
**IN RE THE PROMULGATION OF
LOCAL COURT RULES**

Purpose

The purpose of these rules is to establish uniform rules of courtroom decorum throughout the trial courts of Wisconsin, and to assist judges and attorneys through prescribed courtroom procedures. They are intended to supplement but not to supersede the Code of Professional Responsibility and Canons of Judicial Ethics and the Supreme Court Rules and legislative enactments of the State of Wisconsin.

Court rules, prior to adoption or revision, shall be presented to both circuit judges for their approval, and the approval of the chief judge of the Judicial Administrative District, which shall be noted in writing on such rule. Proposed and approved rules shall be provided to all counsel of Monroe County, the district attorney's office, and the public defender's office. Should counsel from other counties desire a copy of any or all of Monroe County Court rules, copies shall be mailed to them upon their request. Any orders adopting rules shall specify an effective date. Once adopted and approved, the Court shall file the rules with the clerk of circuit court. The clerk of the circuit court shall send a copy of the filed rules to the secretary of the local bar association in this circuit, the court administrator for this judicial district, the State Bar of Wisconsin, the State Law Library, and the Office of the Director of State Courts. The clerk of circuit court shall print and make available to the public, at cost, all rules.

Effective Date: April 10, 2006

1.00 Courtroom

- 1.01 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 in a stand to the right of the judge.
- 1.02 Court shall be formally opened each day in which court is transacted either by the bailiff or the clerk of court.
- 1.03 As the judge enters the courtroom, the bailiff or clerk of court shall require all present to rise and stand. When the judge has reached the bench, the bailiff or clerk of court shall say, "All rise, the Circuit Court for Monroe County is now in session, the Honorable _____ presiding. Silence is commanded." All shall be seated and the business of the court shall proceed. At all times during the same day when the judge reenters the courtroom, the bailiff or clerk of court shall say, "All rise" followed by "Please be seated" after the judge is seated at the bench.

- 1.04 In recessing, the judge shall announce, "The court is now in recess."
- 1.05 When a jury has been selected and is to be sworn, the clerk of court shall request the jurors to rise while the juror's oath is being administered.
- 1.06 There shall be no unnecessary conversation, loud whispering, newspaper or magazine reading, or other distracting activity by anyone in the courtroom while court is in session. Tobacco in any form shall not be used in the courtroom. Pop, soda, coffee, and food shall not be possession in the courtroom while court is in session.

2.00 Judge's Conduct

- 2.00 The judge shall at all times safeguard the rights of the parties and the interests of the public. They shall be dignified, courteous, and considerate of the parties, attorneys, jurors, predilections, control their temper and emotions and avoid conduct on their part which tends to demean the proceedings or to undermine their authority in the courtroom.
- 2.01 The judge shall wear a judicial robe and sit at the bench at all times while court is in session, provided judicial discretion may be exercised otherwise in extreme conditions.
- 2.02 The judge shall be punctual in convening court and prompt in the performance of their judicial duties, recognizing the time of litigants, jurors, and attorneys is valuable and that lack of punctuality on their part creates dissatisfaction with the administration of the business of the court.
- 2.03 The judge shall see to it at all times that the parties, witnesses, and jurors are treated fairly, with due consideration and respect. No discourtesies toward them shall be permitted.
- 2.04 During the presentation of the case, the judge shall maintain absolute impartiality and shall neither by word nor sign indicate they favor any party to the litigation.
- 2.05 The judge shall refrain, so far as possible, from intervening during the course of the trial. However, the judge is more than a referee. The judge has the right to question or even to call witnesses to clarify questions and answers and to make inquiries where obviously important evidentiary matters are ignored, not as a partisan or advocate.
- 2.06 In jury cases which are disposed of upon a motion for dismissal or indirect verdict, the judge in dismissing the jury shall briefly explain the procedure and why a verdict was unnecessary.

3.00 Attorney Conduct

- 3.01 Attorneys practicing before the courts in Monroe County will comply with the rules of

civility promulgated by the Wisconsin Supreme Court and the Wisconsin State Bar Association.

- 3.02 Counsel shall not knowingly misinterpret the contents of a document, the testimony of witnesses, the language or argument of opposite counsel or the language of a decision or other authority; nor shall the attorney offer evidence which they know to be inadmissible.
- 3.03 The right to be present during the trial of civil cases may, in the court's discretion, be deemed to be waived by a party or their counsel by voluntary absence from the courtroom at a time when it is known that proceedings are being conducted or are about to be conducted. In such event the proceedings, including the giving of additional instructions to the jury after they have once retired or receiving the verdict, may go forward without waiting for the arrival or return of counsel or a party.
- 3.04 Each attorney shall be prepared to proceed promptly with matters at the time they are scheduled. If a continuance is requested for good cause, or if the matter is settled, each attorney shall notify the court at the earliest possible time.
- 3.05 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.
- 3.06 Lawyers shall examine witnesses from a position at the lectern except when handling exhibits. In no case shall a witness be crowded during examination.
- 3.07 When a lawyer or party is addressing the jury, the lawyer shall not crowd the jury box.
- 3.08 During the 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.
- 3.09 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.
- 3.10 Lawyers and court officers shall, while in attendance upon the court, be attired in such a manner as not to lessen the dignity of the court or of proceedings in the eyes of the jury and public.
- 3.11 Lawyers shall advise their clients and witnesses of the formalities of the court and seek their full cooperation therewith. It is expected that lawyers will guide clients and witnesses as to appropriate attire. In addition lawyers shall advise their witnesses that, when sworn, they should stand near the bench or the witness stand. After the witness is sworn, the clerk shall direct the witness to give the court his or her full name, and request the witness to spell his or her full surname. The witness can then be seated.

- 3.12 Lawyers shall examine witnesses with courtesy and respect, and a witness' good faith should be presumed until the contrary is evident.
- 3.13 Attorneys, clients, and witnesses shall remain quiet in the courtroom corridors as loud talking and laughter disrupt court proceedings. Conference rooms shall be used for all discussions.
- 3.14 Attorneys' conduct before the court and with other counsel should be characterized by candor and fairness. All personality conflicts between attorneys and colloquies between the attorneys should be avoided.
- 3.15 Attorneys shall, insofar as possible, refrain from interrupting each other, speaking at the same time, or arguing between themselves, thus assisting in making a proper record. Attorneys should instruct their witnesses to testify slowly and clearly so that the court and the jury can hear their testimony and should caution witnesses not to chew anything while testifying.
- 3.16 Attorneys should address the court from a position at the counsel table or lectern. If it is necessary to discuss some question out of the hearing of the jury at the bench, the attorneys may so indicate to the court; and if invited, they may approach the bench for that purpose.
- 3.17 Unless excused by the judge after the jury has retired to deliberate upon a verdict in a criminal case, the attorneys representing the defendant and the state shall remain in the immediate area of the courtroom so as to be available at all times during the deliberations of the jury and when the verdict is received.
- 3.18 Attorneys and clients are expected to be in the courtroom on the date and time scheduled. Attorneys with time conflicts in other courts will be given due consideration. Should an attorney be unable to make a scheduled court appearance, proper notice shall be made to the appropriate parties, besides the court, so that such hearing may be rescheduled accordingly and all parties for either side given timely notice not to appear.
- 3.19 Attorneys shall be required to have their calendars with them in court so that dates can be set in the courtroom of the judge of file 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.
- 3.20 Attorneys will not be allowed to withdraw from a case without the consent of the assigned judge. Said consent will be given only upon notice and upon a proper showing of cause and the presentation of a written order allowing said withdrawal.

4.00 Clerk of Court/Bailiff Conduct

- 4.01 The clerk of court shall be in charge of all case records and files and shall be

responsible for courtroom administration, including the feeding, housing, and transportation of the jury when required.

- 4.02 The clerk of court shall have the duty to see that each witness is sworn separately and that the oath is administered in a manner calculated to impress the witness with the importance and solemnity of the oath taken.
- 4.03 When a jury has been selected and is to be sworn, the clerk of court shall request the jurors to rise while the juror's oath is being administered.
- 4.04 It shall be the duty of the bailiff to maintain order at all times as litigants, witnesses, and the public assemble in the courtroom, during the progress of the trial, and during recesses of the court. This includes the duty to admit persons to the courtroom and direct them to seats and to refuse admittance to the courtroom in such trials where the courtroom is occupied to its full seating capacity.
- 4.05 It shall be the duty of the jury bailiff to take charge of and supervise the jury during the course of a trial, during court recesses, and during time of jury deliberation to assure that no unauthorized persons come into contact with members of the jury. If such an attempt is made, the jury bailiff and bailiff shall notify the judge at once. During sequestered trials, the bailiffs shall take the foregoing precautions on a 24 hour a day basis.
- 4.06 The jury bailiff shall assist jurors as necessary with personal problems if they arise and shall inform the judge of any unusual problems of jurors which should be called to his or her attention.
- 4.07 The jury bailiff and bailiff shall at no time discuss with the jurors, litigants, witnesses or attorneys any issues involved in the trial nor make any effort to assist the jurors in their deliberations.

