

# **SHEBOYGAN COUNTY**

## **CIRCUIT COURT**

### **RULES**

#### **CIRCUIT JUDGES:**

**L. Edward Stengel**  
**Branch 1**

**Kent Hoffmann**  
**Branch 2**

**Angela W. Sutkiewicz**  
**Branch 3**

**Rebecca Persick**  
**Branch 4**

**Daniel J. Borowski**  
**Branch 5**

2/10/2020

SHEBOYGAN COUNTY CIRCUIT COURT RULES

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## **RULE 1: PUBLICATION AND REVISION OF CIRCUIT COURT RULES**

- 100 Effective date: January 1, 1989. Amendment to #101 October 6, 1998, amended December 5, 2006.
- 101 Court rules, prior to adoption or revision, shall be presented for approval at one (1) meeting of the Sheboygan County Circuit Judges. Rule 102 may be suspended for good cause upon the order of a majority of Sheboygan County Circuit Judges.
- 102 Proposed rules shall be posted for public review in the County Courthouse by the Clerk of Circuit Courts and copies shall be forwarded to the president and secretary of the Sheboygan County Bar Association at least thirty days prior to formal adoption.
- 103 Notice of proposed rules as described in Rule 101 and 102 shall constitute sufficient public notice.
- 104 Rules shall be adopted by written order of a majority of Sheboygan County Circuit Judges, subject to approval of the Chief Judge.
- 105 Orders adopting rules shall specify an effective date.
- 106 Once adopted, court rules shall be filed with the Clerk of Circuit Courts, and the Clerk of Circuit Courts shall provide copies to the president and secretary of the Sheboygan County Bar Association, Director of State Courts and the Chief Judge.

## **RULE 2: GENERAL PROVISIONS**

- 200 Effective date: January 1, 1989. Amendment to #203 September 15, 1994, Addition of #207 January 15, 1998, Addition of #208 October 17, 2002, Addition of #209 May 9, 2006, Addition of #210 August 9, 2012, Addition of #211 August 6, 2013.
- 201 Closure of Proceedings. Unless good cause has been shown to the judge, a party moving that any judicial proceedings required by law to be public be closed to the news media must notify the court and the media coordinator in writing at least 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.
- 202 All papers, pleadings, motions, etc., shall be on substantial paper, contain the case number assigned and designate in the caption the branch of circuit court assigned to the case. Where appropriate, only approved forms shall be used.

The Clerk of Circuit Courts shall receive all filings of pleadings regardless of the assigned judge. All pleadings should be addressed to the Clerk of Circuit Courts for

filing. The Clerk of Circuit Courts may opt to forward copies of documents to the assigned judge if he/she is located outside the county.

The Clerk of Circuit Courts and the Register in Probate shall refuse to accept for filing any document not in compliance with this rule and the appropriate state statutes.

203 Indigency Determinations. In all actions, except felony and misdemeanor proceedings, in which a party seeks waiver of costs and fees due to indigency, a "Petition of Waiver of Fees/Costs and Affidavit of Indigency" must be completed. [Appendix A]

The court shall order a waiver of costs and fees if the affidavit demonstrates any of the following:

1. The person is a recipient of means-tested public assistance.
2. The person is represented by an attorney through a legal services program for indigent persons.
3. That the person is otherwise unable, because of poverty, to pay such sums. In determining a person's eligibility for waiver, the court shall consider the person's household size, income, expenses, assets and debts and the federal poverty guidelines under 42 USC 9902(2).

204 When counsel submits a document to the court for signature, a copy shall be simultaneously forwarded to all other counsel and/or unrepresented parties. Objections to the form or content of the document submitted shall be filed in writing with the court within 10 days of service or mailing. Failure to file written objections shall be deemed a waiver of objections. The document will be deemed signed unless objections have been filed. Notification of signing will be made upon a form or postcard to be included by submitting counsel.

205 There is hereby delegated to the Clerk of Circuit Courts and the Deputy Clerks of Courts the following ministerial and clerical duties: calendaring traffic regulation/crime, small claims, ordinance and divorce cases for trial; and, to administer oaths to witnesses, jurors and bailiffs.

206 The nonrefundable jury fee is payable at or before the scheduling conference.

207 Attorneys requesting leave of the court to withdraw from representation of a party in a case pending in the circuit court shall present to the court a petition to allow counsel to withdraw provided no objection is made within ten (10) days of the court's receipt of the request. An order granting the request shall accompany the petition.

A copy of the petition shall be sent by counsel to the last known address of the party represented by petitioning counsel and to all other parties/counsel of record.

If any objection is received within the ten (10) day period after receipt by the court, a hearing shall be held before the court to determine whether the petition shall be granted. If no objection is received, the court may grant the request for counsel to withdraw.

In all cases in which counsel has been appointed by the State Public Defender to represent a client, no request to withdraw as counsel shall be filed until 60 days after a party fails to appear for a scheduled hearing unless good cause is shown to the court.

- 208 Attorneys are required to have their calendars with them in court so that dates can be set in the courtroom when possible. In the event that an attorney does not have his or her calendar in court, a date will be set in accordance with the judge's calendar.
- 209 Any attorney who has been appointed by the Court as indigent counsel or Guardian ad Litem, that wishes to receive payment from Sheboygan County for services rendered, must submit an invoice for payment within 90 days of the disposition of the case or withdrawal of the attorney or forfeit the right to receive payment from the County.
- 210 All pleadings filed with the clerk of circuit court shall be accompanied by sufficient copies for all parties. In the event that desired copies are not provided, they may be purchased for \$1.25 per page (§814.61(10)(a) Wis. Stats.) If return of copies is to be accomplished by US Postal Service, an envelope with sufficient postage shall be provided.
- 211 In the event that a Juvenile Guardianship action is filed regarding any person for whom there is a CHIPS case, the Juvenile Guardianship case shall be assigned to the Judge who is assigned to the CHIPS case.

