

# ROCK COUNTY CIRCUIT COURT RULES

## Contents

ROCK COUNTY CIRCUIT COURT RULES.....	1
100: General Section.....	2
101: Case Filings.....	2
102: Court Organization.....	3
103: Substitution of Judge.....	4
104: Cameras and Electronic Media in the Courtroom.....	5
105: Assignment of Ancillary Proceedings Growing Out of Previously Assigned Cases.....	5
106: Writs of Certiorari, Habeas Corpus, Prohibition, Mandamus, and Other Writs.....	6
107: Demeanor of Counsel.....	6
108: Specificity of Motions.....	7
109: Withdrawal of Counsel.....	7
110: Removing Files from the Clerk of Courts Office.....	7
111: Holiday Court [repealed 2017].....	8
112: Mechanics of Judicial Rotation.....	8
113: Amendment of Rules.....	9
114: Jury Selection.....	9
115: Appointment of Counsel/County Reimbursement.....	9
116: Facsimile Filing Rule.....	9
117: Videoconferencing Rule.....	10
118: Electronic Devices.....	12
119: De Novo Hearings.....	12
RULES FOR THE CIVIL TRIAL DIVISION.....	13
201: Trial Briefs, Verdicts, and Instructions.....	13
202: Continuance of Trial Date.....	13
203: Default Judgment Hearings.....	13
204: Motions for Summary Judgment or Going to the Merits.....	14
205: Small Claims.....	14
206: Duty Judge for the Civil Division.....	15
207: Guardianship Proceedings.....	16
208: Foreclosure Actions.....	16
209: Petitions for Approval of Minor Settlements.....	17
RULES FOR THE CRIMINAL TRIAL DIVISION.....	18
301: Defendant's Demeanor and Dress.....	18
302: Case Assignments.....	18

303: Appearance in Court.....	19
304: Bail Hearings.....	19
305: Arraignment Procedure.....	19
306: Motions.....	20
307: Administrative Joinder/Severance.....	20
308: Scheduling Orders.....	21
309: Calendar Calls.....	21
310: Withdraw of Counsel.....	21
311: Presentence Reports and Scheduling.....	21
312: Amounts of Restitution.....	22
313: Time Payment of Fines/Forfeitures.....	22
314: Huber/Work Release Privileges.....	25
315: Concurrent Time for Fines.....	25
316: Jail Time for Nonpayment.....	25
317: Community Service Rate.....	25
318: Duty Judge for the Criminal Division.....	26
319: Plea Hearings.....	26
320: Plea Transcript for Criminal Operating While Intoxicated.....	27
Rules Relating to Family Law Matters.....	27
401: Family Court Commissioner.....	27
402: Temporary Order Hearings and Stipulations.....	28
403: Ex Parte Orders.....	28
404: Pre-trial Conferences.....	29
405: Mandatory Mediation for Custody and Physical Placement.....	29
406: Guardian-ad-Litem Appointments.....	29
407: Findings of Fact, Conclusions of Law and Judgments .....	30
408: Home Studies.....	30

**100: General Section**

These rules were promulgated by the 5th Judicial District Chief Judge at the request of the Rock County Circuit Judges and shall supersede all other rules.

9/14/1999

**101: Case Filings**

**A.** Effective March 1, 1999, all civil and criminal actions filed in Rock County shall be filed at the Clerk of Courts Office in Janesville except as provided in section (B).

**B.** All probate, guardianship, conservatorship, or mental or drug dependent commitment cases carrying case designations PR, GN, or ME shall be filed in the office of the Register in Probate in Janesville.

**C.** Effective March 1, 1999 or as soon thereafter as is practicable, all records of the Rock County Clerk of Courts Office shall be maintained and stored in the Clerk of Courts Office in Janesville.

9/13/2001

## **102: Court Organization**

Effective March 1, 1999, the Circuit Court of Rock County shall be organized into three divisions:

**A.** Civil Division. The Civil Division shall consist of three Branches of the Circuit Court and shall hear all matters relating to cases carrying the file designation CV, CI, SC, PR, PA, GN, FA and ME. Each judge assigned to the Civil Division shall receive 25% of all new FA cases. All case assignments shall be made pursuant to Rule 112. Beginning August 1, 2000 the Circuit Court Branches assigned to the Civil Division shall be for a term of two (2) years and thereafter shall be rotated among the various branches every two years thereafter consistent with rotation rules adopted by the Rock County Board of Judges. If a judge rotates out of the Civil Division, any assigned case will stay with that judge until completion.

**B.** Criminal Division. The Criminal Division shall consist of three Branches of the Circuit Court and shall hear all matters relating to cases carrying the file designation CF, CM, CT, FO, and TR. Each judge assigned to the Criminal Division shall receive 5% of all new FA cases. All case assignments shall be made pursuant to Rule 112. Beginning August 1, 2000 the Circuit Court Branches assigned to the Criminal Division shall be for a term of two (2) years and thereafter shall be rotated among the various branches every two years consistent with rotation rules adopted by the Rock County Board of Judges. If a judge rotates out of the Criminal Division, any assigned case will stay with that judge until completion.

**C.** Juvenile Division. The Juvenile Division shall consist of one Branch of the Circuit Court and a backup Juvenile Court (See Rule 103). The Juvenile Court shall hear all matters relating to cases carrying the file designation JV, JO, JC, AD, and TP. The judge assigned to the Juvenile Division shall receive 10% of all new FA cases. All case assignments shall be made

pursuant to Rule 112. Beginning August 1, 1999, the Circuit Court Branch assigned to the Juvenile Division shall be for a term of two (2) years and thereafter shall be rotated among the various branches every two years consistent with rotation rules adopted by the Rock County Board of Judges. If a judge rotates out of the Juvenile Division, the cases assigned to that judge shall stay with that judge until a disposition order is entered, then will be transferred back to the new court assigned to the Juvenile Division. The Judge assigned to the Juvenile Division shall assume the supervisory and oversight responsibilities related to the Rock County Juvenile Detention Center and the Juvenile Probation Department. In order to facilitate the *in camera* review of juvenile records in non-juvenile proceedings, the assignment of judges to cover juvenile matters during periods of vacation or illness of the judge assigned to the Juvenile Division, and to permit all branches of the Circuit Court to perform juvenile matters, all branches of the Circuit Court shall be designated as Juvenile Courts.