5.00 Assignment of Cases and Priority

- 5.01 Initial appearance - definition
When the plea of not guilty or guilty is received from defendant.
 - A. Initial appearance - juvenile
When party denies or admits allegation.
- 5.02 Misdemeanors
Judge who presides at initial appearance is judge who is assigned case.
- 5.03 Felonies
Judge who presides at preliminary hearing is judge who is assigned case.
- 5.04 Conflicts in court schedules if both branches have trials including one or more of the

same attorneys, the branch which is not on intake will have priority. (This applies to both jury and bench trials.)

5.05 Judge who is assigned to case will preside over all hearings, including but not limited to arraignment, motions, trials, final pleas, and sentencing.

Exception:

A. Pretrials and status

B. Hearings when assigned judge is ill or otherwise unavailable.
(Assignment by general assignment)

C. Consolidations

When a defendant has cases assigned by both judges, they can consolidate before one judge by agreement of judges, attorneys and district attorney's office. This agreement can be made over the phone prior to a hearing, but must be made in writing at the time of hearing.

(**Note:**Should a defendant wish to plead after pretrial or status not heard by assigned judge, then assigned judge's office shall be contacted to see if a time can be scheduled for the plea before the assigned judge as soon as possible or if the assigned judge consents to another judge hearing the plea.)

(**Note:**For traffic cases, the clerk's office will stamp the name of the judge assigned on the citation after initial appearance is made as defined above.)

6.00 Case Processing Time Guidelines

6.01 The following case processing time guidelines are for the processing of cases and are designed to provide a guide to the judiciary and the bar. Unless otherwise indicated, the guidelines represent the time period from filing to final disposition.

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|-------------------------|-----------|
| Felony | 6 months |
| Misdemeanors | 3 months |
| Criminal Traffic | 3 months |
| Traffic Forfeiture | 4 months |
| Non-Traffic Forfeiture | 4 months |
| PI/PD | 18 months |
| Contract/Money Judgment | 12 months |
| Administrative Review | 12 months |
| Other Civil | 12 months |
| Divorce | 12 months |
| Paternity | 6 months |
| Reciprocal Support | 6 months |
| Other Family | 6 months |

| | |
|---------------------------|-----------|
| Small Claims | 3 months |
| Estates, Informal Probate | 12 months |

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.

7.00 General Rules - All Matters

7.01 All moving documents, briefs, or supporting papers shall be filed within 24/48 hours before any hearing to which such documents relate.

7.02 Unilateral phone calls or letters to the clerk or judge directly to avoid a time fixed for a pretrial, trial, motion, or other proceeding are attempts to secure the consideration of the court without reference to the rights of other parties in interest and their attorneys. Phone messages and letters may be used from time to time when court appearances are required and there exists just cause for a continuation without sufficient time for proper petition and notice. Such emergency messages are provisional only and do not supersede a motion under Section 801.01. In such instances, a failure to inform opposing counsel and the court immediately shall render an attorney liable to sanctions. The court may enter an order sua sponte requiring any offending counsel to appear in court forthwith to justify his actions.

7.03 No one will be allowed in the computer law research center or the book area of the judge's chambers without the consent of the judge(s).

The clerk of court or the judges' judicial assistants will obtain the books for interested persons. Branch I's judicial assistant will arrange use of court's computer research center. They will be allowed no more than two books at a time and they will be studied in a designated room in the courthouse only. Books will not be removed from the courthouse.

7.04 Relief of parties disaccommodated. Defaults in meeting the requirements of rules set forth herein are liable to a motion to dismiss on the merits, imposition or motion costs and/or assessment of terms. Such action may be taken on a motion by an opposing party, without notice if in open court, or on the court's own motion and compliance with the order issued will be made a condition precedent to further action on the case.

7.05 Assessment of costs. When an order for a pretrial conference or status conference or hearing on trial issues has been made and one or more of the parties does not appear as required and fails reasonably to take action appropriate to prevent unwarranted expense to the county or delay in the court's system and calendar, the court will make summary inquiry into the matter or order a hearing to consider assessing costs against the offending parties to reimburse the court for appearance of jurors, cancellation of a venire and other related expenses, including those incidental to hearings required to secure the integrity of orders of the court.

- 7.06 Submission of documents to opposing counsel. Should there be other counsel in an action, moving counsel shall direct, before submitting to the court, any proposed orders, findings, conclusions of law or judgment, shall be submitted to opposing counsel. A place for notation of the approval of opposing counsel as to form shall be provided at the foot thereof. Alternatively, counsel may mail a copy to opposing counsel with the condition that if no objection is made to the court within five (5) days approval is to be presumed. In the event that such documents have been mailed to opposing counsel and in the event opposing counsel either fails to return such documents to the mailing attorney or refuses to approve the same without communicating to the mailing attorney, such documents or copies thereof may be signed by the court without such approval. The attorney having the right of approval shall notice the drafting attorney, in writing, of any objections they have to the proposed documents, with a copy to the court, and shall then either bring a motion before the court for purpose of setting forth their objections and suggested modifications or provide in writing to both the drafting counsel and the court their suggested modifications for the approval of such parties under the same five (5) day time limit for approval.
- 7.07 Scheduling. When hearings are being scheduled with the judge's office, all counsel shall be conferenced in for scheduling. All parties shall work together in getting the matter scheduled as promptly as possible. Should there arise a conflict, prior court appearance scheduled or prior client/court meetings scheduled, the case shall be put on the next intake calendar for a scheduling decision by the assigned judge, if any.
- 7.08 Jury cancellations. **Civil matters:** Settlement negotiations must be completed no later than three (3) business days prior to trial. Should they not be, the court may exercise its discretion for sanctions pursuant to Sec. 814.51 of the Wisconsin Statutes.
- 7.09 Out of county trials: A copy of any order under Sections 971.22 or 971.225 changing the place of trial to another county or requiring the selection of a jury from another county shall be sent by the ordering judge to the chief judge and district court administrator of their judicial administrative district prior to the scheduling of any activities in the other county. The scheduling of any activities in the other county shall be done by the chief judge or district court administrator (DCA) in consultation with the ordering judge, the chief judge, and DCA of the district in which the other county is located (if different) and the clerks of court of both counties. Once determined, the chief judge or DCA shall confirm the chosen dates with the ordering judge, the chief judge, and DCA of the other county and the clerks of court.
- 7.10 Individual judges may establish, by a scheduling order, at a scheduling conference, a timetable for the future progress of the case (i.e., discovery motion time limits, dates and subjects of pretrials or status conferences, trial, etc.)
- 7.11 Briefs on contested matters (not trials)
- A. Time for briefing shall be computed under Sec. 801.15, Wis. Stats., unless the

court orders a different briefing schedule, i.e., scheduling order. Unless the court otherwise orders, any party presenting or filing a contested motion or exceptions to a referee's report, objections or other contested matter calling for a decision by the court, such parties shall deliver, upon filing of such motion, to the clerk of courts, a brief containing a short statement of his or her reasons in support of his or her position, together with the citations of the authorities upon which he or she relies. The adversary party shall, according to the briefing schedule, file an answering brief containing a short statement of the position upon which they rely to meet the points made in the supporting brief, together with the citations of authorities upon which they rely. No brief, beyond the reply shall be filed, except upon leave granted. No brief beyond the reply shall be filed except upon leave granted. The court may, by order, excuse the filing of supporting, answering, and reply briefs, and may shorten or extend the time fixed by this rule for the filing of briefs. Each party shall serve a copy of their brief upon their adversary and file a proof of such service at the time of filing of their brief.

B. Failure to file any of the briefs provided for by the above rule shall not be deemed to be a waiver of the motion or matter on the part of the supporting party or a withdrawal of opposition by the opposing party, but the court may upon its own motion or on the motion of any party take such action, including the striking of such motion or the granting of such motion, without further briefs or hearing or the entry of an order to file supporting or opposing briefs as it may in its discretion determine.

7.12 Continuances.

Petitions for continuances of conferences, hearings, pretrials or trials shall be made in a timely fashion whenever possible. Notice of the same shall be provided to all counsel and parties of record. Should there be an objection to a continuation then a hearing date shall be established to hear such arguments, should time allow, or a telephone conference call, or personal appearance, shall be scheduled before the court for purposes of hearing counsel's positions and then followed upon for confirmation of such events, with copies to all counsel. Should a written request for confirmation not be able to be provided and such continuation request be made by phone, all parties shall be included in such phone request and a written request shall follow forthwith with copies of the same being provided to all parties by moving counsel. Should continuation request be for medical purposes a written statement by the attending physician shall be required to be provided to the court prior to the scheduled hearing.

