

# Washington County Circuit Court Rules

[Civil Procedures \(June 2012\)](#) [Family Court Rules \(March 2009\)](#)

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## **CIVIL PROCEDURES (REVISED JUNE 2012)**

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### **I. PRETRIAL PROCEDURE**

#### **A. FILING PAPERS**

All documents submitted for filing should be hole-punched at the head of the document with a standard two-hole punch. The holes should be 2-3/4" center to center and have a diameter of no less than 1/4". An action is commenced upon the filing of the Summons and Complaint with the Clerk of Courts office, and payment of the statutory filing fee. The clerk assigns a case number and a random assignment to a specific Branch is made. Copies are authenticated for service.

All documents pertaining to a specific case shall be filed with the Clerk of Courts office directly and not with the judge who has been assigned the case. Judges and clerks will not accept documents for filing unless presented during the course of a hearing related thereto. The case number shall be on all documents filed with the Clerk of Court after the Summons and Complaint.

#### **B. SERVICE ON OPPOSING COUNSEL**

Unless the Court shall otherwise direct, before submitting to the Court any proposed order, findings, conclusions of law, or judgment, a copy shall be submitted to opposing counsel. A place for notation of the approval of opposing counsel as to form may be provided at the foot thereof. Alternatively, counsel may mail a copy of the proposed form to opposing counsel with the condition that if no objection is brought to the attention of the court within five days from the date of receipt by the Court, approval is presumed and the Court may execute the original

after the five days.

### **C. SCHEDULING CONFERENCES & PHONE SCHEDULING CONFERENCES**

1. NOTICE
  - a. If all parties are represented by attorneys, four months from the date of filing has elapsed and issue has been joined.
    - i. The clerk shall set the matter for a telephone scheduling conference on a date approximately six months after filing.
    - ii. Notice shall be sent to the attorneys approximately six weeks in advance of the date and time and each attorney shall be sent a copy of the "Scheduling Conference Data Sheet", local form CV-4003, and the "Civil Scheduling Order", local form CV-4001.
    - iii. Each party shall complete the "Scheduling Conference Data Sheet" and return it to the Court one week in advance of the scheduling conference.
  - b. If any party is unrepresented or if the Court determines there are too many attorneys/parties for an effective telephone conference, all attorneys/parties may be required to appear at the courthouse, in the room specified in the order, to hold the scheduling conference.
2. PROCEDURE FOR CONFERENCE
  - a. All telephone scheduling conferences shall be initiated by plaintiff's attorney who shall place the call to the judge's clerk after all attorneys are on the line, and the call will then be transferred to the judge.
  - b. Unless otherwise directed by the judge, the judge will complete the civil scheduling order and the clerk will mail a copy to all attorneys. The order may establish:
    - i. dates for completion of discovery, naming experts, filing of reports, motions and mediation.
    - ii. the date of a pretrial/scheduling conference.
  - c. The order is final unless objected to within 10 days of mailing.
  - d. Stipulations extending any dates set forth in the scheduling order are not binding unless the Court approves such stipulation.

### **D. PRETRIAL/SCHEDULING CONFERENCE**

1. Parties and trial counsel are required to be present in person for any Pretrial/Scheduling Conference on the date as set in the Civil Scheduling Order unless the judge ordered otherwise.
2. The judge may complete a Civil Pretrial/Scheduling Order and, if completed, the clerk will mail a copy to all parties. The order may establish:
  - a. the trial date and length;
  - b. dates for filing of trial briefs;
  - c. the number of preemptory challenges;
  - d. any stipulations or other issues.
3. The order is final unless objected to within 10 days of mailing.

## **E. JURY TENDER**

Pursuant to §805.01(2) and 814.61(4), jury demand must be made prior to or at the scheduling conference or at such time as ordered by the Court. Failure to pay the fee at the time ordered by the Court shall constitute a waiver of jury trial unless excused by the Judge. No demand for a jury trial may be withdrawn after the payment of the jury fee without the written consent of all other parties to the action. Unless authorized by the Court, no jury fee may be split between the parties and duplicate tenders for juries will not be returned to any party.

