Stats. If both parties are indigent, the court may direct that the county of venue pay the compensation and fees. If the court orders a county to pay the compensation of the guardian ad litem, the amount ordered may not exceed the compensation paid to private attorneys under §977.08(4m)(b), Wis. Stats. or SCR 81.02 as the court deems appropriate. The court may enforce these orders by means of its contempt powers.

1210 Guardian ad litem fees in all cases shall be billed at the attorney's customary hourly rate, the rate of compensation established by SCR 81.02, or as determined reasonable by the court. Under no circumstances will the court order Kewaunee County to pay compensation in excess of the rate established in SCR 81.02.

1211 In an original action where custody or physical placement of a child or children is an issue the parties shall be equally responsible for the payment of any fees for mediation, custody

or physical placement studies or guardian ad litem fees due in advance and will be presumed to be equally responsible for the total fees.

- 1212 In a post-judgment matter relating to the custody or physical placement of a child or children the party seeking a change in the judgment with respect to those issues shall be responsible for any payments due in advance.
- 1213 If one or both of the parties allege that they are unable to pay the fees, that party may request relief from payment by motion which may be made to the family court commissioner or the court in an original action and to the court in a post-judgment action. The court shall reduce the fees in accordance with the party's ability to pay or provide the services without payment of the fees if both parties are unable to pay. If one of the parties is indigent, the court or family court commissioner may order the other party to pay the fee.
- 1214 The court or family court commissioner may also require a party to reimburse the other party for fees advanced by that party. Factors to be considered as to reimbursement are the relative ability of the parties to pay, the results of the action, the conduct of the parties with respect to attempts to obtain a settlement by other than resort to the judicial system, and other equitable factors which the court might consider.
- 1215 After the time of the filing of any action for divorce, legal separation, or annulment, the court shall schedule a status/scheduling/final hearing. A copy is to be served upon each party by mail.
- 1216 The status/scheduling/final hearing notice will show the date at least one hundred twenty (120) days after the filing of the action, or as soon thereafter as the court is available, when a hearing is scheduled.
- 1217 Any requests for adjournments for the status/scheduling/final hearing must be made as soon as counsel is aware of a conflict. No adjournments will be granted without court approval. At or prior to the status/scheduling/final hearing counsel shall provide to the court and opposing counsel financial information and a statement of position on contested issues. Upon failure of counsel to provide the information at the hearing date, appropriate sanctions may be imposed.
- 1218 Stipulated divorces are usually heard by the court but may be heard by the family court commissioner.
- 1219 If a stipulated divorce is to be heard by the family court commissioner, the Final Stipulation and each party's Final Financial Disclosure Statement and the Findings of Fact, Conclusions of Law and Judgment of Divorce must also be filed with the family court commissioner at least twenty (20) business days prior to the start of the hearing. Failure to file these documents in a timely fashion may result in sanctions or the cancellation of the hearing.

- 1220 Prior to obtaining a date and time from the court, any party seeking to enforce a judgment or portion of judgment of divorce or a temporary order of the family court commissioner, shall file with the clerk of court an Order to Show Cause or other appropriate motion and pay such fee as required. Upon proof of filing and payment of any required fee, the court will provide the filing party with the date and time for hearing. Such date and time shall be included in the notice of hearing and such notice shall be served upon the opposing party within the time prescribed by statute and/or local rule.
- 1221 In all divorce actions in which neither party has retained an attorney, at least twenty (20) business days prior to the hearing date, the proposed Final Stipulation, Findings of Fact, Conclusions of Law and Judgment and completed Final Financial Disclosure Statements must be submitted to the family court commissioner for review and approval, and after approval, the approved originals and two copies of each must be filed with the clerk of court at least five (5) business days before the final hearing. Failure to file these documents in a timely fashion may result in sanctions or the cancellation of the hearing.
- 1222 If the divorce matter is a default and the respondent is not represented by counsel, the Order to Appear that the judge signs should contain on its face: "The Respondent is directed to complete the Financial Disclosure Report and bring the same to the hearing." A blank copy should be enclosed for him or her to fill out for that purpose.
- 1223 An executed wage assignment should be prepared and ready to file if it could apply to the matter per Wisconsin Statutes.
- 1224 Where a contest on property settlement arises, each party will furnish the opposing party a documented booklet which is to include all exhibits (or photocopies of same) in regard to said property, as well as a list of all appraisers - name, address and brief description of expected testimony or appraisal as well as any other material needed so that booklet information would be admissible in evidence and avoid as much as possible direct testimony, but could be used for cross examination of the witness.
- 1225 Effective date: January 1, 2007

In any action affecting the family, each party shall, either within 20 days after making service on the opposite party of any petition or pleading, or before filing such petition or pleading in court, serve a copy of the same upon the Circuit Court Commissioner supervising the Office of the Family Court Commissioner of the county in which the action is begun, whether such action is contested or not. No judgment in any such action shall be granted unless this section is complied with except when otherwise ordered by the court. After the expiration of the 20 day period specified above, the court may in its discretion, upon petition and without notice, extend the time within which service shall be made upon the Circuit Court Commissioner supervising the Office of the Family Court Commissioner.