7.13 Unless good cause for a shorter time period 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 if possible, at least 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 statute.

7.14 Papers that do not require a filing fee may be filed with the clerk of court and/or the judges by a facsimile transmission to a plan-paper facsimile machine at a number designated by the court. There is a 15-page limit for a facsimile transmission, unless an exception is approved by the assigned judge. If the facsimile exceeds 15 pages, the attorney/party shall certify that the assigned judge has approved the facsimile transmission.

A. 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. 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.

B. Papers filed by facsimile transmission completed after regular business hours of the clerk of the circuit court's office are considered filed by the next business day.

8.00 Motions

8.01 Any supporting papers, including records or affidavits upon which a motion is filed, shall be served with the notice of motion. References to documents in the case file or depositions is not permitted. Pertinent parts of documents, depositions, interrogatories or admissions shall be reproduced and attached as part of the appendices. The specific parts sought to be utilized shall be color lined.

8.02 (a) Oral argument on motions shall be heard at the discretion of the court.

(b) Oral argument shall be conducted upon the file and record and no testimony may be taken without permission of the court obtained prior to noticing the matter for hearing.

8.03 Should counsel for any party fail timely to give a notice, deliver supporting papers, or serve a brief, the motion may be decided against his client for such cause, or the motion hearing may be adjourned with costs and attorney fees be awarded to the inconvenienced party. Further, should any motion be brought frivolously, mischievously, or clearly without legal merit, the court will award the inconvenienced party costs and reasonable attorney fees.

8.04 All motions shall be in writing and shall be accompanied by a written affidavit unless this requirement is waived by the court.

8.05 Notice of hearing of a motion shall be served not later than five (5) days before the time specified for the hearing, unless a different period of time is fixed by statute or order of the court.

8.06 The moving party shall schedule the motion hearing date, provide notice of the hearing date, and file the motion and notice of motion with the clerk of court with a courtesy copy to the assigned judge.

- 8.07 If a moving party desires to file a brief, affidavit, or other document in support of a motion, other than one for summary judgment or dismissal, such motion and supporting materials shall be received by all counsel of record and/or parties not represented by counsel of record and the assigned judge. These documents shall be filed with the clerk of court no later than five (5) working days before the time specified for the hearing.

9.00 Pretrials and Status Conferences

- 9.01 Attorneys appearing at the pretrial conference shall have full authority to enter into a stipulation.
- 9.02 Pretrial conferences shall be held in all contested civil actions. At least one attorney planning to take part in the trial shall appear for each of the parties to the action, if more than one, and shall participate in the pretrial conferences.
- 9.03 Counsel shall prepare in writing, time allowing, in advance of pretrial conferences and for presentation at the pretrial conference, a concise factual statement of the claim and/or defense of their client, including specification and documentation of all damages claimed. Counsel shall prepare and furnish at the pretrial conference a written statement of the stipulations to which opposing parties can reasonably be expected to enter.
- 9.04 If, without just excuse or because of a failure to give reasonable attention to the matter, no appearance is made on behalf of a party at the pretrial conference, or if any attorney is grossly unprepared to participate in the conference, the court may, in its sound discretion:
- A. Reschedule a conference and order the payment by the delinquent attorney or, when just, by the party, by attorney represents, the reasonable expenses, including reasonable attorney fees, to the disaccomodated party;
 - B. Conduct the conference and enter the pretrial order without participation by the delinquent attorney;
 - C. Order striking of pleadings, dismissal or entry of a default judgment.
- 9.05 In all pretrial matters, attorneys must have the authority to negotiate in the absence of their clients or, if authority is not granted, immediate telephonic access to the client shall be required.

10.00 Civil Cases

- 10.01 Within 90 days of filing, all civil cases will be reviewed for service and answer. If at that time, it is found that a case has not reached issue, a dismissal order or default

proceeding may be initiated by the court. Should the court elect to proceed, the court may contact the parties and/or their counsel and inquire as to the status of the case and set a hearing date on the same convenient date and time to all parties.

10.02 Should there be a scheduling order entered on a particular case and a deadline therein not be able to be complied with by either party, said party shall provide to the court written notice of this fact and set forth their reasons for such failure to comply and the amount of additional time required.

10.03 In all actions where personal service was obtained upon the defendant, no notice to defendant is required prior to entry of judgment (EXCEPT as to mortgage foreclosure).

In cases where no personal service is 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 15 days of the date of the notice, default judgment shall be entered.

10.04 Hearing requests shall be heard by the court as soon as practical. Upon the expiration of the time to request a hearing, plaintiff may apply to the court for default judgment, accompanied by an affidavit to the court for default judgment, accompanied by an affidavit of the aforesaid notice defendant.

In actions where damages are not liquidated, a hearing shall be conducted to determine the amount of the judgment. The court may order a hearing to determine the amount of judgment in any case.

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

11.00 Small Claims

11.01 Except in eviction and replevin actions, a defendant in a small claims action may file a written answer in any action specified in Sec. 799.01 Stats. Such written answer must be received by the small claims office not later than 20 days after the "date of summons" or by the return date set in the summons, whichever is earlier. A copy of the written answer must be mailed to plaintiff's lawyer, if any, or to the plaintiff.

If a written answer is filed pursuant to this rule, neither plaintiff nor defendant are required to appear on the return date contained in the summons. Sec. 799.22(4) and 799.05(3) Stats.

11.02 Monroe County authorizes the service of summons in all small claims actions, except evictions and replevin actions, by mail in lieu of personal or substituted service. Evictions and replevin actions must be served by the Monroe County Sheriff.

- 11.03 Both parties must make an appearance on the return date. Plaintiff may have their appearance noted on record, without a personal appearance, on the return date should they so request, in writing, at the time of the filing of the action. Should defendant appear, then a trial date will be scheduled and both parties notified of the time.

Defendant may make his appearance in writing by the return date by filing an answer with the court prior to the scheduled date and time of the initial hearing and providing copy of such answer to the plaintiff or plaintiff's counsel. A trial date will then be scheduled and notice to both parties provided.

12.00 Criminal and Traffic Matters

- 12.01 After imposing the sentence in a juvenile drinking or possession of alcohol sentence, the court has the authority, 48.344(2)(g)(a), with the agreement of the child, to stay or modify the order, if the child submits to an alcohol or other drug abuse assessment; participates in an out-patient AODA program; or participates in a court approved AODA education program.

- 12.02 Fine Payment Plan: Effective immediately, all parties under a fine payment plan will:

1. Request a pay plan when the defendant enters his/her plea of no contest/guilty.
2. The minimum monthly payment will be \$50.00.
3. Sign a wage assignment, if employed.
4. Failure to make payments on a regular monthly basis will result in a commitment order.
5. Should a defendant require an extension of time in order to pay their fine, they shall contact the appropriate judge's judicial assistant. There shall be no more than two (2) extensions provided.

- 12.03 A mandatory appearance will be required for those traffic offenders who are accused of first offense OMVWI and OAR.

This rule is being established because when the arresting officer checks no mandatory appearance necessary on the citation, offenders do not realize that they have to appear in some fashion or another. We are then issuing warrants for their arrest which surprises them. This should alleviate this misunderstanding.

- 12.04 Felony Pretrial Conference and Return Date prior to Arraignment

- A. Defendant waives time limits for preliminary hearing

Upon a defendant waiving time limits for a preliminary hearing on a felony case, the State shall submit a written pretrial offer by e-mail or regular mail to defendant's attorney by a date set by the court.

The court shall set a pretrial conference at 1:30 p.m. on a Monday, within a reasonable time after the State's scheduled submission of its pretrial offer. The defendant's attorney may appear at the pretrial conference. Defendant's attorney may avoid appearing at the pretrial conference if the defendant's attorney communicates with the State regarding the offer prior to or at the pretrial conference date and time. If the defendant's attorney chooses to conduct the pretrial by email, the email must be more than a mere formality and must contain some substantive effort toward resolution of the matter. If the defendant's attorney chooses to conduct the pretrial by phone and the assigned prosecutor is not available when the call is made, the defendant's attorney is responsible for following up and ensuring communication takes place regarding the case.