## **II. MOTION PRACTICE**

### **A. SCHEDULING**

Each judge has certain specific dates and times when motions are calendared to be heard. Motions should be scheduled consistent with any scheduling order. All motions are to be scheduled through the Judicial Assistant for the specific branch in question after informing the Judicial Assistant of the case number, the nature of the motion, and the estimated amount of time for argument on the motion. Due to potential time constraints, motions may not be scheduled on a date previously provided by the Judicial Assistant for a motion in the same case without prior approval of the judge. If the parties agree that a motion may be decided on briefs only, without oral argument, the Judicial Assistant should be advised and a request made for a briefing schedule. The judge will then set the briefing schedule.

### **B. BRIEFS**

The Court should receive briefs in support of motions at least 20 days prior to argument although each Court may establish a briefing schedule in individual cases upon its own motion or upon request. Briefs shall contain a short, concise statement of the party's arguments in support of its position, together with the citations of the authorities upon which it relies.

If no briefing schedule has been set, the opposing party shall, within ten days after the filing of the supporting brief, file a response brief in opposition containing a short, concise statement of the position upon which it relies together with citation of authorities. The moving party shall have five days thereafter for filing its reply. No brief beyond the reply shall be filed except upon leave granted. The Court may, by order, excuse the filing of supporting, response and reply briefs, and may shorten or extend the time fixed by this rule for the filing of briefs. Each party shall serve a copy of their brief upon opposing party and file proof of such service at the time of filing its brief.

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

### **C. SUMMARY JUDGMENT**

1. Scheduling - SEE II A and B above. Motions must be filed and heard within the time limits set by §802.08(1) unless extended by the scheduling order for the case or by order of the Court.
2. Affidavits must be filed at least five days prior to hearing pursuant to Sec. 802.08(2), Wis. Stats. or as ordered by the Court.

### **D. DEFAULT JUDGMENT**

1. In actions to which §806.02(4) applies (action on express contract for recovery of a liquidated amount of money only) the Clerk will render the judgment without order of the Court. No order for judgment or judgment for the judge's signature need be submitted.
2. All other default judgment motions follow regular procedure except as specified in Section III hereof.

### **E. MINOR SETTLEMENTS (Sec. 807.10, Wis. Stats)**

1. If settlement is over the amount specified in Sec. 867.03(1g), Wis. Stats., and minor is entitled to monies prior to 18th birthday, a guardianship action must be commenced in the office of the Register in Probate (Chapter 54). Counsel shall obtain a hearing date from that office for approval of settlement of both the guardianship action and the civil action.
2. If the settlement is over the amount specified in Sec. 867.03(1g), Wis. Stats., but the settlement is structured so that the first payment is to be made on or after the minor's 18th birthday or the settlement is to be paid to a Discretionary Needs Trust, no guardianship action is necessary. Counsel shall contact the Clerk of Courts office for a date for approval of the settlement.
3. If settlement is at or less than the amount specified in Sec. 867.03(1g), Wis. Stats., the Court, in its discretion, may order a disposition as set forth in Sec. 54.12, Wis. Stats.
4. Appointment of a guardian ad litem for a minor will be made by the judge to whom the case has been assigned.

## **III. APPEARANCES**

### **A. APPEARANCES BY ATTORNEYS & CLIENTS REQUIRED**

Unless excused by the Court, attorneys for all parties shall appear:

1. At all motions or trials unless otherwise specifically provided herein. Attorneys and clients shall appear:
2. At all Pretrial/Scheduling Conferences unless the attorney has full authority to settle, and the client is immediately available by telephone and the Judge has excused the client.
3. The attorney appearing at a Pretrial/Scheduling Conference shall be the attorney who will try the case.