1226 Effective Date: January 1, 2007

All divorce judgments providing for legal custody and physical placement of minor children shall provide that said party provide not less than sixty days' written notice to the other party and to the court of his or her intent to: establish residence outside the State of Wisconsin; establish residence within Wisconsin one hundred fifty (150) miles or more from the present residence; also notification to the other parent if said child or children is to be removed from the primary residence for a period of over fourteen days. The said party shall comply with §767.481, Wis. Stats., and amendments thereto and said notices are to be in writing.

1227 Effective date: April 1, 2003

In all actions affecting the family involving a minor child filed on or after the effective date of this rule, the parties shall attend an educational program on the effects of divorce on children and providing training in parenting or co-parenting skills approved by the court. "Actions affecting the family" under this rule include original actions, as well as requests for mediation, and post-judgment motions to modify terms of a judgment concerning a minor child, but does not include initial paternity proceedings. Certification from the program provider of attendance by each party of at least four (4) hours at such an approved program shall be filed with the court before a final judgment or order will be granted in the action. The parties shall be responsible for the cost of attendance at the program; provided, however, that in actions in which the filing fee has been waived by the court upon a finding of indigence, such cost shall not be required of such indigent party. Any party who fails to attend the educational program when required or fails to pay any required program fee shall be subject to contempt under sec. 785, Stats., and/or other sanctions which may include the party being precluded from disputing custody or placement. The Family Court Commissioner or the Circuit Court Judge may excuse a party from participating in the educational program upon written request and a showing of good cause.

1228 Effective date: May 1, 2007

Requests for De Novo hearings pursuant to Section 757.69(8), Wis. Stats., shall be filed with the Clerk of Court within thirty (30) days after the initial order was filed and shall state with reasonable specificity the issues to be addressed at said hearing.

RULE 14: CRIMINAL LAW AND TRAFFIC

1400 Effective date: December 1, 1998

1401 Motions for discovery in felony and misdemeanor cases shall be filed by defense counsel within five (5) business days of the date of arraignment. The State shall respond to the demand for discovery within ten (10) business days of the date of filing.

- 1402 The time in which a defendant must file pre-trial motions shall not commence to run until the date that discovery is given to the defendant under the Code of Criminal Procedure.
- 1403 All motions must state with specificity the grounds and factual basis therefore. General assertions of violations of constitutional rights will not be considered specific. Such nonspecific motions may be denied *sua sponte* by the judge with notice to the parties of such denial and leave to renew the motions in a timely manner.
- 1404 In felony, misdemeanor, and traffic crime matters, the prosecuting authority may conduct plea negotiations for the purpose of reaching a plea agreement with the defendant and defendant's attorney, if any. Pre-trial conferences shall be conducted by the court after the defendant has been provided mandated discovery material.
- 1405 The judge will not participate in the plea discussions during pre-trial conferences. The judge will be available to assign motion and/or trial dates, if necessary.
- 1406 The prosecuting attorney shall have authority to enter into binding plea agreements without the approval of the arresting officer(s) and/or victim(s) subject to the statutory requirement of the District Attorney to confirm with the victim.
- 1407 The defendant shall be present at all felony pre-trial conferences. For all other pre-trial conferences the defense attorney shall have a written waiver of appearance and authorization to enter into a binding plea agreement.
- 1408 Except in felony cases, the plea agreement may be reduced to a written stipulation at the conclusion of the conference and filed with the judge, along with a "Plea Questionnaire" and "Notice of Appeal Rights."
- 1409 The results of all pre-trial conferences shall be reported to the judge.
- 1410 A stipulated request for continuance of the trial date shall require the consent of the named parties in writing or on the record and must be for good cause shown. A contested request for continuance must be on motion and hearing and for good cause shown by the party. All requests for continuance are subject to the approval of the court.
- 1411 All pleas must be of record on or before the scheduled trial dates. Plea hearings will not be conducted after the scheduled trial date, except for good cause.
- 1412 No court will proceed to a plea hearing until a completed "Plea Questionnaire" has been filed.
- 1413 The Department of Corrections shall file seven (7) days prior to the sentencing hearing an original and two (2) copies of the pre-sentence investigation with the presiding judge who shall forward a copy to the district attorney and defense counsel, if any. Attorneys are prohibited from copying such reports or allowing any individual to remove the report from

their presence, and shall file their copy of the report with the presiding judge immediately upon conclusion of the sentencing hearing.