The court shall set a return to court for a waiver/schedule hearing in front of the assigned circuit court branch within a reasonable time following the date set for a pretrial conference. It is anticipated that in most cases this will be approximately 6 weeks after the initial appearance so that a preliminary hearing or waiver could occur within 12 weeks of the initial appearance. **This appearance is mandatory for the defendant and the defendant's attorney.** The waiver/schedule hearing can be taken off the calendar and scheduled for a preliminary hearing if the defendant's attorney notifies the court in writing or by contacting the court's judicial assistant by telephone by 3:00 p.m. on the Thursday prior to the scheduled waiver/schedule date. It is expected that the defense attorney will arrange to speak with his/her client before the notification date/time and advise the court by that time if his/her client will not be waiving the preliminary hearing at the waiver/schedule. By notifying the court as provided, the defense attorney is certifying that he/she has complied with this rule and has informed the defendant of the current status of negotiations. Any written notification shall also provide proposed date(s) for the preliminary hearing that is within 6 weeks of the waiver/schedule hearing. If the defendant does not waive the preliminary hearing at the waiver/schedule hearing, the matter shall be set for a preliminary hearing within 6 weeks of the waiver/schedule hearing on a Tuesday Prelim/Final Pretrial Calendar absent extraordinary circumstances. The preliminary hearing will be heard, if possible, in front of the assigned circuit court branch. If schedules warrant, the preliminary hearing may be heard in another branch. The State and defendant's attorney shall make reasonable efforts to make themselves, or another attorney from their office available for the Tuesday Prelim/Final Pretrial Calendars when scheduling.

If a defendant is unrepresented (pro se), upon a defendant waiving time limits for a preliminary hearing on felony charge(s), the court shall set a pretrial conference at 1:30 p.m. on a Monday and a return to court for a waiver/schedule hearing in front of the assigned circuit court branch. If the defendant does not waive the preliminary hearing at the waiver/schedule hearing, the court shall set the matter for a preliminary hearing in front of the assigned judge in the 6 weeks from the date of the waiver/schedule absent extraordinary circumstances.

Failure by attorneys or pro se defendants to follow these rules may result in sanctions being imposed pursuant to Sections 802.10(7) and 805.03, Stats., or the commencement of contempt proceedings which may result in fines, incarceration, or other orders.

B. Defendant does not waive the time limits for the preliminary hearing

The preliminary hearing shall be scheduled within the time limits on the Tuesday Prelim/Final Pretrial Calendar. In order to comply with time limits, another circuit court branch may hear the preliminary hearing. If time limits for having a preliminary hearing are not waived, the court must find good cause to reschedule. Good cause would not include belatedly waiving time limits so a pretrial conference can be held.

C. Branch Assigned to Felony Case

The circuit court branch assigned to the case shall be the branch that completed the initial appearance. This is defined as when the defendant either requests his/her preliminary hearing within time limits or waives the time limits to the preliminary hearing. Another branch hearing a preliminary hearing or waiver of a preliminary hearing does not change the branch assigned to the case. The defendant has the right to file a substitution of the judge assigned to the preliminary hearing pursuant to Section 971.20(3), Stats. (1-2019)

12.045 Misdemeanor/Felony scheduling upon plea(s) of not guilty to the charge(s)

Upon a defendant entering plea(s) of not guilty to the charge(s) in a criminal case, the State shall submit a written pretrial offer by e-mail or regular mail to defendant's attorney by a date set by the court unless an offer has already been provided and the State is not changing the offer. If a pretrial offer includes upfront conditions, the upfront conditions shall be completed within 90 days of the pretrial conference. The court may allow an extension to complete the upfront conditions. If an extension is granted the court may request that the State provide an alternative offer to the defendant and set a further pretrial conference. Extensions will be granted at the discretion of the court and should not be expected.

The court shall set a pretrial conference at 1:30 p.m. on a Monday, within a reasonable time after the State's scheduled submission of its pretrial offer. The defendant's attorney may appear at the pretrial conference. Defendant's attorney may avoid appearing at the pretrial conference if the defendant's attorney communicates with the State regarding the offer prior to or at the pretrial conference date and time. If the defendant's attorney chooses to conduct the pretrial by email, the email must be more than a mere formality and must contain some substantive effort toward resolution of the matter. If the defendant's attorney chooses to conduct the pretrial by phone and the assigned prosecutor is not available when the call is made, the defendant's attorney is responsible for following up and ensuring communication takes place regarding the case.

The court shall set a return to court for a plea/schedule hearing in front of the assigned circuit court branch within a reasonable time following the date set for a pretrial conference. It is

anticipated that in most cases this will be approximately 12 weeks after entry of not guilty plea(s). **This appearance is mandatory for the defendant and the defendant's attorney.** The plea/schedule hearing can be taken off the calendar if the defendant's attorney notifies the court in writing or by contacting the court's judicial assistant by telephone by 3:00 p.m. on the Thursday prior to the scheduled plea/schedule date. A telephone call is only sufficient for requests to set a trial or a felony plea and the first request to adjourn a plea/schedule. It is expected that the defense attorney will arrange to speak with his/her client before the notification date/time and advise the court by that time if his/her client will not be entering a misdemeanor plea at the plea/schedule. By notifying the court as provided, the defense attorney is certifying that he/she has complied with this rule and has informed the defendant of the current status of negotiations. All written notifications shall be signed by the defense attorney and provided to the circuit court branch that is hearing the plea/schedule. The written notification must certify that the defense attorney has complied with this rule and has informed the defendant of the current status of negotiations. If the written notification requests an adjournment, it shall also provide a proposed date for a plea/schedule and the reasons for the requested delay. If an adjournment is requested, the court may require an in-person pretrial. All felony pleas shall be held off the normal plea/schedule calendar.

If a defendant is unrepresented (*pro se*), upon a defendant entering plea(s) of not guilty to criminal charge(s), the court shall set a pretrial conference at 1:30 p.m. on a Monday and a return to court for a plea/schedule hearing in front of the assigned circuit court branch.

All suppression motions, motions challenging the complaint or information, and collateral attack motions shall be filed and scheduled prior to scheduling a jury trial. The motion can be scheduled once it is filed and the moving party shall file a notice of motion providing the date and time of the hearing within 72 hours of scheduling the motion unless it is required to be filed sooner to give proper notice.

Upon the request of the defendant to schedule a jury trial, the Court shall schedule a date for a final pretrial and a jury trial date. Trials shall be stacked and the order for the trials shall be solely at the discretion of the court. The order for the stacked trial will be available to both sides by the time of the final pretrial. The court will advise the attorneys of which trial will proceed no later than noon 5 business days before trial. **The final pretrial is a mandatory appearance for the defendant and the defendant's attorney.** The final pretrial shall be scheduled on the court's Tuesday Prelim/Final Pretrial Calendar that is a minimum of 3 weeks prior to trial and closest to 30 days prior to trial.

If a matter is set for trial, both the State and Defense shall file all nonstandard motions, including *Daubert* motions, by a date set by the court. Upon filing, the moving party shall immediately schedule the motion to be heard at least 5 business days prior to the final pretrial hearing and shall file a notice of motion providing the date and time of the hearing within 72 hours of filing the motion unless it is required to be filed sooner to give proper notice. The moving party shall file its brief 20 days prior to the scheduled motion hearing and the nonmoving party shall file its brief 7 days prior to the scheduled hearing unless otherwise ordered by the court. Nonstandard motions include, but are not limited to: 1) any motion that would require an affidavit; 2) any motion that the moving party would either like to brief or expect that the court may request a

brief; 3) any motion that the attorney would not typically have another attorney from his/her office argue the motion; 4) any motion that could impact negotiations; and 5) any motion that the moving party would expect to make an argument that is longer than 2 minutes. The exception to this is a section 906.09 motion. If either party is unsure of whether a motion would be considered a nonstandard motion, that party may request clarification from the court in writing.

The following shall be done at least 60 days prior to the final pretrial to assist both sides in preparing for trial, in filing all pretrial motions as required, and in complying with the dates set by the court: 1) Substantially comply with discovery disclosing to the other and permitting the other to inspect and copy or photograph materials and information required under section 971.23, Stats.; and 2) File an expert witness list including a curriculum vitae, and a report or summary of testimony for any expert witness unless this information is provided sufficiently in discovery so that the other side has adequate notice of a potential expert witness that may require a *Daubert* motion.. At least 2 weeks before the final pretrial each side shall file all standard trial motions so that all standard motions can be heard at the final pretrial.

If a resolution has been reached at the time of the final pretrial, the defendant shall enter his/her plea at the final pretrial. If a resolution has not been reached, each side shall be prepared to certify to the court that they have reviewed their file, contacted their witnesses, completed negotiations and are prepared to proceed to trial as scheduled with a full understanding of this rule. If a negotiated plea agreement is reached after the final pretrial hearing, the court may still allow the negotiated plea to proceed if the defendant advises the court at least 2 weeks prior to trial and schedules the plea hearing so it is heard at least 5 business days prior to the start of the trial. If the plea is on the last possible day, it shall be completed prior to noon that day. The plea can be completed on a final pretrial calendar. Except as provided above, negotiated pleas will not be accepted absent extraordinary circumstances. Extraordinary circumstances do not include lack of adequate preparation of the case prior to the final pretrial or failure to file motions that can be decided prior to trial. The court must be notified if there will be a dismissal at least two weeks prior to trial.