**D.** Cases are to be randomly assigned within each division as they are filed. The intent is to assign cases equally among the judges within each division. Cases are assigned within the division using the same random system upon disqualification and substitution. Thereafter, if a judge is substituted or disqualified for any reason, then another tab is removed from the drum, and the disqualified or substituted judge has a tab returned to the drum. The same process for substitution or disqualification shall be utilized in each division for the assignment of cases.

9/13/2001

### **103: Substitution of Judge**

**A.** All judicial substitutions in the civil division, if permitted by statute and approved as required, shall be assigned to another Judge within the Civil (same) Division (as the substituted Judge). If for any reason this is not possible, the Presiding Judge shall assign the case to an appropriate court. For substitutions of a judge in the Criminal Division, all judges of the Rock County Circuit Court will be utilized for assignment to criminal cases.

**B.** For substitutions within the Juvenile Division, the Presiding Judge shall designate a Branch of the Civil Division as the backup Juvenile Court. All substitutions of the Judge assigned to the Juvenile Division shall be transferred to the backup juvenile court upon approval of the substitution. All juvenile cases thereafter involving the same juvenile shall be assigned to the backup juvenile court to ensure both consistency

in handling of the juvenile dispositions and to achieve judicial efficiency and economy. Upon entry of the final disposition order, the case assigned to the backup Juvenile Court shall be returned to the Juvenile Division and the judge of the Juvenile Division shall hear all matters relating to post disposition order.

2/23/2006

#### **104: Cameras and Electronic Media in the Courtroom**

**A.** A notice of intent to bring cameras or recording equipment into the courtroom or other hearing chamber, pursuant to SCR 61.02(2), shall be made orally or in writing through the Media Coordinator or, if the Media Coordinator is unavailable, through the Deputy Media Coordinator to the office of the judicial officer conducting the hearing or trial. If possible, this notice shall be made at least three (3) days in advance of the hearing/trial. The court may waive this requirement if good cause is demonstrated. A notice by one media representative shall be sufficient for all subsequent hearings and trials in the case. Each media organization must provide an individual notice; one notice shall not suffice for all other media representatives.

**B.** The calendar clerk or judicial assistant of the judicial officer conducting the hearing or trial shall make a diligent effort to notify the attorneys and any unrepresented parties by telephone as soon as reasonably possible of the notice.

**C.** Notice to have cameras or recording equipment at Initial Appearances is not required.

**D.** A party moving to close to the media any judicial proceeding that is required by law to be open must notify the Court and the Media Coordinator at least three (3) days prior to the hearing/trial if possible. The court may waive this requirement if good cause for the waiver is demonstrated. The motion will be heard before the commencement of the hearing. The burden shall be upon the moving party to show why sec. 757.14 Wis. Stats. should not apply.

**E.** The name of the Media Coordinator and Deputy Media Coordinator will be on file in the office of the Presiding Judge.

9/14/1999

#### **105: Assignment of Ancillary Proceedings Growing Out of**

## **Previously Assigned Cases**

**A.** All files, except files carrying the designation JV, JC, JO, or TP, assigned to a court shall remain assigned to that Judge or, if the Judge that entered the original order or judgment is no longer an active Judge, the matter shall be assigned to the Judge that occupies the Circuit Court Branch held by the Judge who entered the original judgment or order, herein referred to as the successor Judge.

**B.** Where a defendant is brought in on outstanding bench warrants after bind over, the hearings on the bench warrants shall be assigned to the judge who issued the bench warrant. Where the Judge that issued the bench warrant is no longer an active Judge, the matter shall be assigned to the successor Judge. In felony cases where the warrant was issued prior to bind over, any bail matters will be heard by the judicial court commissioner, and the preliminary hearing will be heard by the judicial court commissioner or duty judge.

**C.** All files carrying the designation JV, JO, JC, or TP shall remain assigned to either the Juvenile Division or the court designated the Backup Juvenile Court.

9/14/1999

## **106: Writs of Certiorari, Habeas Corpus, Prohibition, Mandamus, and Other Writs**

All writs will be filed in the office of the Clerk of Court and will be given a CV number and assigned pursuant to the normal draw in the Civil Division. If the assigned judge determines that the writ is an action challenging the underlying conviction, sentence or order the case will be administratively reassigned to the judge who entered the sentence or order if that judge is still an active circuit court judge or to the successor judge.

9/14/1999

## **107: Demeanor of Counsel**

**A.** All witness examinations shall be conducted from counsel table unless otherwise permitted by the judicial official hearing the matter.

**B.** During jury trials, all opening statements or closing argument may be made either from the counsel table or from the podium.

C. During jury trials, objections to questions or evidence shall only be made by stating "objection" and then by providing a succinct legal ground therefore (i.e., relevancy, competency, hearsay, etc.) without argument or elucidation. Responses from opposing counsel are to be made only upon a request of the judicial officer hearing the matter.

9/13/2001

#### **108: Specificity of Motions**

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

9/14/1999

#### **109: Withdrawal of Counsel**

Attorneys will not be allowed to withdraw from a case without the consent of the assigned judge. Said consent will be given only upon a proper showing of cause and the presentation of a written order allowing said withdrawal.

9/14/1999

#### **110: Removing Files from the Clerk of Courts Office**

Files shall be reviewed by the public, parties, or attorneys only in the Clerk of Court's office. Files may not be removed for the purpose of copying except upon cause shown and upon receipt of a specific court order from the assigned judge that grants authorization to do so. Under no circumstances shall original records be kept longer than five (5) days. A written receipt shall be obtained for each file removed from the Clerk of Court's office under this rule.