### **RULE 3: CASE PROCESSING TIME GUIDELINES**

- 300 Effective date: January 1, 1989.
- 301 The following case processing time guidelines are designed to provide a guide to the judiciary and bar. Unless otherwise indicated, the guideline represents the time period from filing to final disposition.

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Misdemeanor [from initial appearance]	2 months [in custody]	
	3 months [not in custody]	
Felony [from initial appearance]	6 months	
Traffic/Ordinance [from initial appearance]	4 months	
Personal Injury/Property Damage	18 months	
Contract/Money Judgment/Other Civil	12 months	
Divorce	12 months	
Probate	18 months	
Small Claims	3 months	
Child Support	6 months	
Paternity	12 months [Contested]	6 months [Uncontested]

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302 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. [Appendix B-Scheduling Conference Order]

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

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Traffic/Ordinance [from initial appearance]	4 months	
Personal Injury/Property Damage	9 months	
Contract/Money Judgment/Other Civil	6 months	
Divorce	6 months	
Probate	12 months	
Small Claims	3 months	
Child Support	6 months	
Paternity	6 months [Contested]	3 months [Uncontested]

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

305 In all Probate matters delay in disposition of an estate will result in the appointment of a new personal representative and/or attorney for the estate and not in the issuance of a notice and order of dismissal.



- 306 All actions suspended due to the filing of a Petition in Bankruptcy will be dismissed, without notice to any party, one (1) year from the date of filing unless a certified copy of the Discharge in Bankruptcy is presented to the presiding judge before the expiration of the one year period.
- 307 Nothing in these rules shall restrict the inherent power of the judges of these courts to make additional orders, rules or policy that would expedite the efficient and effective disposition of litigation.

#### **RULE 4: RULES OF DECORUM**

- 400 Effective date: January 1, 1989.
- 401 Court shall be formally opened each day in which court business is transacted either by the Bailiff or the Clerk of Circuit Courts.
- 402 As the judge enters the courtroom, the Bailiff or Clerk of Circuit Courts shall require all present to rise and stand. When the judge has reached the bench the Bailiff or the Clerk of Circuit Courts shall say "Hear ye! Hear ye! The Circuit Court for the County of Sheboygan is now open. Silence is commanded." All shall be seated and the business of the court shall proceed.
- 403 In the recessing, the judge shall announce: "The court is now in recess," or the equivalent.
- 404 When the trial is to a jury, the jurors shall take their places in the jury box before the judge enters the room unless circumstances indicate otherwise.
- 405 The flag of the United States shall at all times while court is in session be displayed at, on, or in close proximity to the bench, or on standard to the right of the judge.
- 406 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.
- 407 Witnesses shall be examined from a position at the counsel table except when handling exhibits unless a lectern is provided by the court, in which case the examination shall be either from the position at the counsel table or the lectern. Persons examining witnesses may either stand while examining a witness from the counsel table or remain seated. In no case shall a witness be crowded during examination.
- 408 When a lawyer or party is addressing the jury, he or she shall not crowd the jury box.

- 409 During examination of jurors on voir dire, the lawyer or party conducting the examination shall, insofar as practical, use collective questions, avoid repetition and seek only material information.
- 410 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.
- 411 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.
- 412 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.
- 413 Witnesses shall be examined with courtesy and respect, and their good faith presumed until the contrary appears.
- 414 The swearing of witnesses shall be an impressive ceremony and not a mere formality.
- 415 During jury trials, objections to questions or evidence shall be made solely by stating: "objection" and the succinct legal ground therefore [i.e., relevancy, hearsay, etc.] without argument or elucidation. Responses from opposing counsel are to be made only upon a request to be heard and leave of the presiding judge.
- 416 In jury cases which are disposed of upon a motion for non-suit or directed verdict, the judge in dismissing the jury should briefly explain the procedure and why a verdict was unnecessary.

## **RULE 5: ADJOURNMENTS**

- 501 Effective date: January 1, 1989
- 502 Requests for adjournments must be in writing, addressed to the assigned judge, served on all opposing parties and received by the assigned judge not later than 10 days prior to the scheduled hearing. The time limits may be waived for good cause.
- 503 Ex parte requests for adjournments are prohibited by SCR §20:3.5, "Code of

Professional Conduct for Attorneys."

- 504 Adjournments are not a matter of right and will only be granted for good cause.
- 505 All adjournments shall be made to a date certain, and no adjournment shall be indefinite or day-to-day.
- 506 The party receiving the adjournment shall be solely responsible for notifying opposing counsel and, where appropriate, all parties and witnesses that the hearing, trial, etc., has been adjourned.
- 507 If necessary, scheduling conflicts will be resolved in favor of the first scheduled hearing, unless, for good cause, the presiding judges agree otherwise.
- 508 Where applicable, the Rules of Civil and Criminal Procedure and specific local court rules will control all requests for adjournments.
- 509 All law enforcement requests for adjournments shall contain written approval of the prosecuting attorney and shall be served on opposing counsel or unrepresented parties at the time it is forwarded to the presiding judge.