All time periods reflected in days are calendar days unless described otherwise. The timelines above may be modified by scheduling order. Parties may request a modification to these time lines and/or scheduling order and may request a scheduling conference. All motions that are not filed as required may be subject to sanctions being imposed. Failure by attorneys or pro se defendants to follow these rules may result in sanctions being imposed pursuant to Sections 802.10(7), 814.51, and 805.03, Stats., or the commencement of contempt proceedings which may result in fines, incarceration, or other orders. (8-2020)

12.0455 Subsequent Pending Cases

If a defendant has at least one pending criminal case when they are charged with a subsequent criminal case, any subsequent criminal case shall be scheduled for future hearings in front of the branch that is assigned to the oldest pending case. Pending case is defined as a case that the defendant has not been found guilty of any charges or entered into a Diversion Agreement in the case. In an attempt to assist in this process, defendant's attorney and the State shall advise the

court if they are aware that a defendant has a pending case. If a global resolution is reached, the plea and sentencing hearing shall be heard by the branch that has the oldest pending case. If the branch with the oldest pending case has been substituted in a subsequent pending case, that oldest case shall be heard by the branch assigned unless agreed to by that branch. (1-2019)

12.046 Tuesday Prelim/Final Pretrial Calendar

The Tuesday Prelim/Final Pretrial Calendar shall start June 5, 2018. It shall be on a six (6) week rotation and shall be as follows:

| WEEK | CALENDAR | TUESDAY SCHEDULE |
|-------------|----------------------------------|--|
| 1 | INTAKE PRELIM/FINAL PT | BRANCH 1 BRANCH 1: 3:00 – 4:30 |
| 2 | INTAKE PRELIM/FINAL PT | BRANCH 1 BRANCH 2: 3:00 – 4:30 |
| 3 | INTAKE PRELIM/FINAL PT | BRANCH 2 BRANCH 3: 1:00 – 3:00 |
| 4 | INTAKE PRELIM/FINAL PT | BRANCH 2 BRANCH 1: 1:00 – 3:00 |
| 5 | INTAKE PRELIM/FINAL PT | BRANCH 3 BRANCH 2: 1:00 – 3:00 |
| 6 | INTAKE PRELIM/FINAL PT | BRANCH 3 BRANCH 3: 3:00 – 4:30 |

June 5, 2017 is Week 4 on the above calendar. The first 30 minutes of the Prelim/Final Pretrial Calendar shall be for preliminary hearings. The remaining time will be for final pretrials which shall start when the scheduled preliminary hearings are concluded. (5-2018)

12.047 Motions to Modify Bond

All motions to modify bond shall be filed at least 48 hours prior to the scheduled hearing. **The moving party shall file a notice of motion with the date and time of the hearing upon filing the motion.** If the modification request includes a request to eliminate or modify any term(s) of bond monitoring a current bond monitoring compliance report from the Justice Department shall be attached to the motion. (5-2018)

12.048 Criminal Calendars

The Criminal Intake Calendar shall be on Mondays from 9:00 a.m. until 12:00 p.m. Starting September 3, 2018, if Monday is a holiday, the Criminal Intake Calendar shall be held the Wednesday of that same week unless the Wednesday is also a holiday. Initial appearances, waiver/schedule hearings and preliminary hearing waivers shall be held at 9:00 a.m. Misdemeanor pleas and plea/schedule hearings shall be held at 10:00 a.m.

The Criminal Traffic Calendar shall be on Tuesdays from 10:00 a.m. until 12:00 p.m. The Interpreter Calendar shall be on Tuesdays from 8:00 a.m. until 9:00 a.m.

If Tuesday is a holiday, the Criminal Traffic Calendar, the Interpreter Calendar, and the Prelim/Final Pretrial Calendar shall be held on Thursday of that same week unless the Thursday is also a holiday. (5-2018)

12.049 Sentencing

For every sentencing hearing both the State and Defense shall review any filed jail confinement card and be prepared to address sentence credit. If either the State or Defense is not prepared to address sentence credit at the time of sentencing, the sentence credit position with any argument shall be filed in writing by the end of the day of the sentencing hearing unless the court allows a later date. (5-2018)

12.05 Bench Trials. Scheduling of bench trials:

1. A defendant who has a scheduled bench trial may change his or her plea to "guilty" or "no contest" subject to the following conditions:
 - A. Notification of the change of plea must be made no later than 48 hours prior to the scheduled trial.
 - B. Notification of the change **must be in writing.**
 - C. Failure to comply will result in costs being imposed.

Upon receipt of the written notification, the district attorney will cancel the appearance(s) of its witness(es).

2. The district attorney's office must notify the court no later than three (3) days before a scheduled bench trial of its request for a postponement. Absent an emergency, failure to comply will result in dismissal of the case.

12.055 Community Service Policy

Jail inmates shall not be released from jail to perform community service while serving a jail sentence or jail time as a condition of probation. All community service shall be completed prior to a defendant's report-to-jail date. A report date shall not be extended for the purpose of providing more time to a defendant to complete community service. Defendants who wish to perform community service shall report to the Monroe County Justice Department within two business days of being sentenced to complete the application and sign all required documents.

If approved by the Court at sentencing, the defendant is entitled to one day of credit toward jail time for each full day (8 hours) of community service completed up to one-half of the jail time the defendant is required to serve. If approved, the Judgment of Conviction shall state that the defendant may perform community service toward jail time.

If approved by the Court, individuals may also perform community service at the rate of \$10.00 per hour toward fines. Defendants shall not receive dual credit for fines and jail time for the same community service completed.

Defendants serving a sentence on a conviction for Operating while Intoxicated or another offense in violation of section 346.63, Stats., shall receive credit for community service only toward fines and not toward jail time for that sentence.

While defendants may complete approved community service prior to sentencing, defendants will only receive credit for that community service if approved by the court at sentencing. Credit for community service will only be granted if approved and verified by the Monroe County Justice Department. Defendants shall not receive credit for portions or parts of days toward jail time.

(05-2019)

12.06 Now addressed in 12.07

(05-2014)

12.07 Bond Policy

Section I Traffic

- A. In-state residents can be released without bond.
- B. Out-of-state residents request bond or driver’s license. If defendant cannot post either, release; except for those defendants who have failed to appear in the past.

Section II Traffic

All defendants charged with Section II traffic offenses shall first be booked into the Monroe County Jail.

- A. In-state residents can be released without bond.
- B. Out-of-state residents. Require bond unless the accused shows sufficient ties to the community or the arresting officer/jailer is otherwise satisfied that the accused will make future court appearances.

Misdemeanors

- A. In-state residents may be released without bond at the discretion of the jail as provided in the State of Wisconsin Uniform Misdemeanor Bail Schedule.
- B. Out-of-state residents require a bond.

Felony

- A. In-state residents held for court.
- B. Out-of-state residents held for court.

All Domestic Abuse Arrests

- A. Require bond.
- B. Unless the alleged victim signs a written waiver, the bond shall require that the arrested individual avoid the residence of the alleged victim of the domestic abuse incident and, if applicable, any premises temporarily occupied by the alleged victim, and avoid contacting or causing any person, other than law enforcement officers and attorneys for the arrested person and alleged victim, to contact the alleged victim during the 72 hours immediately following the arrest or until the scheduled bond hearing date. The bond hearing date shall be set within 72 hours of the arrest unless that is not possible because of a holiday or weekend.
- C. If the arrested individual is alleged to have violated the no contact provision in the above paragraph and is rearrested, the individual shall be held for court.

(05-2014)

12.08 Probation and Restitution Rights [973.09 - (1m)]

Under the authority of 973.09(1m) Wis. Stats., it is hereby ordered:

That the amount of victim restitution in all crimes, both adult and juvenile, shall be documented as to nature and amount by the law enforcement agency involved in the investigation or the Victim-Witness Coordinator's Office with the cooperation of the district attorney's office prior to sentencing.

Disputes as to amounts of restitution shall be resolved by the court upon application of any interested parties.