9/14/1999

**111: Holiday Court [repealed 2017]**

**112: Mechanics of Judicial Rotation**

**A.** Beginning with the rotation commencing August 1, 2000 and for each rotation thereafter, the draw of cases for the new assignments shall be: Civil division on February 1st of the rotation year; Criminal division on May 1<sup>st</sup> of the rotation year; Juvenile Division on August 1<sup>st</sup> of the rotation year.

**B.** With the rotation commencing August 1<sup>st</sup>, 2000, judges shall be assigned to divisions based upon judicial seniority. Thereafter, Rule 112(C) and 112(D) below shall determine judicial rotation assignment.

**C.** In January of rotation years after 2000, the Presiding Judge shall solicit from each judge their first, second, and third choices for division assignments. Every effort will be made to accommodate each judge's first choice. Any judge who wishes to change assignment may do so. If rotation cannot be accomplished by agreement or by volunteers, it shall be assigned in the discretion of the Presiding Judge, using the general guidelines that the judge who has been continuously in a particular division the longest will be the judge who will be reassigned to another division to accommodate the movement of a judge out of a division at his request. It is understood that the Presiding Judge shall have the final decision in the area of judicial rotation and judicial assignment.

**D.** Cases shall remain with the judge they are assigned to until final disposition even if the judge rotates to a new division before the case is finally disposed except in the cases assigned to the Juvenile Division (See Rule 102C) or in extraordinary circumstances relating to an individual case or as determined by the Presiding Judge. Post-Judgment matters shall remain with the initially assigned judge no matter what division that judge has rotated into. If the judge that originally decided the matter has retired or is no longer an active circuit court judge, that Post-Judgment matter will be assigned to the successor judge. If a criminal matter is assigned to a judge who then rotates out of the Criminal Division after issuance of a warrant but before the defendant makes his initial appearance, the case will be reassigned to a judge assigned to the Criminal Division at the time the defendant is taken into custody.

9/13/2001



### **113: Amendment of Rules**

No court rule may be amended, repealed, or created except upon a majority vote of the sitting Rock County Circuit Judges and concurrence of the District Chief Judge.

9/14/1999

### **114: Jury Selection**

Commencing on July 1<sup>st</sup>, 2001 jury selection will be conducted on Mondays no matter what day of the week the trial is scheduled to begin except for weeks in which the Monday of the week is a holiday. In the case of a Monday holiday, jury selection will be conducted on Tuesday of that week.

9/13/2001

### **115: Appointment of Counsel/County Reimbursement**

**A.** When the court appoints counsel at county expense (not an appointment by the State Public Defender's Office), at the time the appointment is made the defendant will be required to sign a statement acknowledging that, at the end of the case when the total cost is known, he or she shall be ordered to reimburse the county for all or part of the counsel fees through a wage assignment or by other means.

**B.** The court may order immediate partial payment of fees or establish a payment schedule of fees as a condition of appointment, and this schedule shall be included in the signed agreement.

9/13/2001

### **116: Facsimile Filing Rule**

**A.** The party transmitting the facsimile is solely responsible for ensuring the timely and complete receipt of the document. No document will be considered filed where:

- 1.** There are errors or material omissions that result from errors in transmission causing missing, incomplete, or illegible documents, or;
- 2.** The document is not actually received because of periods when the facsimile machine is not operational for any reason.

**B.** Papers filed by facsimile transmission are considered

filed when transmitted. Any papers filed by facsimile transmission after the close of clerk of court's office regular business hours are considered filed on a particular day if the submission is made by 11:59 p.m. Central Time, as recorded by the court facsimile machine, so long as it is subsequently accepted by the clerk upon review. Documents filed after 11:59 p.m. Central Time are considered filed the next day the clerk's office is open.

**C.** No transmission shall exceed fifteen (15) pages in length, inclusive of any cover sheet, unless the assigned judge or commissioner has by order in advance permitted a greater length. The first page of any document filed by facsimile transmission that is greater than 15 pages in length shall certify on the first page of such document that an exception has been ordered by the applicable judge or commissioner.

**D.** The Clerk of Courts for Rock County shall maintain the official facsimile machine and all documents filed by facsimile transmission shall be filed with the Clerk of Courts for Rock County. Documents sent by facsimile transmission to facsimile machines other than the Clerk of Courts facsimile machine will not be accepted as being properly filed pursuant to this rule.

03/09/2017

#### **117: Videoconferencing Rule**

**A.** At the commencement of a proceeding using videoconferencing technology, the Court shall, by means of colloquy between the Court and participants and while on the record, determine all of the following:

1. That the participants are able to see, hear, and communicate with each other;
2. That the participants are able to see, hear, and otherwise observe any physical evidence or exhibits presented during the proceeding;
3. That the quality of video and sound are adequate to allow participants to observe the demeanor and non-verbal communication of the other participants and to clearly hear what is taking place to the same extent as if they were present in the courtroom;
4. That the participant understands that if they, at any time, have a problem hearing or seeing the proceedings they are to immediately inform the Court;
5. In criminal matters, and in proceedings under chs. 48, 51, 55, 938 and 980, whether the defendant, juvenile, or respondent objects to the use of videoconferencing technology during the proceeding;
6. The names of all persons in the room with the participant;

7. That the participants understand that if anyone at the remote location tries to influence their answers, they are to inform the Court immediately, and;
8. That the participants understand that they are to conduct themselves as if they were physically present in the courtroom.

**B.** The Court shall certify that, either by its own findings or by stipulation between the parties, the technical and operational standards at the courtroom and the remote location are in compliance with the requirements of Wis. Stat. 885.54(1).

**C.** During Rock County Circuit Court proceedings using videoconferencing technology, the remote location from which an appearance is made or testimony is given shall be deemed an extension of the courtroom in which the hearing is being conducted.

**D.** The Notice of Intention to Use Videoconferencing Technology to Present Testimony required by Wis. Stat. 885.60(2) (b) shall be in writing and shall be filed 20 calendar days prior to the scheduled start of the proceeding. Notice is properly filed when filed with the Court contemporaneously with service of the notice on adverse counsel or any other party.