#### **RULE 6: CIVIL PRACTICE**

- 600 Effective date: January 1, 1989. Amendment to #602 November 18, 1993, Relocation of #607 to #208 October 17, 2002. Addition of #610 September 6, 2011. Revision of #609 December 10, 2011, Revised #601 May 6 2014.
- 601 All civil cases will be reviewed for service and answer 100 days after filing. If at that time it is found that a case has not reached issue, a dismissal order shall be initiated by the court.
- Proof of service or proof of publication shall be filed with the Clerk of Court within 10 days of receipt by plaintiff, petitioner or counsel. Failure to fill the document may result in the imposition of sanctions under §805.03, Wis. Stats.
- 602 A party may, within eight months of filing of a summons and complaint or within the time set in the court's scheduling order, move for summary judgment on any claim asserted by or against the party. Unless otherwise specified in the scheduling order, the motion along with a brief and other supporting documents shall be served and filed at least 20 days before the time fixed for the hearing, and the adverse party shall serve and file opposing affidavits, brief, and other supporting documents at least five days before the time fixed for hearing.

In the event the moving party does not wish to file a brief or other documents, a statement waiving this right shall be filed with the motion. If the respondent fails to file a brief or other supporting documents at least five days prior to the hearing, it shall be deemed waiver of this right and the court shall accept no further supporting written materials. The court's decision shall be based upon the record as timely filed.

603 If the movant desires to file a brief in support of a motion other than one for summary judgment, the brief shall be served and filed with the Clerk of Circuit Courts; a copy shall be served and filed on all opposing counsel; and a copy shall be filed with the assigned judge with the notice of motion or at least 10 days prior to any scheduled hearing date. Briefs in opposition to such motions must be filed no later than two business days prior to the hearing of the motion. Briefs in opposition to such motions must be either personally served upon opposing counsel no later than two business days prior to the hearing or if service is made by mail, no later than three business days prior to the hearing. Briefs filed in an untimely fashion may be disregarded by the court.

604 Except as to mortgage foreclosures, notice to defendant is not required prior to entry of a default judgment in large claim civil actions where personal service was obtained upon the defendant.

In cases where personal service is not obtained upon the defendant (i.e., substitute or published), notice of motion for default judgment shall be given to defendant by regular mail at defendant's last known address. The notice shall provide that in the event defendant does not request a hearing from the court, in writing, on plaintiff's motion within 10 days of the date of the notice, default judgment shall be entered.

Hearing requests shall be heard by the court as soon as practicable. Upon the expiration of the time to request a hearing, plaintiff may apply to the court for default judgment, by an affidavit of the aforesaid notice to 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 the judgment in any case.

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

605 No default mortgage foreclosure shall be granted except upon a hearing in open court by affidavit or testimony, due notice of which shall have been given to all defendants 10 days prior to the hearing.

606 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 clients

shall be required.

607 Moved to 208

608 The Clerk of Circuit Courts and the Deputy Clerks of Circuit Courts shall not sign "Prerogative Writs."

609 All judgments discharged in bankruptcy shall be removed from the docket only upon a petition, accompanied by a certified copy of the Discharge in Bankruptcy with a copy of the Bankruptcy Schedule F listing the debts affected, and an order signed by the Intake or other Judge. A satisfaction fee of \$5.00 per affected judgment is assessed.

610 In all foreclosure actions involving owner-occupied residential dwellings of four or fewer units, the Plaintiff shall attach to the Summons and Complaint served on the Defendant/homeowner the following forms **printed on yellow paper**:

a) Notice of Availability of Mediation

b) Request for Mediation

A copy of the forms is available from the Sheboygan County Clerk of Circuit Courts Office or may be downloaded from the Sheboygan County Clerk of Courts website at [http://co.sheboygan.wi.us/html/d\\_crtclrk.html](http://co.sheboygan.wi.us/html/d_crtclrk.html)

#### **RULE 7: CRIMINAL LAW AND TRAFFIC PRACTICE**

700 Effective date: January 1, 1989. Amendment to #704 December 3, 1996. Delete #715 December 3, 1996. Addition of #717 January 15, 1998. Addition of #718 March 19, 1998. Amended #701 and #710 August 15, 2006. Addition of #719 November 7, 2007. Amendment to #714 May 3, 2011. Addition of #715 March 22, 2012. Amendment to #704 April 1, 2019. Amendment to #704 February 10, 2020.

701 Motions for discovery in felony and misdemeanor cases shall be filed by defense counsel within 10 working days of the date of arraignment. The State shall respond to the demand for discovery within 10 working dates of the date of filing.

702 The time in which a defendant must file pre-trial motions shall not commence to run until the date that discovery is given to the defendant under the Code of Criminal Procedure.

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

704 Whenever it is brought to the attention of the Clerk of Court that a defendant has criminal cases pending in more than one court, and there has been an agreement

- reached as to the disposition of all cases, he or she shall transfer all cases, upon the approval of all judges involved, to the court assigned the lowest numbered case unless otherwise ordered.
- 705 In felony, misdemeanor, traffic crime and all forfeiture actions the prosecuting authority shall conduct pre-trial conferences for the purpose of reaching a plea agreement with the defendant and defendant's attorney, if any. Said pre-trial conferences shall be conducted after the defendant has been provided mandated discovery material.
- 706 The assigned judge will not participate in the plea discussions during pre-trial conferences. The judge will be available to assign motion and/or trial dates, if necessary.
- 707 The prosecuting attorney shall have absolute authority to enter into binding plea agreements without the approval of the arresting officer(s) and/or victim(s).
- 708 The defendant shall be present at all felony pre-trial conferences. For all other pre-trial conferences the defense attorney shall have a written waiver of appearance and authorization to enter into a binding plea agreement.
- 709 Except in felony cases, the plea agreement may be reduced to a written stipulation at the conclusion of the conference and filed with the assigned judge, along with a completed "Plea Questionnaire" and "Notice of Appeal Rights."
- 710 The results of all pre-trial conferences shall be reported to the assigned judge.
- 711 A stipulated request for continuance of the trial date shall require the consent of the named parties in writing or on the record and must be for good cause shown. A contested request for continuance must be on motion and hearing and for good cause shown by the party. All requests for continuance are subject to the approval of the court.
- 712 All pleas must be of record on or before the scheduled trial dates. Plea hearings will not be conducted after the scheduled trial date, except for good cause.
- 713 No court will proceed to a plea hearing until a completed "Plea Questionnaire" has been filed.
- 714 The Bureau of Community Corrections shall file an original and two copies of the pre-sentence investigation with the presiding judge who shall forward a copy to the District Attorney and defense counsel, if any. The District Attorney and defendant's attorney may retain a copy of the report but must keep it confidential. The defendant, if not represented by counsel, may view the pre-sentence investigation report but may not retain a copy.