12.09 Request for Judicial Review Administrative Suspension under Wis. Stats. Sec. 343.305(8)(c)

Monroe County Courts require the following on all requests for judicial review of Administrative Drivers License Suspension:

1. That an administrative hearing took place under Wis. Stats. Sec. 343.305(8)(b) and that a copy of the hearing examiner's decision be attached to the petition for stay.
2. That the request for judicial review and the petition for stay be filed within the 20-day time limit set forth under Sec. 343.305(8)(c)(1).
3. That the petition and/or affidavit supporting it specifically set forth how the defendant is "aggrieved by the determination" including a statement as to why an occupational license will not provide temporary relief to the defendant.
4. A statement, with particularity, as to which issues under Sec. 343.305(8)(b)(2) the defendant believe he/she can prevail on and what the reasons or facts are in support of the defendant's position on those issues.
5. Clear documentation provided to the Court that a copy has been provided simultaneously to the prosecuting attorney. This documentation must indicate the prosecuting attorney has five days to submit any counter affidavit or any other documentation desired in opposition to the stay of the administrative suspension.

When all five requirements are met, the Court will allow the prosecuting attorney to file any documentation within five days. It then shall decide whether to rescind or sustain the administrative suspension without further hearing, unless the Court specifically believes that such a request is warranted and a hearing is necessary.

A request will be returned if it does not comply with five requirements listed above. A returned request may be resubmitted within 10 days of the date the return was signed by the Court.

(05-2014)

- 12.10 Pleas to amended charges will not be taken until an amended complaint or information has been filed with the court setting forth the new charges.
- 12.11 The judge will, if practical, set a sentencing date at the same time a presentence report is ordered and that date will be noted on the minute sheet. The clerk's office will then forward the sentencing date along with other presentence information to Probation and Parole, DHSS. The sentencing date should be approximately 45 days from the date the presentence is ordered. Probation and Parole will file the presentence report no later than one (1) week prior to sentencing if possible, or shall contact the court and advise of the approximate date and time the same will be arriving and the reason for any delay. The agent writing the report will attend the sentencing unless excused prior to the

hearing by the judge after the agent first contacts the prosecutor and the defense attorney.

- 12.12 Periods of confinement in jail, either by sentence or as a condition of probation, shall have set forth in the record whether the same is to be with huber or without huber.
- 12.13 One set of court costs will be imposed for each file. One set of victim witness fees and jail fees will be imposed for each count. It shall be stated to the defendant at the time of sentencing that should they fail to make their fine payments as ordered, or make arrangements for the payment of the same, that they may be sentenced to one (1) day in jail for every \$50.00 still outstanding at the time the full amount is to have been paid.
- 12.14 Sentencings after revocation of probation in criminal cases.

Sentencing hearings arising under this heading will be assigned to the particular judge that placed the defendant in question on probation.

- 12.15 When a request to reopen a case comes in, it shall be assigned to the judge who dismissed (with the right to reopen) the same. Should counsel desire that a new judge hear the same, a motion for substitution of judge will be filed accordingly.
- 12.16 Where a motion is made or an action is started to vacate a judgment and reopen a case, that motion or case will be assigned to the judge who entered the judgment under attack. If the judgment is vacated or reopened, the judge so ordering will hear the case unless there has been filed a request for a substitution of judge filed by counsel.
- 12.17 Preliminary Hearing. If time limits for having a preliminary hearing are not waived, the court must find good cause to reschedule. Good cause would not include belatedly waiving time limits so a pretrial conference can be held.

13.00 Family Matters

- 13.01 A preliminary financial disclosure statement must be filed by both parties with the family court commissioner before or at the time of the hearing on the temporary order or prior to the entry of any temporary order based upon a written stipulation.

Failure by either party to complete, present, and file this form as required will authorize the family court commissioner to accept the statement of the other party as the basis of its decision.

Every motion or order to show cause scheduled to be held before the family court commissioner, prior to a final hearing by the court, to set or modify support, family support or maintenance, shall contain language which requires both parties to submit to the court at the scheduled hearing completed financial disclosure statements and verification of income, if required.

Failure to comply with the rule may result in the dismissal of the matter, a continuance and/or costs being assessed.

An updated final financial disclosure statement shall be filed at the time of the final hearing. Failure by either party to timely file a complete disclosure with the court as required shall authorize the judge to accept the statement of the other party as accurate.

- 13.02 Any temporary order, judgment or post judgment order which contains a provision for maintenance, child support, or family support payments shall include language consistent with Wisconsin Statutes 767.265(1) which allows the family court commissioner the discretion to process an assignment of income in an amount sufficient to meet the current amount due and to defray arrears of record due. Where child support and/or maintenance is ordered by the court at trial, the payer shall execute a wage assignment before leaving the courthouse. Such wage assignment shall be placed into the file of the payee to be put into effect immediately should payer become delinquent in the ordered payments. Counsel for payee and payer shall attempt all efforts to make a good and reasonable effort to determine the cause for such delinquency and if the same is justified. With the approval of their clients, counsel may make arrangements for the payment for the arrearage, without the assignment being placed into effect. Such arrangement shall be put into writing and executed by all parties. Should such agreement fail to be adhered to, counsel for the payee shall be allowed to put the wage assignment into effect immediately providing notice to the opposing counsel of such action being taken. Such assignment shall not apply should payer have previously submitted a wage assignment to counsel and the same is in counsel's file.

Any assignment of income placed into effect may be allowed to make arrangement for payment of the ordered support/maintenance, plus an additional amount to eliminate the arrears of record within a reasonable amount of time. However, the amount of the assignment may not exceed 150 percent of the current support amount. Once all arrears have been paid off, the assignment shall decrease to the amount of the current support payment.

- 13.03 Unless otherwise provided by the judge, all arrearage in temporary maintenance and support ordered before the granting of the judgment shall be carried forward as an arrearage in the judgment. Unless the parties agree otherwise, or it is shown by credible evidence that the records of the clerk of courts are not accurate, the amount of such arrearage shall be shown by said records.
- 13.04 A copy of all pleadings shall be served on the family court commissioner for Monroe County. A copy shall be served upon the Monroe County child support agency and corporation counsel should a party be receiving AFDC or W-2, has received during the pendency of the action or has applied for Aid to Families with Dependent Children, (AFDC) or W-2. They shall further be notified of the scheduled final hearing date so that they may attend should they so desire. In addition, they shall be provided a copy

of the findings and judgment once the same has been signed by all concerned parties. Should there be an arrearage due in the child support, they may be required to approve the findings and judgment should provisions be made therein for the payment of such arrearage.

- 13.05 All stipulated temporary orders which contain a provision for support, family support, or maintenance shall contain the following:
- A. The address of both parties.
 - B. The name and address of the employers of the parties.
 - C. The name and birthdates of any minor children.
 - D. The language required by Wisconsin Statute 767.23 and 767.29(1).
 - E. The commencement date for the support payments.
- 13.06 Once a matter has been scheduled for a hearing, there may be no adjournment unless both counsel agree to the same or the requesting counsel submit a motion which is scheduled for a hearing for the same with service being made on the opposing counsel in a timely fashion.
- 13.07 The findings of fact, conclusions of law and judgment shall include the last known address and the earnings of each party, if known. When real estate is involved, the legal description shall be required, if known. Before submission to the court for approval and filing, they shall be submitted to the opposing counsel, if any. The original and three (3) copies must be submitted to the court within 30 days of the final hearing for filing. If a stipulation is incorporated into the judgment, a copy of said stipulation must be attached to the original and all copies. Copies shall be provided to all appropriate parties, i.e. family court commissioner, attorneys of record, corporation counsel, and child support agency, if involved.

In the event the findings and conclusions and judgment are not filed within the 30 days required under Sec. 767.37(1)(a), the judge will initiate an order to show cause for contempt against the attorney/party responsible for preparing and filing said documents and the judge will impose appropriate sanctions.

After the findings and judgment have been signed by the appropriate judge, the original findings and judgment shall be time-stamped in the main office.

The clerk of court will send out copies of the judgment to the parties. Again, such proposed findings and judgment must be submitted to the opposing counsel, if any, for their approval prior to being submitted to the court.

- 13.08 A party ordered to make payments for maintenance, child support or family support under interim or final orders in an action affecting the family shall pay to the State of Wisconsin an annual receiving and disbursing fee of \$35.00. Only one fee shall be imposed on any individual payer for each case file. Each annual fee payment shall be made at the time of, and in addition to, the first payment to the State in each year for

which payments are ordered.

Every party ordered to make payments of an annual receiving and disbursing fee shall be notified of the requirement to pay the fee and the amount of the fee by including the provisions concerning the fee in any subsequent written order.

Any stipulation between parties under which a party is to make maintenance payments, child support, or family support payments shall include the requirement to make the annual receiving and disbursing fee.

If a party required to make an annual receiving and disbursing fee does not do so, the State of Wisconsin may:

A. Bring a motion before the court for an order of contempt under Chapter 785, Wis. Stats.

B. Apply to the court or court commissioner for an assignment relating to the annual fee according to 767.265, Wis. Stats.