**E.** The Notice of Intention to Use Videoconferencing Technology to Present Testimony shall state all of the following:

1. The name of the witness;
2. The location from which the witness will testify;
3. The name and phone number of the contact person at the remote location who can be contacted in the event of technical difficulties;
4. The basis upon which the proponent seeks to call the witness via videoconferencing technology rather than in person.

**F.** Objections to the testimony of a witness by videoconferencing technology shall be in writing and shall be filed within 10 calendar days of the filing of the notice of intention. Objections are properly filed when filed with the Court contemporaneously with service of the Objection on adverse counsel or any other party.

**G.** In criminal matters, and in proceedings under chs. 48, 51, 55, 938 and 980, if the defendant, juvenile or respondent objects to the use of videoconferencing technology during or prior to the proceeding, the court shall sustain the objection. If an objection is made by any party, then the Court shall determine the objection while exercising its discretion under the criteria set forth in Wis. Stat. 885.56.

7/21/2010

## **118: Electronic Devices**

**A.** All spectators and visitors to public sessions of the various branches of the Rock County Circuit Court are prohibited from attending any court session while in possession of an electronic device that has not been turned off prior to entering the court room. This rule applies to all electronic device that are capable of receiving and sending any form of communication to include cell phones, pagers, "smart phones", tablet computers, or any other device that can connect to either the internet or a telephone cell network. This list is not intended to be exclusive.

**B.** Any person who is called to jury duty shall not use any of the electronic devices identified in section (A) above without permission of the court.

8/03/2012

## **119: De Novo Hearings**

**A.** Any party who was present at a Court Commissioner hearing has the right to have the assigned judge hold a new hearing by filing a written request with the Clerk of Courts' Office, with a copy sent immediately to the opposing party. Small claims de novo hearings follow Chapter 799 Wis. Stats. For all other court commissioner decisions, the request must be filed within fifteen (15) days of the Court Commissioner's oral decision or within fifteen (15) days of entry of the written decision when the Court Commissioner did not render an oral ruling at the time of the hearing.

**B.** The matter shall be referred to the assigned judge for hearing. The Court Commissioner's order shall remain in effect until modified by the assigned judge after the de novo hearing.

**C.** Notices requesting a hearing de novo will not stay the order unless the judge specifically grants a stay of the order.

12/04/2013

## RULES FOR THE CIVIL TRIAL DIVISION

### **201: Trial Briefs, Verdicts, and Instructions**

**A.** All trial briefs, requested instructions, and proposed verdict forms shall be prepared by the attorney for a party and shall be filed with the court not later than ten (10) days prior to the first day of trial. The trial judge may modify this requirement by pre-trial order.

**B.** All trial briefs, requested instructions, and proposed verdict forms, and all other documents that are filed with the court shall be exchanged between counsel.

**C.** Counsel may request instructions by providing a letter to the court and opposing counsel listing the Civil Jury Instruction numbers of the instructions requested. If counsel substantively amends a stock jury instruction, counsel shall submit to the court and opposing counsel the amended instruction typed in full text on 8 1/2" X 11" paper with no more than a single instruction on a page. Two copies shall be provided, one copy in a form appropriate to presentation to the jury, and one copy showing modifications and citations to authority.

9/14/1999

### **202: Continuance of Trial Date**

All stipulated requests for continuance of a trial date shall require the consent of all parties to the action either in writing or on the record, and will only be approved for good cause shown. Non-stipulated requests for continuance must be on motion and hearing, and will only be approved upon a showing of good cause. All requests for continuance are subject to the approval of the court.

9/14/1999

### **203: Default Judgment Hearings**

**A.** In all actions where personal service was obtained upon the defendant, no notice to the defendant is required prior to the entry of judgment except as provided by law.

**B.** In all actions where the defendant is served by substituted service the notice of motion and motion for default judgment shall be sent to the defendant by mailing said motion to

the defendant's last known address by regular U.S. mail. The mailing shall include notice that a default judgment shall be entered against the defendant unless the defendant files a written request for a hearing within fifteen (15) days of the date the notice is postmarked.

**C.** In actions where damages are not liquidated, a hearing shall be conducted by the court to determine the amount of the judgment as provided by statute.

12/04/2013

#### **204: Motions for Summary Judgment or Going to the Merits**

**A.** All motions going to the merits may be addressed in the Court's Pre-Trial Order that will provide a date for the filing thereof.

**B.** All motions for Summary Judgment shall be accompanied by supporting affidavits and brief. Unless addressed in the Pre-Trial Order, the parties must comply with §802.08 Wis. Stats.

**C.** The court shall schedule a hearing for oral argument and decision, and the scheduling of this hearing shall be the responsibility of the moving party unless the court has provided a hearing date in the Pre-Trial Order.

**D.** The Court may decide the motion going to the merits or summary judgment motion without the necessity of oral argument by preparing a written decision, and shall establish this by Pre-Trial Order.

**E.** The Summary Judgment briefing schedule may be addressed in the court's Pre-Trial Order and may be amended at the discretion of the court.

12/04/2013

#### **205: Small Claims**

**A.** In all Small Claims actions where the Defendant is a Wisconsin resident, the defendant must appear at the time and place indicated on the Summons. The filing of an Answer or Counterclaim does not relieve the Defendant of the duty to appear. Failure of the Defendant to appear will result in a judgment being entered against them.

**B.** If the Defendant is not a resident of Wisconsin, the Defendant must appear in person at the time and place indicated on the Summons unless the Defendant files a written Answer or Counterclaim prior to the date of the initial hearing with a duplicate copy sent to the Plaintiff. If this procedure is not complied with, a judgment may be granted in favor of the Plaintiff.

**C.** The Plaintiff must appear on the scheduled date and if not, the case may be dismissed.

1. Service may be made by mail as authorized by 799.12(2) and (3) subject to the procedures set forth in this rule.

2. Regular Mail: Service may be made by regular mail if the defendant lives in Rock County and the claim is for money only.