- 715 The Sheriff shall collect the wages, salary, unemployment insurance benefits or employment training benefits of any "Huber Law" prisoner while the prisoner is in the custody of the Sheriff and shall disburse the collected sums as required under Wis. Stat. §303.08(5).
- 716 Occupational licenses, under §343.10, Stats., shall only be issued to permit the licensee to travel to and from his place of employment and to attend church. Occupational licenses shall not be issued to permit a licensee to attend to personal business or fulfill parenting duties, etc.
- 717 A defendant in a criminal action must appear at the initial appearance, unless the defendant is charged with a misdemeanor and appears by an attorney with a written authorization pursuant to §971.04(2).
- 718 In all traffic forfeitures and ordinance violations, the defendant must appear in person or by counsel for arraignment or enter a plea of not guilty based on the citation served upon him or her by letter to the Clerk of Circuit Courts at the Sheboygan County Courthouse. The letter must show the defendant's return address.
- The Clerk of Circuit Court shall accept no pleas of 'not guilty' by telephone.
- 719 If a defendant in a criminal case substitutes the assigned judge, other than for cause, the initial appearance shall be held before the originally assigned judge or a circuit court commissioner before the substitution will take effect.

#### **RULE 8: SMALL CLAIMS PRACTICE**

- 800 Effective date: January 1, 1989. Amendment to #804 July 1, 1991, November 21, 1991, June 13, 1993, September 15, 1994 and October 6, 1998, Addition of #807 June 1, 1994, Addition of #801, #802, #803 and renumbering of existing rules and Amendment to #805 August 3, 1999, effective October 1, 1999. Amendment to #805 November 7, 2000, Addition of #803 and renumbering of existing rules and Amendment to #804 and #806 May 6, 2003, effective June 1, 2003, Amendment to #803, 804 and #806 June 14, 2004, Amendment of #805, Addition of #806 and renumbering of existing rules January 16, 2006. Amendment of #805, addition of #806 and renumbering of existing rules January 23, 2007. Addition of #811 March 7, 2007. Revision of #802 December 10, 2011.
- 801 All small claims actions filed in Sheboygan County shall be submitted on Form SC-500. Copies of the form will be available in the Clerk of Courts Office. Additional pages may be attached to Form SC-500 if necessary to set forth the facts of the case.

- 802 An answer and information form, SC 5200, must be served upon the defendant along with the summons and complaint. Copies of the form will be available in the Clerk of Courts Office.
- 803 All hearings on contested eviction actions will be heard the Monday following the initial appearance date, unless all parties stipulate to an immediate hearing before the intake judge. If the Monday following the initial appearance date is a holiday, the hearing will be scheduled for the Monday after the holiday, unless otherwise scheduled by the assigned judge.
- 804 In all small claims actions, defendants must file a written answer with the court prior to or at the date set for the initial appearance on the matter. A copy of the written answer must be provided to the plaintiff either by mail or in person at the initial appearance.
- 805 Sheboygan County, by this rule, authorizes the service of summonses in all small claims actions within Sheboygan County, by regular or certified mail with a return receipt, except evictions which require service pursuant to Wis. Stat. 799.12 and s. 799.16 and replevins which require personal service or service by certified mail with a return receipt. Section 799.12, Wis. Stats., does not permit service by mail if the defendant is located outside the County in which the action is filed.
- 806 Proof of personal service or publication, if required, must be filed at the time that the initial appearance is held, or if the plaintiff appears by notice of appearance, must be filed with the Clerk of Courts office by 12:00 p.m. on the Friday before the initial appearance.
- 807 If the plaintiff does not wish to be present on the date of the initial appearance, the plaintiff must file a letter of appearance with the Clerk of Courts office by 12:00 p.m. on the Friday preceding the date of the initial appearance.
- 808 If the defendant wishes to contest any small claims action without appearing on the return date, the defendant must file a written answer with the Clerk of Courts and provide a copy to the plaintiff by 12:00 p.m. on the Friday preceding the date of the initial appearance.
- 809 All pleadings under Sec. 799, Wis. Stats., shall be in writing unless specifically ordered otherwise by the assigned judge.
- 810 In lieu of a pre-trial conference pursuant to Sec. 802.11, Stats., the parties to a small claims action may be ordered to appear at a mediation orientation session at which time a designated court commissioner shall inform the parties of the option to mediate their case through a mediator. If one or more of the parties fails to appear for this



session a court commissioner or circuit court judge may either dismiss the matter or enter judgment, with costs, and without prejudice against any party not appearing or take such other action pursuant to sec. 802.11(5), Stats. If mediation is refused by any party or is unsuccessful in settling the matter, then the case shall be set for hearing before a court commissioner, circuit court judge or reserve judge.