## **B. FORECLOSURE APPEARANCES NOT REQUIRED**

1. Attorneys for a mortgagee in a foreclosure action need not appear at a hearing on a default foreclosure judgment and may appear by affidavit if:
  - a. The case is in default with no responsive pleading filed by mortgagor.
  - b. Proof of service, copy of Lis Pendens, etc. are all on file.
  - c. A hearing date is obtained and notice given to all defendants, which shall indicate that judgment will be granted on that date unless anyone appears to object.
  - d. An affidavit of a representative of the mortgagee setting forth all evidence necessary to allow court to grant judgment is filed, as set forth in (2) below.
  - e. An affidavit to establish the reasonableness and necessity of attorney's fees is filed.
  - f. Affidavits, findings and judgment papers are filed at least 3 days prior to the date of the motion hearing.
2. Any affidavit submitted in support of a default foreclosure judgment, summary foreclosure judgment or judgment on the pleadings must specifically and without reference to other documents previously filed set forth all information necessary to support the motion including the following information:
  - a. The date of filing of the summons and complaint and any amended summons or complaint.
  - b. The date and specific manner of service on each of the defendants named. If service on any defendant is by publication, an affidavit as to reasonable efforts to serve the defendant personally or by substituted service shall be provided.
  - c. The length of the period of redemption being requested (with reference to the section of Ch. 846 authorizing the requested redemption period) as well as specific factual information based on personal knowledge supporting the period of redemption and whether a deficiency judgment is being sought or waived. Proposed Findings and Orders should highlight the length of the period of redemption and waiver or non-waiver of deficiency language in any such pleadings by bolding the same.
  - d. The amount due and owing as of the date of the affidavit or hearing date together with the amount of attorney fees requested, a listing of disbursements being added to the judgment and the total thereof.
  - e. The date of filing of the Lis Pendens in the office of the Register of Deeds.
  - f. A copy of any responsive pleading giving rise to a motion for summary judgment or judgment on the pleadings.
  - g. Whether the plaintiff is the original mortgagee and, if not, information establishing how the plaintiff became the current holder of the mortgage with assignments incorporated into the affidavit establishing the plaintiff's standing.
3. Any document filed by a defendant and determined by the court to constitute a responsive pleading will void any motion for default judgment and require a personal appearance by an attorney for the plaintiff, which may be by telephone at the discretion of the Court.
4. Any motion to confirm a Sheriff's sale in a foreclosure action must set forth the relief requested in addition to confirmation of the sale and must be supported by an affidavit

or affidavits which specifically and without reference to any document previously set forth all information necessary to confirm the sale including the following information:

- a. The date and location of the Sheriff's sale.
  - b. The name of the successful bidder and the amount of the bid.
  - c. Information from which the court can conclude that the successful bid represents fair value such as the opinion of an appraiser or specific tax valuations.
  - d. The date of filing of any amended summons or complaint.
  - e. The names of any additional defendants added since the granting of the judgment.
  - f. The date and specific manner of service on any additional defendant.
  - g. Information as to the potential claim of any added defendant and facts from which the court can conclude that the interest of any such defendant is subsequent to that of the plaintiff.
  - h. The nature of any specific amounts being requested to be added to the judgment.
  - i. Whether a writ of assistance is being requested.
5. Failure to file the appropriate documentation at least 3 days prior to the date of the hearing will require a personal appearance by plaintiff's attorney at such hearing.
  6. The case will be called on the motion date and the sale confirmed if there is no objection. If any party appears to object, the matter may be adjourned for further hearing. In that event, costs may be awarded against plaintiff if the plaintiff's attorney did not appear and the court finds the objection to be valid.

## **IV. TRIALS**

### **A. SETTLEMENT**

In Washington County, a jury panel is called specifically for the case scheduled for trial. The court may impose costs if a case is settled within two business days of the trial date (§814.51).