3. Mail service must be performed by the Clerk of Court's Office. The litigant requesting mail service shall leave the original summons and complaint (white) form and one copy for each defendant being served by mail, along with a \$2.00 per defendant mail fee. Service is considered complete when it is mailed unless the envelope containing the summons and complaint is returned unopened to the clerk's office by the US Postal Service. If this occurs, the Court will notify the Plaintiff/Attorney with a new court date so that service can be tried again. This will be done one (1) week prior to the return (court) date by letter.

4. Personal service: Evictions, replevins, contempt and out-of-county claims must be accomplished by personal service.

**D.** All contested eviction actions will be called on Friday. The duty judge will either try the eviction hearing that day, or set it for trial within the next week. The duty judge shall have the discretion, in unusual cases, to schedule the eviction hearing up to the statutory limit of 30 days from the return date. The same judge will try any contested damage hearing at a date to be scheduled by the court after the eviction hearing.

08/16/2016

#### **206: Duty Judge for the Civil Division**

**A.** The Civil Division judges shall rotate as Duty Judge on a weekly basis.

**B.** The Duty Judge of the Civil Division shall be available during normal business hours of the Rock County Court House to review and issue temporary restraining orders in Domestic Abuse, Child Abuse, Vulnerable Adult, and Harassment Actions.

**C.** The Duty Judge shall hear all Child Abuse, Vulnerable Adult and Harassment Actions filed during the judge's duty week.

12/04/2013

## **207: Guardianship Proceedings**

**A.** Guardianships shall be commenced by petition in accordance with Wisconsin statutes. The petition shall list the names and post office addresses of all interested parties, including parents of a minor, if known. The petitioner shall exercise reasonable diligence to comply with this requirement.

**B.** Initial hearings shall be held before the Circuit Court Commissioner. The Circuit Court Commissioner may perform all duties outlined in §757.69 Wis. Stats. Persons aggrieved by the orders of the Circuit Court Commissioner under this section shall have the right to a de novo hearing before a circuit court judge.

**C.** CHIPS cases converted to guardianship actions shall proceed in the Juvenile Branch of the Rock County Circuit Court.

**D.** The proposed ward shall appear personally if able to attend. The proposed ward's appearance shall be excused by the Circuit Court only if the guardian ad litem, after personal interview with the ward, certifies to the court the specific reasons why the proposed ward is unable to attend.

12/04/2013

## **208: Foreclosure Actions**

**A.** Pursuant to Section 802.12 Wis. Stats., Alternative Dispute Resolution (hereinafter, ADR) is available to parties in civil actions including those seeking foreclosure and money judgments.

**B.** In foreclosure actions, the Court shall require plaintiff to inform the defendant in writing at the time of service that ADR procedures (Sec. 802.12 Wis. Stats.) may be requested by either party. This rule shall only apply to homestead property that is owner occupied.



**C.** Upon request for ADR by either party, the Court will determine whether the case is appropriate for the use of a settlement alternative and the Judge assigned may order the parties to seek a settlement alternative.

**D.** The request for and use of the ADR procedure shall not extend the time for filing a responsive pleading.

12/04/2013

### **209: Petitions for Approval of Minor Settlements**

**A.** A petition for approval of a minor settlement shall concisely state the age of the minor, the nature and extent of the injury giving rise to the claim and whether the injury is permanent, the cause of the injury and the circumstances in which the injury was suffered, and the proposed distribution of the settlement funds.

**B.** The court shall presume that sums distributed for the payment of attorney fees will not exceed 25% of the settlement but may approve a larger portion if extraordinary circumstances so justify.

**C.** Unless the court orders otherwise, the minor, his or her attorney, and at least one of the parents or guardians shall attend in person the hearing on the petition.

**D.** Proceeds of a minor settlement to be deposited or invested for the benefit of the minor shall be paid into a restricted account that will not permit any withdrawal from the account until the minor's 18th birthday or upon further order of the court. The court shall not approve a settlement that proposes to deposit the settlement funds into a bank account that does not bear interest.

**E.** No guardian ad litem may be relieved of responsibility on any case until he or she files with the court written confirmation that the funds have been deposited or invested as provided in the court's order.

2/17/2015

**RULES FOR THE CRIMINAL TRIAL DIVISION**

**301: Defendant's Demeanor and Dress**

A. The defendant shall be seated at counsel table at all times unless leave of court is obtained prior to any hearing.

B. Incarcerated defendants shall be permitted to dress in "street clothes" for all court and jury trials. Dress at sentencing will be handled on a case-by-case basis.

9/14/1999

**302: Case Assignments**

A. At the time an action is filed in the case of Criminal Traffic (CT), Misdemeanor (CM) and Felony (CF) cases, a judge shall be assigned to the case and the defendant shall be notified of the name of the assigned judge at the time of the initial appearance. All preliminary examinations shall be assigned to a judicial court commissioner unless a substitution request is filed which precludes the court commissioner from hearing the matter. A judge that hears a preliminary examination is not automatically eliminated from the felony draw.

B. Should a defendant have more than one type of criminal case at the initial appearance, one judge tab shall be drawn for the most serious offense and the cases assigned to that judge. If a defendant has more than one pending felony, all felony cases shall be assigned to the judge with the earliest pending felony, or earliest pending misdemeanor in the case of multiple misdemeanor cases without a pending felony case. The intent of this rule is to assign to one judge all cases involving a specific defendant

C. When the criminal complaint lists more than one defendant, one tab shall be drawn. (See also Rule 307)

D. It shall be the responsibility of the District Attorney to notify the Clerk of Courts that a specific defendant has other pending criminal matters at the time a new criminal complaint is filed and which judge is assigned to the pending matters.

9/13/2001

### **303: Appearance in Court**

**A.** Calendar calls are to be attended by counsel with authority and the defendant, who must attend unless specifically excused by the court.

**B.** A written authorization by the defendant permitting defense counsel to appear on the defendant's behalf does not excuse a defendant's appearance at calendar call.