- 811 The Affidavit of Nonmilitary Service, GF-175, must be filed in order for the plaintiff to be granted a default judgment. If the Affidavit is not filed within 15 days of the initial appearance, the case will be dismissed.

#### **RULE 9: LATE SETTLEMENT ASSESSMENTS**

900 Effective date: January 1, 1989.

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

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

#### **RULE 10: FAMILY LAW PRACTICE**

1000 Effective date: January 1, 1989. Amendments January 1, 1991. Amendment to #1009 July 1, 1991 and November 21, 1991. Amendments to #1003, #1004 and #1005 November 21, 1991. Amendment to #1012 January 22, 1992. Amendment to #1013 June 13, 1993. #1014 effective October 1, 1995. Amendment to #1010 effective June 15, 1996. #1015 effective September 1, 2000. Amendment to #1015 November 15, 2006. Repeal of #1003, 1004 and 1006, renumbering of existing rules, amendment to renumbered 1003 and renumbered 1011, March 7, 2007. Amendment to #1005 December 4, 2007, Amendment to #1007 November 3, 2009. Insertion of #1003, renumbering of existing rules November 2, 2010. Insertion of #1011, renumbering of existing rules May 3, 2011. Revision of #1006 and #1007 September 6, 2011.

1001 At temporary hearings both parties shall bring wage statements from their respective employers for a period of twelve weeks prior to the hearing date, a financial disclosure statement signed under oath, and copies of state and federal income tax returns for the two prior years in the possession or control of each party. Failure to

file these documents shall authorize the Family Court Commissioner to accept the statement of the other party as accurate.

- 1002 The party petitioning for a temporary hearing shall give the other party at least forty-eight hours notice prior to said hearing.
- 1003 In actions for divorce or legal separation where the parties have a minor child or children and in all paternity cases, the court shall require the parties to attend the "Remember the Children" educational class pursuant to sec. 767.40(2) Wis. Stats. Failure to attend the class may result in the court refusing to hear a custody or physical placement motion filed by the party who failed to attend.

If the parties cannot agree on custody and placement of their child(ren) at the time a judgment of paternity is entered, the Court Commissioner shall enter a temporary order regarding the same pursuant to sec. 767.89(3)(b) Wis. Stats. Thereafter, the Court Commissioner shall refer the parties to mediation provided they have completed the "Remember the Children" class. If either party fails to attend the class on a timely basis, the Court Commissioner shall notify the judge assigned to the case.

- 1004 All stipulations for order to suspend proceedings to effect reconciliation in a divorce action shall be submitted on form FA-4144 Pro Se.
- 1005 The cost for custody and physical placement mediation provided by family court counseling services shall be \$100.00 for services beyond the initial session. The cost for a custody or physical placement study shall be \$300.00.
- 1006 In any action affecting the family in which a guardian ad litem is appointed by the court a full or partial prepayment in the amount of \$1,000 shall be paid directly to the appointed guardian ad litem, upon acceptance of the appointment, for deposit in his or her trust account, subject to further order of the court.
- 1007 Guardian ad litem fees in all cases shall be billed at the rate of compensation established by SCR 81.02 or as determined reasonable by the court. Under no circumstances will the Court order Sheboygan County to pay compensation in excess of the \$70 per hour rate established in SCR 81.02.
- 1008 In an original action where custody or physical placement of a child or children is an issue the parties shall be equally responsible for the payment of any fees for mediation, custody or physical placement studies or guardian ad litem fees due in advance and will be presumed to be equally responsible for the total fees.

If a parent fails to attend the 'Remember the Children' program or fails to attend

mediation, the entire guardian ad litem deposit under Rule 1005 shall be paid by that parent.

In a post-judgment matter relating to the custody or physical placement of a child or children the party seeking a change in the judgment with respect to those issues shall be responsible for any payments due in advance.

If one or both of the parties allege that they are unable to pay the fees, that party may request relief from payment by motion which may be made to the family court commissioner or the court in an original action and to the court in a post-judgment action. If one of the parties is indigent, the court or court commissioner may order the other party to pay the fee. If both are indigent, the court shall grant a separate judgment for the amount of the fees in favor of the county and against the party or parties responsible for the fees.

The court or court commissioner may also require a party to reimburse the other party for fees advanced by that party. Factors to be considered as to reimbursement are the relative ability of the parties to pay, the results of the action, the conduct of the parties with respect to attempts to obtain a settlement by other than resort to the judicial system, and other equitable factors which the court might consider.

Fees for mediation and custody or physical placement studies are payable directly to the Clerk of Circuit Courts, Courthouse, 615 N. 6th Street, Sheboygan, WI 53081. The Clerk of Circuit Courts will accept cashier checks, cash, money orders, personal checks or checks drawn on an attorney's account.

- 1009 At the time of the filing of any action for divorce, legal separation, or annulment, the Clerk of Circuit Courts shall issue to the filing party an original and a copy of a pretrial order signed by the judge to whom the case has been assigned. The copy is to be served upon the other party along with the summons and petition in the action. The pretrial order will show the date 120 days after the filing of the action, or as soon thereafter as the court is available, when a pretrial hearing is scheduled. Any requests for adjournments for the pretrial hearing must be made as soon as counsel is aware of a conflict. No adjournments will be granted without court approval. At least 10 days prior to the pretrial hearing counsel shall provide to the court and opposing counsel the information as required by the pretrial order. Upon failure of counsel to provide the information at least 10 days prior to the hearing date, appropriate sanctions may be imposed.