### **B. VOIR DIRE**

As part of its voir dire, the Court will inform the jury panel as to the cause, parties, and counsel and the nature of the action, so that they may be sufficiently informed to answer questions touching upon their qualifications to act as jurors. The court shall next ask questions pertaining to the qualifications of the jurors; the parties or their counsel shall then continue such voir dire examination. Attorneys will not be allowed to ask about information on the voir dire examination that was available on the jurors' questionnaires. Individual voir dire of jurors will not be permitted. Questionnaires are available from the jury clerk approximately two weeks before trial.

### **C. INSTRUCTIONS**

Proposed instructions are to be submitted to the Court at the Pretrial/Scheduling Conference. After the trial has commenced, requests for instructions shall be submitted in writing to the Court before opening arguments to the jury begin, unless the trial judge otherwise permits. Any

special instruction shall be on a separate page, with a duplicate copy thereof, and each shall have noted thereon the citation of authorities relied upon to sustain such instruction. When a standard instruction is requested from Wisconsin Civil Instructions, it may be requested by number only, except if there is any change of the language thereof. Any requested modifications shall be submitted in writing.

#### **D. TRIAL BRIEFS**

1. Trial briefs shall be filed 10 days before trial.
2. Trial briefs furnished to the Court shall be furnished to opposing counsel, unless counsel have agreed, or the Court has ordered, that briefs need not be exchanged.

#### **E. OPENING STATEMENT AND CLOSING ARGUMENTS**

Within reasonable discretion, taking into consideration the nature of the case and the evidence produced at the trial, the Court may limit the length of opening statements and closing arguments of counsel. Counsel shall be advised of such limitation prior to the commencement of opening statements or closing arguments.

#### **F. DUTY OF ATTORNEYS WITH RESPECT TO OMISSIONS OR ERRORS IN INSTRUCTIONS**

Immediately after the jury retires, counsel shall bring to the Court's attention obvious omissions or inadvertent errors contained in the instructions, so that the Court may make appropriate and timely correction.

#### **G. APPEARANCE OF ATTORNEYS DURING JURY DELIBERATIONS AND AT TIME JURY RETURNS VERDICT**

After the jury has retired to deliberate, if any attorney or party is not in the courthouse, they shall have been deemed to waive any appearance. Unless otherwise directed by the Court, counsel shall furnish the clerk with a phone number at which they can be reached should a question arise or the verdict is reached, but the Court will not be obligated to wait for the attorney before taking appropriate action if counsel is not present or cannot be contacted immediately.

#### **H. CONTINUANCES - ADJOURNMENTS**

An attorney who has a conflict with a motion date scheduled by another party's attorney must contact the attorney who initially scheduled the motion before requesting any adjournment from the Court. The attorney who scheduled the motion may then contact the clerk's office to set up a new motion date. No adjournment will be granted without consent of the other party on motion.

#### **I. TAXATION OF COSTS**

Procedures for taxation of costs will follow Sec. 814.10, Wis. Stats. The clerk will tax costs

and insert in the judgment and in the judgment and lien docket, if the judgment shall have been entered, on the application of the prevailing party, upon 3 days' notice to the other party(ies).

Objections to the bill of costs must be in writing and filed with the Clerk of Courts office prior to taxation. The clerk may adjourn the taxation, upon cause shown, to a reasonable time to enable either party to produce proof. The court on motion may review the action within 10 days after taxation.