- 1414 In the trial of jury cases, both criminal and civil, counsel on both sides will be required to make or waive their opening statements before the introduction of any evidence in the case.
- 1415 Requests for instructions shall be submitted to the court before argument to the jury is begun unless the trial judge otherwise permits or orders. Each such instruction shall be on a separate sheet of paper, with one copy thereof, and each shall have on a separate sheet the citation of authorities relied upon to sustain such instructions. When an instruction is requested from Wisconsin Civil or Criminal Instructions, it shall include the language and alternative, if any, deemed applicable and shall not be cited solely by number, except when the exact language requested may be identified merely by number and title.
- 1416 Immediately after the jury retires, counsel shall call to the court's attention obvious omissions or inadvertent errors contained in the instructions, in order that appropriate and timely correction may be made by the court.
- 1417 Within reasonable discretion, taking into consideration all the evidence produced at the trial, the court may limit the arguments of counsel as to the time thereof. Counsel shall be advised of such limitation prior to the commencement of arguments.
- 1418 After the jury has retired to deliberate upon a verdict in any action, the court shall state on the record, in the presence of counsel for all the parties, that it will be in session or will sit between stated hours for the purpose of further instructing the jury or receiving a verdict, and that if any counsel or party is not present at such time or times, their presence will be deemed waived.
- 1419 When a jury trial or court trial is requested and the matter is settled prior to trial and the matter is a state traffic crime or misdemeanor, the following is required: either attorney and client or attorney must appear at the time set for trial unless the judge sets a different time. If the attorney only appears - counsel must have for filing: client authorization in writing, jury trial waiver of client in writing, certification of attorney in writing that he/she has informed client of the point status in matter as to the effect of this particular matter on client license status as to points of Wisconsin Motor Vehicle Department. If a disposition or a plea will be made and defendant does not appear personally, but by authorization, client must sign for filing with the court a statement that the defendant understands, that on a plea the court is not bound by the plea agreement, that the defendant understands the maximum penalty or penalties, and that the court could impose the maximum sentence irrespective of any recommendation by defendant's attorney and/or district attorney.
- 1420 If attorney files letter of retainer and plea of not guilty and requests either a jury or court trial in a matter of a state traffic crime, the following is required for the attorney to not appear: client authorization in writing, waiver of jury trial of client in writing if that is the wish of client.

- 1421 Adjournments of court trial dates in forfeiture matters, state traffic crimes and misdemeanors are only granted with great reluctance and by the judge only.
- 1422 Traffic court calendar call is on Thursdays at 1:00 p.m. as scheduled.

RULE 15: ADOPTIONS

- 1500 Effective date: December 1, 1998
- 1501 In all independent adoption proceedings the adoptive parents shall advance the sum of \$250.00 or as otherwise set forth by statute for the appointment of the Guardian ad Litem for the minor child and/or the minor natural parent[s].
- 1502 The adoptive parents shall be responsible for all other costs associated with the adoption proceedings.

RULE 16: JUVENILE

- 1600 Effective date: December 1, 1998
- 1601 Chs. 48 & 938 are controlling in all juvenile activities.
- 1602 All requests for adjournments must be in writing and received not later than forty-eight (48) hours prior to the hearing except as otherwise provided by the court.
- 1603 Court reports shall be submitted to the juvenile clerk seventy-two (72) hours prior to the disposition hearing after an adjudication.
- 1604 The district attorney shall prepare all juvenile orders within ten (10) days of the disposition hearing. The court may designate responsibility for the preparation of orders to another party as appropriate.
- 1605 A plea questionnaire must be completed prior to the acceptance of any admission or no contest plea.
- 1606 When necessary, the juvenile clerk will select a guardian ad litem, from a predetermined list, prepare the necessary paperwork, have the judge sign the appointment and the guardian ad litem sign the consent.
- 1607 Juvenile court records are deemed confidential and disclosure about same shall only occur when allowed by statute and court order where required.
- 1608 Juvenile case records are the responsibility of the juvenile clerk and are not to be removed from that office without permission of the juvenile clerk or deputy.
- 1609 Recoupment of attorney fees and guardian ad litem fees will be ordered as appropriate.

RULE 17: PROBATE

1701 Probate testimony will be required on all of the following:

Formal probate matters where requested or necessary, unusual matters as suggested by counsel or as required by the court, whenever the court determines appropriate or necessary in any matter.

1702 On bonds of personal representative for informal probate if will recites no bond required, the probate registrar will require a personal signature bond for at least \$1,000 (more if unusual problems foreseen) when an attorney represents the personal representative.

If no attorney is involved, then the probate registrar will require either a surety bond or a personal signature bond with a stipulation for reduction, in a satisfactory amount.

1703 Whenever the final judgment assigns an interest in real property, assigns a debt which is secured by an interest in real property or shows the termination of a Life Estate or an interest as a joint tenant in real property or in a debt which is secured by an interest in real property or shows the termination of a life estate or an interest as a joint tenant in real property or in a debt which is secured by an interest in real property, the final judgment, a certified copy of the final judgment or a certified abridgement thereof shall be recorded by the personal representative in the office of the register of deeds in each county in this state in which the real property is located.

1704 This proof of recording may be established by filing Proof of Recording executed as being recorded and signed by either the register of deeds or attorney for probate matters.

1705 Probate calendar call - each Friday at 8:30 a.m. as scheduled.