1010 All stipulated divorces may be heard by the Family Court Commissioner.

The final stipulation and each party's financial disclosure statement shall be filed with the Family Court Commissioner prior to the hearing date. The findings of fact, conclusions of law and judgment of divorce must be filed at the start of the hearing. Failure to file these documents in a timely fashion will result in the cancellation of the hearing.

1011 In all actions affecting the family, the financial disclosure statement as statutorily required for each party shall be filed using form FA-4139 or a similar form that contains as much or more information.

1012 Prior to obtaining a date and time from the court, any party seeking to enforce or modify a judgment or portion of judgment of divorce or a temporary order of the Family Court Commissioner, shall file with the Clerk of Circuit Courts an Order to Show Cause or other appropriate Motion and pay such fee as required. Upon proof of filing and payment of any required fee, the court will provide the filing party with the date and time for hearing. Such date and time shall be included in the notice of hearing and such notice shall be served upon the opposing party within the time prescribed by statute and/or local rule.

1013 At such time the payer has no legal obligation to pay current child support, maintenance or family support, and the records of the KIDS data system maintained by the State of Wisconsin indicate an arrearage in the payment of child support, maintenance or family support, the existing wage assignment shall be continued until all arrearages are paid in full or until further order of the court. It is the obligation of the payer to be aware of the information contained in the KIDS system and to request a hearing if he/she disagrees with the information contained therein. No arrearage will be modified, except by court order.

1014 In family cases where the parties have minor children and in all paternity cases, a Parenting Plan under §767.41(1m), Wis. Stats. or a written stipulation resolving all issues pertaining to custody and placement must be filed at least 10 days prior to the pretrial conference

## **RULE 11: ADOPTIONS**

1101 Effective date: January 1, 1989. Amendment to #1102 September 24, 1998.

1102 In all contested adoption proceedings the petitioners shall advance the sum of

\$250.00 for the appointment of the guardian ad litem for the minor child.

1103 The adoptive parents shall be responsible for all other costs associated with the adoption proceedings.

## **RULE 12: FACSIMILE TRANSMISSIONS**

1200 Effective date: February 1, 1992. Addition of #1205, #1207, #1208 and renumbering of existing rules and Amendment to #1201c July 3, 2001.

1201 Facsimile documents transmitted directly to the courts shall be accepted for filing only if:

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

1202 Facsimile documents transmitted to a non-court agency, party or company for reception and ultimate transmittal to the court shall be accepted for filing only if:

- a. No filing fee is required.
- b. No additional fee or charge must be paid by the circuit court for accepting or receiving the facsimile document.
- c. They are plain paper documents.

1203 The party transmitting the facsimile document is solely responsible for ensuring its timely and complete receipt.

- 1204 The Circuit Court, Judge or Clerk is not responsible for:
- a. Errors or failures in transmission that result in missing or illegible documents.
  - b. Periods when a circuit court facsimile machine is not operational for any reason.
- 1205 Papers filed by facsimile transmission completed after regular business hours of the Clerk of Circuit Courts office are considered filed the next business day.
- 1206 A judge assigned to a particular matter may authorize in advance the filing of particular documents in that case that do not conform to these rules if good cause is shown and they are in conformance with §801.16, Stats.
- 1207 If the transmission exceeds fifteen (15) pages, the filing party shall certify that the assigned judge or court commissioner has approved the facsimile transmission.
- 1208 Facsimile papers are considered filed upon receipt and the official court record may not be substituted. No additional copies may be sent.
- 1209 Documents that are not to be filed but are to be used by the court for reference or other purpose may be transmitted by facsimile transmission at the discretion of the judge or clerk.

### **RULE 13: RECEIVING AND DISBURSING FEE**

1300 Repeal date: July 3, 2001.

### **RULE 14: JUVENILE PROCEDURE**

1400 Effective date: April 1, 1992. Amendment to #1409 March 2, 2010.

1401 Wisconsin Statutes Chapter 48 is controlling in all juvenile activities

1402 All requests for adjournments must be in writing and received not later than 48 hours prior to the hearing.

1403 Court reports shall be submitted to the juvenile clerk 72 hours prior to the disposition hearing.

1404 The District Attorney's Office and the Clerk of Court's Office shall prepare all juvenile orders within 10 days of the disposition hearing. The court may designate

responsibility for the preparation of order to other party as appropriate.

- 1405 An admission questionnaire must be completed prior to the acceptance of any guilty pleas.
- 1406 When necessary, the juvenile clerk will select a guardian ad litem, from a predetermined list, prepare the necessary paperwork, have the judge sign the appointment and the guardian ad litem sign the consent.
- 1407 Juvenile court records are deemed confidential and disclosure about same is prohibited by statute.
- 1408 Juvenile case records are the responsibility of the juvenile clerk and are not to be removed from that office without permission of the juvenile clerk or deputy.
- 1409 Absent a showing of good cause, recoument of attorney fees and guardian ad litem fees is hereby ordered in all juvenile court actions.

#### **RULE 15: THREATS TO THE JUDICIARY AND COURT EMPLOYEES**

- 1500 Effective date: June 13, 1993
- 1501 The Sheboygan Police Department is the primary law enforcement agency to receive reports of threats and investigate such reports within their normal investigative procedures. The Sheboygan Police Department has identified the shift commander as the liaison officer for reporting purposes.
- 1502 If a threat does not appear to impose imminent danger, the threat shall be reported to the Sheboygan Police Department as outlined in the Sheboygan County Courthouse Alarm/Incident Procedure. If a threat appears to be immediate, the Sheboygan Police Department shall be immediately notified and requested to provide an independent evaluation concerning the emergency of the threat and recommendation as to further procedures.
- 1503 All threats, regardless of their degree, shall be reported in order to allow for an independent evaluation by the Sheboygan Police Department.
- 1504 In conjunction with the Sheboygan Police Department, written procedures shall be developed which assist the threatened person in collecting and preserving the appropriate evidence needed by the Sheboygan Police Department for investigative purposes.