9/14/1999

### **304: Bail Hearings**

Except where the prosecution and defendant otherwise agree, bail hearings before the judges will not be held within 72 hours of bail being previously set and will only be scheduled upon written notice.

9/14/1999

### **305: Arraignment Procedure**

**A.** Arraignment will be conducted by the preliminary examination judge or court commissioner at the conclusion of the preliminary examination if there is a bind over or after a waiver of the preliminary examination is accepted.

**B.** The trial judge will be assigned and the parties notified thereof at or before the initial appearance.

**C.** Substitution of the judge or court commissioner assigned to the preliminary examination must be made at the initial appearance or five (5) days prior to the preliminary examination unless the preliminary examination judge or court commissioner otherwise permits. If possible, another circuit judge, reserve judge, or court commissioner will be assigned to conduct the preliminary examination at the scheduled time. After bind over or waiver of the preliminary examination, if the preliminary examination judge is also the assigned trial judge, and the defendant files a substitution of the trial judge, the judge shall conduct arraignment pursuant to Wis. Stats. 971.20 (9).

**D.** The prosecution and defense will have twenty (20) days from the date of the arraignment to file motions, including

motions by the prosecution for leave to file an amended information and by the defense for change of venue unless otherwise permitted by the preliminary examination judge or court commissioner and/or trial judge. If an amended information is filed, arraignment on the amended information will occur at the hearing on the motion for leave to file the amended information, which may be combined with the calendar call or other hearing.

9/14/1999

### **306: Motions**

**A.** Motions must be in writing and shall state with particularity the grounds thereof and the order or relief sought pursuant to Wis. Stats. 971.30(2). When a motion requires an evidentiary hearing the hearing will be heard at the time of the trial unless the court determines it should be held prior to trial.

**B.** All motions, with the exception of substitution of judge, in CF, CM, and CT cases are to be filed within twenty (20) days after the date of notice of the trial date is received by counsel or Pro Se defendant, unless otherwise ordered by the court.

9/14/1999

### **307: Administrative Joinder/Severance**

**A.** When several defendants are charged or could be charged in a single complaint, then all defendants, whether charged in a single complaint or charged in separate complaints, shall be assigned to one judge for trial. In the case of felonies, all defendants charged as a result of a single incident or course of conduct shall be joined for purposes of preliminary examination where possible. The intent of this rule is to assign to a one judge all cases and defendants arising from a single incident or course of conduct

**B.** The first defendant in a multiple defendant complaint to appear for initial appearance shall be assigned a trial judge through random draw and all other defendants charged on the same complaint shall be assigned to the same trial judge when they make their initial appearance. For assignment purposes, multiple defendant complaints will constitute one case so only one tab will be drawn per complaint. It shall be the responsibility of the District Attorney to notify the Clerk of Courts at the time of filing of the criminal complaint in multiple defendant cases that this is a multiple defendant case to ensure that one judge

is assigned to all related cases. If multiple defendant cases are inadvertently assigned to different trial courts, they will be administratively transferred to the trial judge having the lowest numbered case.

9/13/2001

### **308: Scheduling Orders**

Individual judges may establish, by order at arraignment or thereafter a timetable for future progress of the case (i.e., discovery motion time limits, dates and subjects of pretrial or status conferences, trial, etc.)

9/14/1999

### **309: Calendar Calls**

**A.** Each judge assigned to a criminal court shall assign each criminal case to a calendar call that will be called at least ten days prior to the date the case is scheduled to be tried by a jury.

**B.** At the time the calendar is called the case will either be resolved by plea, dismissal, set for specific jury trial date, or rescheduled for another calendar call at the discretion of the trial judge.

9/13/2001

### **310: Withdraw of Counsel**

All requests by counsel to withdraw from criminal traffic, misdemeanor, and felony cases shall be done by motion. Except where required by law, counsel will not be permitted to withdraw if scheduled proceedings will be delayed.

9/14/1999

### **311: Presentence Reports and Scheduling**

**A.** The court will 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 forthwith forward the sentencing date together with the presentence request and information to the Department of Community Correction.

**B.** The sentencing date shall be at least forty-five (45) days from the date the presentence is ordered.

**C.** The agent preparing the presentence report shall file the presentence report at least seven (7) days prior to the date of sentencing.

9/14/1999

### **312: Amounts of Restitution**

**A.** The specific amount of restitution, administrative costs, and surcharges to be ordered as a condition of probation are to be ascertained by the District Attorney prior to the time of sentencing and is to be included in the Judgment of Conviction. If the restitution amount is not provided at the time of sentencing, no restitution order will be entered.

**B.** Under special circumstances an order for restitution may be delayed for forty-five (45) days from the date of sentencing, but no longer. If such an order is not presented within forty-five (45) days the judge may void the condition of restitution.

9/13/2001

### **313: Time Payment of Fines/Forfeitures**

It is the mission of the Rock County Circuit Court to advocate for lawful, effective, and just policies toward those who are ordered to pay fines and fees. The objective is compliance, whether through payment in money, performing community service, or creating alternative ways to satisfy the public policy behind the imposition of fines and fees. Incarceration and/or suspension of driving privileges must remain as the ultimate sanction for those who are able to pay but *willfully* refuse to do so.

**A.** The payment of fines, costs, fees, surcharges, etc. will be completed within sixty (60) days of sentencing.

**B.** Deferred Payment Agreements are available to defendants convicted of State, County and Municipal offenses in Rock County Circuit Court.

**C.** If the defendant desires more than sixty (60) days to pay, he/she *MUST* contact the Deferred Payment/Compliance Office to make an application for a deferred payment plan.

**D.** If the defendant qualifies for a Deferred Payment Agreement and notifies the Court Compliance Officer that they have been or will be incarcerated, payments under an *approved* Deferred Payment Agreement shall not begin until after the defendant is released from custody.

**E.** The Court Compliance Officer shall determine whether the Deferred Payment Agreement is offered to a particular defendant based upon the defendant's ability to pay the fine within one year from the date of the agreement.