In all actions affecting the family in which the court has previously ordered an annual receiving and disbursing fee to be paid, beginning January 1, 1992, the amount of the fee shall be the amount established by this rule. The State of Wisconsin shall notify by mail those payers affected by this rule prior to the date on which the fee must be paid.

- 13.09 Temporary restraining orders or injunctions shall be signed by the court if Section 767.23(am) and Section 813 of the Wisconsin Statutes have been complied with to the satisfaction of the court as shown by an affidavit or verified petition. When a temporary restraining order, pursuant to Section 813.025(2), Wis. Stats., is sought, all papers shall first be submitted to the court for approval. Before noting approval, the court shall have the right to examine the applicant to determine whether the facts stated in the petition or motion for such relief conform to the requirements of the statute.
- 13.10 An ex parte order awarding custody of children to a party in a family court action will not be signed without a verified petition or affidavit stating substantial reasons why it is in the best interests of said children for the order to be signed.
- 13.11 A waiver of mandatory mediation may be granted by a judge or a family court commissioner upon examination of an affidavit if the affidavit presents sufficient evidence to support the waiver. If a party objects to the waiver, an evidentiary hearing will be conducted by the family court commissioner, judge if a post-judgment matter. Waiver of the mandatory mediation session does not excuse attendance at the orientation session; it modified only the requirement for both spouses to be present at the same session.
- 13.12 All domestic abuse cases filed with the clerk of courts for Monroe County pursuant to Chapter 813, Wis. Stats., shall be considered civil cases but shall be assigned to be

heard by the intake judge, if available. Either judge may sign the order for hearing. Such hearings shall be heard approximately fourteen (14) days hence.

In domestic abuse cases, the court may reissue its temporary restraining order where service has not been obtained on the first temporary restraining order, without the requirement that a new action be filed or a new filing fee be paid, but possibly with the requirement that the petitioner restate, under oath, the facts previously alleged in the petition and/or allege new additional facts in support of the petition. Such re-issuance shall again be scheduled approximately fourteen (14) days hence.

- 13.13 Should child support be an issue to be decided by the court and should there be an outstanding arrearage, counsel shall provide to the court an affidavit attesting to the status of the child support and/or maintenance account. Said affidavit shall be summary and not detailed. A printout, if available, shall be obtained from the clerk of court.
- 13.14 Enforcement or modification of judgment shall be obtained pursuant to Section 767.02(1)9i), Wis. Stats., or by motion. Such motions shall be scheduled before the judge who presided over the final hearing of such divorce proceeding.

If such matters are brought by motion, the notice of motion shall recite the time, date, judge, and place of the hearing. Proper time and notification of the proper parties shall be made with proof of the same provided to the court.

13.15 Mediation

Monroe County will pay the first \$90.00 for mediation in newly filed family cases; however, there must be a referral form or order filed with the Monroe County Clerk of Circuit Court signed by either judge or the family court commissioner.

For Monroe County to pay for mediation in post-judgment cases, there must be a referral form or order filed with the Monroe County Clerk of Circuit Court signed by either judge or the family court commissioner and a pending motion and two (2) years has elapsed since the entry of the final order.

13.16 Divorce cases involving minor children:

- A. All parties filing for divorce who have minor children born of the marriage are ordered to complete the "Children in the Middle" program, an educational program dealing with the effects of divorce on children.
- B. The litigants in any case heard before the family court commissioner for a temporary hearing will be required to attend the next available class. The parties failure to complete the "Children in the Middle" program may be considered by the family court commissioner in responding to request to modify the temporary order.

- C. No divorce shall be granted until the "Children in the Middle" program is completed.
- D. The "Children in the Middle" program shall be completed within 90 days of the filing of the divorce. Failure to complete the program may lead to court sanctions including contempt.
- E. Each party shall pay for the cost of the program. The parties shall pay their fees directly to the agency conducting the program prior to the commencement of the class attended.
- F. Post divorce litigants may be required to attend the "Children in the Middle" program if they have not previously attended.
- G. This rule shall be effective for marital actions filed on or after October 1, 1997.

14.00 Children's Court

- 14.01 Branch 1 and Branch 3 shall be designated the Children's Court Judges. These two Branches shall preside over all Children in Need of Protection and Services (CHIPS), Juvenile in Need of Protection and Services (JIPS), Juvenile Delinquency, Juvenile Ordinance, Truancy, Termination of Parental Rights (TPR), and Adoption cases except when substitution and/or recusal requires another judges to be assigned. Children's Court shall be held every Monday, excluding holidays, starting at 3:00 p.m. for CHIPS, JIPS, and truancy cases. Children's Court shall be held every Tuesday, excluding holidays, starting at 3:00 p.m. for juvenile delinquency, juvenile ordinance and truancy cases. The Monday and Tuesday intake for these cases shall alternate every other week between Branch 1 and Branch 3. Any other judge assigned to a CHIPS case shall also follow the procedures established in section 14.03.
- 14.02 The judge that completes the initial appearance on a CHIPS, JIPS, delinquency, truancy, or juvenile ordinance case shall be the judge assigned to that case except as provided section 14.03. The completion of the initial appearance is defined as when the parent or youth enters a plea.
- 14.03 The Branch assigned to a CHIPS case shall preside over all pending Monroe County cases sufficiently related to the pending CHIPS case, except as provided by statute. To be sufficiently related, the case must involve the same child or the immediate family of the child. If the assigned judge initially determines that another case is sufficiently related, that judge shall notify all parties and attorneys in the other case of that initial determination and that the case will be transferred to the judge if no written objection is received within five business days. If any party objects to the reassignment, the judge shall schedule a hearing to address the issue.

If a final determination is made to transfer a case, the CHIPS judge shall notify the Branch the case was originally assigned to so an Application for Specific Assignment can be completed. If a timely substitution of judge request is made in the reassigned case, it shall be granted. Separate cases shall have separate hearings unless agreed upon by the parties. The confidentiality of a case or hearing is not waived by coordination of a joint hearing. All state and federal confidentiality statutes pertaining to each case apply as if held separately.

14.035 TPR cases shall be assigned to the Branch that is assigned to a CHIPS case involving the child if the CHIPS dispositional order is still in effect. All other TPR cases filed shall be assigned randomly to one of the Children's Court Judges.

(04-2019)

14.037 Adoption cases shall be assigned to the Branch that is either assigned to the current TPR case or that granted the TPR for the minor child. All other adoption cases filed shall be assigned randomly to one of the Children's Court Judges.

(04-2019)

14.04 Parents in CHIPS cases may be ordered by the court to be subject to random drug and alcohol testing through the Monroe County Justice Department testing process. Because of the confidentiality requirements of the Justice Department including those for Wisconsin Statute Chapter 48 cases, if a parent is subject to such an order, he/she shall be required to sign a release of information for the Justice Department and Human Services to share information. Any test results received by the court shall be shared with all parties.

14.05 Out of home placements shall be reviewed by the court more frequently than the permanency plan review process. Each case will be considered individually to determine an appropriate time for the review. After a return to a parental home, the court shall conduct at least two (2) more reviews unless the court after hearing from the parties believes that is not necessary. At the dispositional hearings, review hearings, and permanency plan hearings, the court shall set the expectations for each party for the next hearing. The parties shall also set a time for a meaningful staffing to occur prior to the next hearing. Human Services shall provide a written report prior to a review hearing. The court may also require the parent(s) to provide a written report prior to a review hearing.

14.06 Human Services shall file all Dispositional Reports, Permanency Plan Reports, and Review Hearing Reports with the Juvenile Clerk at least five business days prior to the hearing unless otherwise ordered by the Court. Human Services shall also provide copies of the same reports to the attorneys and the parents at least five business days prior to the hearing unless otherwise ordered by the court. If any party has a concern about whether a report should be provided to either parent, that party shall raise the issue at a hearing or by letter to the court. If the court determines that the report will not be provided to a parent prior to the hearing, the parent shall be given the opportunity to come to the Juvenile Clerk's office 30

minutes prior to the scheduled hearing to review a copy. If this is the case, the Social Worker shall provide the Juvenile Clerk with an extra copy for the parent(s) and the parent(s) shall be required to return the copy to the Juvenile Clerk after the hearing is completed.

- 14.07 Hearings to waive an alleged delinquent juvenile into adult court shall not be heard by the judge assigned to the juvenile case. The case will be returned to the assigned judge if the waiver request is denied.

(01-2018)

15.00 Probate Court

- 15.01 Jurisdiction of the Probate Court

Probate actions under Wis. Stat. Chapters 851 through 879.
Guardianship and Protective Placements under Wis. Stat. Chapters 53, 54, and 55.
Trust actions under Wis. Stat. Chapter 701.
Civil commitments under Wis. Stat. Chapter 51.