- 1505 In conjunction with this policy the Sheriff's Department's Operational Guidelines for Courtroom Security will detail other security procedures to be followed.
- 1506 Judges and court staff shall inform the chief judge or designee of any threat and the subsequent steps that have been taken pursuant to the guidelines. The chief judge or designee shall develop a mechanism for logging reported threats.

**RULE 16: DISCOVERY**

- 1600 Effective date: May 15, 1994. Amendment to #1604, May 3, 2011
- 1601 An objection or an answer to an interrogatory shall reproduce the interrogatory to which it refers. A response or an objection to a request for admission shall reproduce the request to which it refers. A response or an objection to a request for production of documents shall reproduce the request to which it refers.
- 1602 All discovery documents not filed with the assigned judge pursuant to Sec. 804.01(6), Wis. Stats., shall be served on all other counsel of record and/or parties not represented by counsel of record and shall contain proof of service in the form of a statement of the date and manner of service and of the names of the persons served, certified by the person who made service. Proof of service may appear on or be affixed to the papers served.
- 1603 No party may serve more than a total of 35 interrogatories in any case upon any other party without the prior order of the court.
- (a) For the purpose of computing the number of interrogatories served:
- (1) Each subpart of an interrogatory shall be construed as one interrogatory;
  - (2) Parties represented by the same attorney or law firm shall be regarded as one party;
  - (3) Interrogatories inquiring about the names and location of parties, expert witnesses, and other persons having knowledge of discoverable information, or about the existence, location, or custodian of documents or physical evidence shall not be counted toward the 35 interrogatory limit.
- (b) If a party believes that additional interrogatories are necessary, he or she should promptly consult with the party to whom the additional interrogatories would be propounded and attempt to reach a written stipulation as to a reasonable number of additional interrogatories. If a proposed order permitting the propounding of additional interrogatories is agreed upon, it should promptly be served on all other parties and filed with the court. If a



stipulation cannot be reached, the party seeking to serve additional interrogatories may move the court pursuant to rule 1604 for permission to serve additional interrogatories. The motion shall show the necessity for the relief requested.

- (c) The court will not compel a party to answer any interrogatories served in violation of this rule.

1604 All motions to compel discovery or production of documents pursuant to Chapter 804, Wis. Stats., or any motion to serve additional interrogatories pursuant to rule 1603 must be accompanied by a statement in writing by the movant that, after consultation or repeated attempts at consultation in person or by telephone with the opposing party and sincere attempts to resolve their differences, the parties are unable to reach an accord. The statement shall recite, in addition, the date and place of such consultation or attempted consultation and the names of all parties participating therein.

1605 Completion of discovery means that discovery (including the use of depositions to preserve testimony for trial) should be scheduled to allow depositions to be taken, interrogatories and requests for admissions to be answered, and documents to be produced in accordance with the time limits contained in Chapter 804, Wis. Stats., and prior to the date for completion of discovery contained in the scheduling order.

#### **RULE 17: PROBATE PRACTICE**

1700 Effective date: November 7, 2000.

1701 If a personal representative or counsel receives a notice from the Register in Probate that an estate is delinquent in filing a document required by the Probate Code, that person must respond in writing to the Register in Probate within 10 days. If there is no response or inadequate response the court may conduct a status conference or may issue an order to show cause and the personal representative shall appear for that hearing along with the attorney.

#### **RULE 18: WEEKLY COURT SCHEDULE**

1800 Effective date September 21, 2003, revised December 7, 2005, revised January 8, 2006, revised April 2, 2006, revised June 20, 2006, revised December 2, 2014, revised January 29, 2016.

1801 The judicial assignment and weekly schedule for the Intake Judge shall be as follows:

Monday

- 9:00 a.m. Garnishments, Evictions, Replevins
- 11:15 a.m. Juvenile Custody Hearings
- 1:30 p.m. Criminal Traffic Returns
- 3:00 p.m. Misdemeanor Returns
- 3:30 p.m. Felony Returns  
Criminal Misdemeanors/Criminal Traffic Sentencing

Tuesday

- 8:00 a.m. Final Mental Hearings
- 11:15 a.m. Juvenile Custody Hearings

Wednesday

- 11:15 a.m. Juvenile Custody Hearings
- 1:30 p.m. Preliminary Hearings

Thursday

- 8:00 a.m. Final Hearings, Chapter 51 & 55, Stats.
- 9:00 a.m. Juvenile Court Hearings
- 11:15 a.m. Juvenile Custody Hearings
- 1:30 p.m. Orders to Show Cause-Small Claims Contempt
- 2:00 p.m. Probate Hearings

Friday

- 8:30 a.m. Juvenile Court Hearings
- 11:15 a.m. Juvenile Custody Hearings
- 1:30 p.m. Juvenile Court Hearings

1802 The judicial assignment and weekly schedule for the Family/Judicial Court Commissioner shall be as follows:

Monday

- 8:00 a.m. Probable Cause Hearings pursuant to Chapter 51 & 55, Stats.
- 8:00 a.m. Small Claims Returns (large volume)
- 8:30 a.m. Small Claims Returns (all other)
- 1:30 p.m. Initial Appearances / Bail Hearings

Tuesday

- 8:00 a.m. Probable Cause Hearings pursuant to Chapter 51 & 55, Stats.
- 9:00 a.m. Paternity - First Appearance (Alternate Weeks)
- 11:00 a.m. Initial Appearances/Bail Hearings
- 3:15 p.m. Juvenile Ordinance Hearings
- 3:30 p.m. Juvenile Pleas/Delinquency and CHIPS

Wednesday

- 8:00 a.m. Probable Cause Hearings pursuant to Chapter 51 & 55, Stats.
- 11:00 a.m. Initial Appearances/Bail Hearings
- 1:30 p.m. State, County, DNR & Municipal Traffic/Ordinance Returns

Thursday

- 8:00 a.m. Probable Cause Hearings pursuant to Chapter 51 & 55, Stats.