**F.** If the defendant is unable to pay the judgment and does not qualify for a Deferred Payment Agreement due to poverty, their case will be referred back to the court for indigency hearing.

**G.** If the Court Compliance Officer determines the defendant is eligible for a Deferred Payment Agreement, the schedule and payment agreement will be reduced to writing.

**H.** The Clerk of Circuit Court will charge and collect a \$15.00 fee for the establishment and monitoring of a payment plan for persons ordered to make payments to the Clerk of Circuit Court per Wisconsin Statute 59.40(5)(c). The \$15.00 fee will be paid at the time the Deferred Payment Agreement is executed.

**I.** A claim against debtor's tax refunds will be submitted to the Wisconsin Department of Revenue per Wisconsin Statute 71.935. Any payments received directly from the Wisconsin Department of Revenue do not count as a monthly payment on Deferred Payment Agreements.

**J.** The minimum monthly payment for a Deferred Payment Agreement will be \$25.00.

**K.** The grace period for a Deferred Payment Agreement will be 15 days.

**L.** If the defendant cannot or does not pay the full balance of the Deferred Payment Agreement within one year, it

shall be the responsibility of the defendant to file a request for an extension and a financial statement to the Court Compliance Officer for decision.

**M.** If the defendant's financial status should change substantially while on a Deferred Payment Agreement, they may contact the Court Compliance Officer to request a modification of the plan.

**N.** If the defendant fails to pay their fine or request a indigency hearing by the court ordered due date or comply with the terms of the Deferred Payment Agreement, the Deferred Agreement will become null and void.

The Court Compliance Officer will:

1. Issue a civil judgment per Wisconsin Statute 815.05 **and**
2. Issue a license suspension per Wisconsin Statute 345.47(1) (b) **OR**
3. Issue a commitment warrant based on Wisconsin Statute 973.07
  - a. The defendant shall be immediately sentenced to one day in jail for each \$50.00 remaining unpaid, and a warrant for his/her arrest issued forthwith without the necessity of any further hearing.
  - b. The defendant may request to perform community service or participate in an alternative program provided by the Rock County Sheriffs Department.

Or

**N.** If the defendant fails to:

1. Pay the court ordered fine or costs by the due date or
2. Request an indigency hearing by the fine due date or
3. Comply with the terms of the Deferred Payment Agreement; the Deferred Agreement will become null and void.

The Court Compliance Officer will:

1. Issue a civil judgment per Wisconsin Statute 815.05 **and**
2. Issue a license suspension per Wisconsin Statute 345.47(1) (b) **OR**
3. Issue a commitment warrant based on Wisconsin Statute 973.07
  - a. The defendant shall be immediately sentenced to one day in jail for each \$75.00 remaining unpaid,



and a warrant for his/her arrest issued forthwith without the necessity of any further hearing.

- b. The defendant may request to perform community service or participate in an alternative program provided by the Rock County Sheriffs Office.

01/01/2018

### **314: Huber/Work Release Privileges**

Periods of confinement in jail, either by sentence or as a condition of probation, shall be without Huber/work release privileges unless otherwise ordered by the court.

9/14/1999

### **315: Concurrent Time for Fines**

Except in extraordinary cases, concurrent jail or prison time will not be allowed in lieu of fines, surcharges, assessments, costs, or fees.

9/14/1999

### **316: Jail Time for Nonpayment**

When jail is ordered as an alternative for nonpayment of fines/forfeitures, assessments, surcharges, fees, or costs a defendant shall do one day in jail for every \$75.00 owed, pursuant to statutory limits on jail time for non-payment, Wis. Stats. 973.07 and 345.47.

1/1/2018

### **317: Community Service Rate**

**A.** Defendants permitted to do community service in lieu of payment of fines/forfeitures and penalty assessments will earn a credit of \$10.00 per hour towards the fines/forfeitures and penalty assessments.

**B.** Community service work may not be in lieu of court

costs, victim/witness fees, and other mandatory surcharges and fees.

C. All community service work shall be completed within one (1) year and the defendant has the burden of submitting proof of completion.

D. Upon failure of proof of completion, the defendant shall be sentenced to one day in jail for every \$75.00 of fine not worked off during community service.

1/1/2018

### **318: Duty Judge for the Criminal Division**

A. One judge assigned to the Criminal Division shall be assigned on a monthly basis to serve as the Duty Judge for the Criminal Division.

B. The Duty Judge shall take all pleas for criminal cases during a scheduled criminal intake to be held at 1:00 P.M. on each day of his intake month excluding holidays and weekends, shall be available on a 24 hour basis to sign search warrants and document subpoena requests, and hear all preliminary examinations that result from the substitution of the Judicial Court Commissioner or from the non-availability of a Judicial Court Commissioner to hear the matter in a timely basis.

C. The Duty Judge or judicial court commissioner shall review all warrantless arrests on weekends by calling the Rock County Jail at some time prior to 5:00 P.M. on Sunday of each weekend to make the probable cause determination to justify holding those prisoners.

D. The Presiding Judge shall create a annual roster of Criminal Division Duty Judges and a separate roster for all weekend arrest reviews containing both judicial court commissioners and judges of the Criminal Courts Division and provide copies of these documents to each Circuit Court Judge, the Clerk of Courts Office, the Rock County District Attorney's Office, the Rock County Sheriff's Office, all law enforcement agencies within Rock County, and the State Public Defender's Office.

9/14/1999

### **319: Plea Hearings**

Once a criminal case has been assigned to a specific judge, that case cannot be heard by another court with out the express permission of the assigned judge.

9/14/1999

### **320: Plea Transcript for Criminal Operating While Intoxicated**

When a plea is taken for a criminal Operating While Intoxicated offense, the court will order the court reporter who attended the plea hearing to prepare a transcript of the plea hearing to ensure a record is maintained regarding the taking of the plea. The court reporter shall file the original with the Clerk of Circuit Courts who will include the transcript in the court record. The court reporter will charge the cost of the transcript to the County at the rate prescribed in Wisconsin Statute 814.69(1) (a).