- 15.02 Responsibility within the Probate Court

The Register in Probate office is responsible for the opening, reviewing, filing, maintenance and closing of all files and papers dealing with civil commitments, probates, trusts, protective placements, protective services, guardianships (adult and minor), as well as administrative matters dealing with probate court.

The Probate Registrar administers uncontested Informal Probate hearings.

- 15.03 Hearings

Probate Hearings shall be held on the first, third and fifth Mondays of each month, excluding holidays, commencing at 2:15 p.m.

- 15.04 Wills

Only original Wills will be accepted for filing with the Court without a hearing, unless a Will copy is filed as part of a probate proceeding.

At the time of the filing of a Will, the Register in Probate office will be notified as to whether the testator or testatrix is alive and the Will is being filed for safekeeping (accompanied by the statutory filing fee), or whether the testator or testatrix is deceased and the Will is being filed as a Court record.

- 15.05 Summary Assignments and Summary Settlements

Proof of Heirship must be filed with all opening documents for Summary

Assignment and Summary Settlement proceedings.

15.06 Final Estate Account

Filing of a Final Estate Account in an Informal Probate is required.

15.07 Receipts and Releases

Proof of the recording of the conveyance of any real estate in a probate proceeding must be filed with the Court.

15.08 Tax Clearances

A Wisconsin Closing Certificate For Fiduciaries shall be filed with the Court prior to the closing of any Formal or Informal Estate, unless otherwise ordered by the Court.

A Federal Estate Tax Closing Letter must be filed with the Court prior to the closing of any estate if the estate meets the standard to file a federal estate tax return.

15.09 Power of Attorney for Healthcare

Power of Attorney for Healthcare documents shall not be filed for safekeeping in the office of the Register in Probate.

(06-2016)

16.00 Guardianships

16.01 Expenditure of Guardianship Assets Exceeding \$1,000.

Guardians of Estate shall obtain prior written Court approval for any expenditure of guardianship assets exceeding \$1,000. This requirement excludes necessary medical expenses and monthly housing or nursing home expenses.

16.02 Guardian of Estate Bond Requirements

Signature Bonds may be ordered in cases with assets of \$5,000 or less. Surety Bonds shall be required for cases with assets exceeding \$5,000, unless otherwise ordered by the Court.

(10-2013)

16.03 Minor guardianship cases shall be assigned to the Branch that is assigned to a CHIPS case involving the minor if the CHIPS case has not yet proceeded to disposition or the dispositional order is still in effect. All other guardianship cases filed shall be assigned randomly to one of the Circuit Court Judges.

(04-2019)

17.00 Media Coverage of Court Proceedings and Cameras and other Recording Equipment in the Courtroom / Media Room

- 17.01 All proceedings shall be open to the public and media coverage unless prohibited by statute or court order.
- 17.02 All media coverage of court proceedings shall be in accordance with Supreme Court Rule (SCR) Chapter 61 and this rule.
- 17.03 Cameras and recording equipment will be allowed in the media room connected to the courtroom provided a written or oral request is made through the Monroe County Media Coordinator at least 72 hours in advance of the hearing for which the request is made. Cameras and recording equipment are not allowed in the courtroom unless specifically approved by the presiding court official for a particular hearing. The notice requirement may be waived or reduced by the presiding court official upon good cause being shown. The presiding court official may deny or limit the use cameras and recording equipment in its discretion pursuant to SCR Chapter 61.
- 17.04 The name and contact information for the Media Coordinator shall be maintained on file at <https://www.wicourts.gov/news/mediacoord.htm>.
- 17.05 The size and configuration of the media rooms may require limitations on the number of cameras and other recording equipment. When more media organizations wish to have equipment present than space permits, those media representatives who are allowed shall share video and audio recording footage with those not permitted inside the media room with their equipment.
- 17.06 There shall be no visual photography or videotaping of any jurors, prospective jurors, juveniles, victims of sex crimes, undercover law enforcement agents or confidential informants unless authorized by a court order signed by the presiding court official upon advance request.
- 17.07 Cameras shall not focus on documents on counsel tables, conversations between an attorney and a client, conversations between an attorney and co-counsel, or sidebar conferences between attorneys and the judge.
- 17.08 Audio recording/transmission equipment shall not record or transmit conversations between an attorney and a client, conversations between an attorney and co-counsel, or sidebar conferences between attorneys and the judge.
- 17.09 No recording equipment permitted under these rules shall be operated during a recess.

17.10 Live streaming is not permitted for any court proceeding without a court order signed by the presiding court official.

17.11 Media credentials may be required to be displayed to the presiding court official or courtroom bailiff. No person without media credentials is permitted to record court proceedings in any way.

17.12 Any violation of these rules may result in immediate exclusion from the hearing.
(06-2019)

18.00 Child Support

18.01 A person arrested on child support warrants who posts the appropriate bond shall be instructed to return to the court the following Tuesday at 1:30 p.m.

19.00 Removal of "No Contact" Conditions

19.01 Removal of "No Contact" bond conditions

1. A request to remove a "no contact" condition from a bond can only be made by a party to the action; i.e., the district attorney or the defendant.
2. The court will not schedule a hearing on any request to remove a "no contact" until a criminal complaint has been filed.
3. Requests to remove a "no contact" condition will be heard at the time of the initial appearance on the criminal complaint.
4. Requests made after the initial appearance must be submitted in the form of a written motion. When the "no contact" condition pertains to a victim, the victim must appear in person and will be questioned by the court.
5. Victims or witnesses who contact the district attorney, another attorney or law enforcement agencies about the removal of "no contact" conditions should not be referred to the judge or clerk of court.

Explanation of Rule:

A person who has been arrested as a result of a domestic abuse incident may be (1) released outright;¹ (2) Conditionally released;² (3) released after posting a cash bond;³ or (4) held

¹Sec. 968.08; See also, Preamble to Forfeiture and Misdemeanor Bail Schedules.

²Sec. 968.075(6).

pending an initial appearance before a judge or court commissioner to set conditions of release.⁴ The arresting officer makes the initial decision as to which alternative best fits the facts at hand.

Outright or conditional release may be inappropriate if it appears that the arrestee poses a risk of causing further harm to the victim; and many arrestees lack sufficient funds to post a cash bail. Arrests frequently occur at night or on weekends and the arrestee then faces the prospect of remaining in jail, pending an appearance before a judge or court commissioner.

To avoid the needless pretrial detention of persons who law enforcement officers feel can be released on a recognizance bond with conditions, the court adopted the following policy when Sec. 968.075 (Domestic abuse incidents, arrest and prosecution) was enacted:

Domestic abuse incident arrestees may be released on a recognizance bond with a "no contact" condition as to named victims and witnesses. These bonds set forth a future date and time for the arrestee to return to court for an initial appearance on such charges as the district attorney decides to file after reviewing the report(s) of the arresting officer(s).

In other cases, some of which do and some of which do not involve a domestic abuse incident, arrestees are brought before the court for a bail-bond hearing before a criminal complaint has been filed and bonds are authorized which include a (no contact) condition as to victims and witnesses.

Initial appearances in all cases where an arrestee has been released on bond before charges have been filed are usually scheduled for the next regular criminal calendar. There have been frequent direct requests by victims and witnesses to lift "no contact" conditions in the interim.

Such direct requests are inappropriate. A victim or witness is not a party to a criminal case and has no legal standing. If the court entertains a direct request by a victim or witness to drop a "no contact" condition, it thereby perpetuates the false belief that the victims and witnesses rather than the district attorney make the charging and prosecution decisions in criminal cases.

Furthermore, in some cases the interests of the public and the long term best interests of a victim or witness require that the court continue a "no contact" condition even against the wishes of the victim or witness. The court cannot make an informed decision as to whether a "no contact" condition should continue until the district attorney has made a charging decision and a criminal complaint has been filed.

20.00 Videoconferencing

³See Uniform Misdemeanor Bail Scheduled.

⁴Sec. 969.01

Videoconferencing for court hearings can be arranged by contacting the judicial assistant's office. The judicial assistant will complete a Videoconferencing Request form that will provide necessary information to the security bailiff for making the equipment arrangements. The request should be submitted at least four working days prior to the hearing.

Dated at Sparta, Wisconsin, this 6th day of April, 2006.

By the Court:

By the Court:

/s/

Steven L. Abbott
Circuit Judge – Branch I

/s/

Michael J. McAlpine
Circuit Court Judge – Branch II

Approved this _____ day of April, 2006.

/s/
Michael J. Rosborough
Chief Judge, Seventh Judicial Administrative District