11:00 a.m. Initial Appearances/Bail Hearings

Friday

8:00 a.m. Probable Cause Hearings pursuant to Chapter 51 & 55, Stats.

11:00 a.m. Initial Appearances/Bail Hearings

## APPENDIX A

### Petition for Waiver of Fees/ Costs and Affidavit of Indigency and Order (Mandatory court form CV-410)

Available on-line on the Wisconsin Court System web site at:  
[www.wicourts.gov](http://www.wicourts.gov)

## APPENDIX B

### Scheduling Conference Order

**SCHEDULING CONFERENCE ORDER**

STATE OF WISCONSIN                                  ::                                  SHEBOYGAN COUNTY                                  ::                                  CIRCUIT COURT BR. #

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Judge \_\_\_\_\_ Date \_\_\_\_\_ Case No. \_\_\_\_\_

Title of Action	Attorneys	Present
_____	_____	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>
Plaintiff(s)		
-vs-		
_____	_____	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>
_____	_____	<input type="checkbox"/>
Defendant(s)		

1. Kind of action:  Personal Injury     Property Damage     Contract     Other \_\_\_\_\_

2. Trial:  Court  Jury     6  12 Additional Jurors #\_\_\_     Jury fee paid     Jury fee to be paid by \_\_\_\_\_

3. Date/Time of Trial:	Date/Time of Pre-Trial Conference:
#1 _____ at _____ a.m./p.m.	#1 _____ at _____ a.m./p.m.
#2 _____ at _____ a.m./p.m.	#2 _____ at _____ a.m./p.m.
#3 _____ at _____ a.m./p.m.	#3 _____ at _____ a.m./p.m.

Length of Trial \_\_\_\_\_

4. Counsel personal appearance at pre-trial conference:  Mandatory     Telephonic (initiated by counsel requesting)

In all pre-trial matters, attorneys must have the authority to negotiate in the absence of their clients, or, if authority is not granted, immediate telephone access to the client shall be required. Attorneys representing insurance companies shall have an adjuster with them or one available by telephone.

All proposed jury instructions and special verdicts shall be filed with the Court and opposing counsel on or before the pre-trial conference. Pattern instructions need only be referred to by number. All motions in limine and supporting briefs shall be filed with the Court and opposing counsel at least \_\_\_\_ days before pre-trial/trial. All briefs in opposition to any motion in limine shall be filed with the Court and opposing counsel at least \_\_\_\_ days before pre-trial/trial.

5. All amendments to the pleadings, including joinder of additional parties, shall be completed by \_\_\_\_\_. The party joining additional parties after this scheduling conference is responsible for supplying the joined parties with a copy of the scheduling conference order within 10 days after the answer(s) have been filed.

6.  All motions for summary judgment shall be filed by \_\_\_\_\_. A date for hearing on summary judgment motions will be set when the motion is filed.

Date for hearing summary judgment motions \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.

7. Designation of experts:

The plaintiff shall designate all experts no later than \_\_\_\_\_ with reports/opinions filed by \_\_\_\_\_.

The defendant shall designate all experts no later than \_\_\_\_\_ with reports/opinions filed by \_\_\_\_\_.

8. If applicable, the plaintiff is to provide a medical report substantiating any claim of permanency by \_\_\_\_\_.

The defendant, if desired, shall have until \_\_\_\_\_ to schedule and complete an independent medical evaluation of the plaintiff and will immediately furnish the plaintiff with a copy of that report.

9. Any jury view is to be requested in writing no later than \_\_\_\_\_ days prior to trial with notice of such request to be given to all parties. Responsibility for arrangements is relegated to the requesting party.

10. Videotape: Proponent to schedule editing conference at least 10 days prior to trial or use will not be permitted.

11. Discovery shall continue until the date of the pre-trial. All parties have a continuing duty to supplement responses to discovery demands. This duty shall continue until the date of trial. Any abuse of discovery may result in a protective order being entered under §804.01(3) Wis. Stats.

12. The parties or the attorneys for the parties shall notify the court and opposing counsel in writing on or before \_\_\_\_\_ as to whether a party or the parties want(s) to attempt to resolve any appropriate issues in dispute through any of the means of alternative dispute resolution described in Wis. Stat. §802.12. Any party seeking a court order for a form of alternative dispute resolution (other than binding or non-binding arbitration, or summary jury trial) shall file a motion for such order no later than *thirty (30) days* following the date set forth above. A hearing on the motion will be set by the court as soon as possible following receipt of the motion.

13. Any stipulation to amend or modify this order shall be made in writing and must be approved by the Court. Counsel and the parties are advised that failure to comply with this order may result in sanctions imposed under §805.04 Wis. Stats., including dismissal of action.

14. \_\_\_\_\_  
\_\_\_\_\_

15. \_\_\_\_\_  
\_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

BY THE COURT,

\_\_\_\_\_  
Circuit Court Judge

cc:

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APPENDIX - FORMS

- A. Petition for Waiver of Fees/Costs and Affidavit of Indigency and Order
- B. Scheduling Conference Order