07/19/2017

## **Rules Relating to Family Law Matters**

### **401: Family Court Commissioner**

**A.** The Family Court Commissioner (FCC) is authorized to perform all duties allowed in §757.69(p). Wis. Stats

**B.** All post judgment actions brought under Chapter 767, Wis. Stats. shall be heard by the FCC. At the end of the hearing the FCC shall advise the parties that they have a right for a *de novo* hearing if the request is filed within fifteen (15) days from the date of the FCC's decision and the order shall recite on its face that the parties were so advised.

**C.** *De Novo* Reviews of Family Law Matters

**1.** The Family Court Commissioner shall not hear any motions to modify an order or temporary order if the matter is pending a *de novo* hearing or if the divorce trial has been held and the court has taken the matter under advisement. The order in existence will remain in effect until the court renders its decision.

**2.** Orders entered by the Family Court Commissioner by Stipulation or entered by default are not subject to *de novo* review.

D. In appropriate cases, and at the discretion of the FCC, the FCC may enter a temporary modification order in post judgment matters.

12/04/2013

#### **402: Temporary Order Hearings and Stipulations**

A. Each party must file a preliminary financial disclosure statement and supporting material with the Family Court Commissioner's office on or before the date of a temporary hearing. Failure to have a preliminary financial disclosure statement and supporting material may result in an adjournment with costs to the prepared party. In the alternative, the Family Court Commissioner may accept as true facts presented in the prepared party's financial disclosure statement. At the minimum, the preliminary financial statement should include:

1. Gross and net incomes of each party, and;
2. Pay stubs for a minimum of four pay periods, and;
3. A proposed budget.

B. All stipulated temporary orders that contain provisions for child support, family support, or maintenance shall contain the following provisions:

1. The address of both parties;
2. The name and address of the employers of both parties;
3. The names, Social Security Numbers, and birth dates of any minor children;
4. The language required by sec. 767.23 and 767.29(1), Wis. Stats.;
5. The commencement date for any payments that are required by the order.

1/31/2002

#### **403: Ex Parte Orders**

An ex parte order in a family court action awarding custody of children to a party or ordering a party to vacate his or her primary residence will not be signed without a verified petition and affidavit(s) of a party, lay witness, or expert witness based on facts of record or alleged justifying the issuance of the proposed order stating substantial reasons why such an order is required and that no other relief is available pending a hearing.

12/04/2013

#### **404: Pre-trial Conferences**

Unless excused by the court, the parties shall be required to be present personally for pre-trial conferences in divorce actions.

9/14/1999

#### **405: Mandatory Mediation for Custody and Physical Placement**

In all cases where custody or physical placement of minor children is an issue, the parties shall be ordered to mediation provided by the Rock County Mediation and Family Court Services Department. Waiver of mediation may be granted upon motion to the assigned judge or the FCC.

9/14/1999

#### **406: Guardian-ad-Litem Appointments**

**A.** In any family law case in which custody or physical placement is placed in issue, the assigned court or FCC shall appoint a Guardian-ad-litem (GAL) immediately upon notification of the failure of court ordered mediation, and said appointment shall be made prior to the scheduling of a pre-trial conference to permit the appointed GAL to participate in the pre-trial conference.

**B.** The court shall appoint the GAL from one of the four (4) attorneys retained as contract GAL's by Rock County unless the parties to the action stipulate to the appointment of a privately retained GAL.

**C.** At the time of the appointment of the GAL the court or FCC shall make an initial determination of the ability of each party to the action to pay GAL fees and enter an order for the payment of these fees. If this determination is made by the FCC, the parties shall have ten (10) days to appeal the determination of the FCC by requesting a de novo hearing before the assigned judge.

**D.** When the court appoints a GAL from one of the retained contract GAL's, the court or FCC shall enter an order providing for the repayment of all or such portion the GAL fees determined by the judge or FCC to be reasonable at the standard hourly rate established by the Wisconsin Supreme Court and upon such terms as are determined as reasonable. In the case of the appointment of a GAL that is not one of the retained contract GAL's, the

collection of GAL fees shall be by remedies provided at law, and shall not be compelled by invoking the contempt powers of the court.

**E.** All payments for GAL fees shall be made to the Corporation Counsel's office at 51 South Main Street, Janesville, Wisconsin 53545. All such payments shall indicate on its face the file number of the case the GAL fees are being made upon.

9/14/1999

#### **407: Findings of Fact, Conclusions of Law and Judgments**

**A.** The Findings of Fact, Conclusions of Law, and Judgment in all divorce cases shall contain the following information:

1. The addresses, employers, rate of pay, Social Security Number, and date of birth of each party to the action;
2. The complete names, dates of birth, and Social Security Numbers for each minor child of the parties;
3. The legal description of all real estate owned by the parties, if known.

**B.** The petitioner in the action shall be responsible for drafting the Findings of Fact, Conclusions of Law, and Judgment unless the court orders otherwise.

**C.** The Findings of Fact, Conclusions of Law, and Judgment shall be submitted to the opposing party for approval as to form pursuant to sec. 767.37(1) Wis. Stats., and the opposing party shall have five (5) business days within which to lodge a written objection to the document as drafted. The drafting party may submit the documents to the court while simultaneously submitting a copy to the opposing party for this approval provided the drafting party provides the court with a copy of the transmittal letter sent to the opposing party.

**D.** The Findings of Fact, Conclusions of Law, and Judgment shall be filed with the court within thirty (30) days of the final hearing or decision, and failure to do so may result in the dismissal of the action for failure to comply with a court rule pursuant to sec. 805.03, Was. Stats.

9/14/1999

#### **408: Home Studies**

Upon request of the Guardian ad Litem, the court may order a home study to be conducted by the Rock County Mediation and Family Court Services Department. The cost of this home study will be the responsibility of the litigants and the Court or FCC will determine a payment schedule based upon the litigant's ability to pay.

9/14/1999