## **V. SATISFACTION OF JUDGMENTS FOLLOWING BANKRUPTCY**

### **A. NECESSARY DOCUMENTS**

Any person seeking to satisfy a judgment which was the subject of a debt discharged in a bankruptcy action, or any person having an interest in real property to which such judgment attaches, may make an application to the Clerk of Courts by filing the following documents:

1. An Application for Order for Satisfaction of Judgments substantially in the form prescribed by Wis. Stat. 806.19(4) which includes: The name of the judgment debtor or person interested in the real estate affected by such judgment;
  - a. A list of the judgments to be satisfied by case name, case number date, and if available, the judgment and lien docket volume and page number; and,
  - b. A statement that the person signing and dating the Application believes such debts have been discharged in bankruptcy and that no inconsistent ruling has been made by the bankruptcy court or is currently being requested by any party from the bankruptcy court.
2. Copies of the schedules of debts as included in the bankruptcy petition filed in the bankruptcy court showing the judgment creditors listed in the Application.
3. A statement or affidavit by the person signing the Application stating that the judgment creditors listed in the Application have received notice of the bankruptcy case and describing the means of notification.
4. A certified or photographic copy of the order of discharge in the form served on the interested parties by the bankruptcy court.
5. A proposed Order of Satisfaction to be signed by the Circuit Court as provided in Wis. Stats. 806.19(4).
6. A statement or affidavit by the person signing the Application that the Application and proposed Order of Satisfaction has been served on each of the judgment creditors listed in the Application within five days of its submission to the Clerk of Courts indicating the manner of service.

### **B. SATISFACTION**

Upon receipt of the documents required, and the statutory fee of \$5.00 for each judgment to be satisfied, the clerk shall submit the proposed Order to the Court for signature after which the clerk shall satisfy each judgment described in the Application.



# **FAMILY PROCEDURES (REVISED SEPTEMBER, 2022)**

[I. Pretrial Procedure](#)

[II. Motion Practice](#)

[III. Appearances by attorney required](#)

[IV. Continuances - Adjournments](#)

[V. Indigency](#)

[VI. Discharge of Guardian ad Litem](#)

## **I. PRETRIAL PROCEDURE**

### **A. FILING**

An action is commenced upon the filing of the Summons and Petition or Joint Petition, and any Confidential Petition Addendum with the Clerk of Courts office, and payment of the statutory filing fee. The clerk assigns a case number and a random assignment to a specific Branch is made. Copies are authenticated for service. Proof of service of pleadings must be filed with the Clerk of Courts office within the statutory time limit. Failure to serve the respondent with an authenticated copy of the summons and complaint within the required statutory time period may result in dismissal of the case.

All documents and correspondence pertaining to a specific case shall be filed with the Clerk of Courts office directly and not with the judge who has been assigned the case nor with the Family Court Commissioner (FCC). Judges, the FCC and their clerks will not accept documents for filing unless presented during the course of a hearing related thereto.

The case number shall be on all documents filed with the Clerk of Court after the Summons and Petition and any Confidential Petition Addendum. Filing pleadings with the Clerk of Courts shall be deemed as service on the FCC.

### **B. SERVICE ON OPPOSING COUNSEL**

Unless the Court shall otherwise direct, before submitting to the Court any proposed order, findings, conclusions of law, or judgment, a copy shall be submitted to opposing counsel or the opposing party if unrepresented. A place for notation of the approval of opposing counsel or the opposing party as to form may be provided at the foot thereof. Alternatively, counsel may mail a copy of the proposed form to opposing counsel or the opposing party with the condition that if no objection is brought to the attention of the court within five days from the date of receipt by the court, approval is presumed and the original may be executed by the court after the five days. For cause shown, the Court may extend the time for objection.

### **C. TEMPORARY HEARINGS**

At the time of the filing of the Summons and Petition, or at a reasonable time prior thereto, or any time thereafter, either party may schedule a Temporary Hearing. All Temporary Hearings

shall be heard by the FCC and scheduled through the Family Court Division of the Clerk of Courts office. All parties appearing at a Temporary Hearing shall complete a Financial Disclosure Statement on a form acceptable to the FCC and file it at least 2 business days before the hearing. A single Temporary Order worksheet must be completed by or on behalf of all of the parties prior to the hearing, shall contain current information regarding all parties, and shall set forth all temporary stipulations.

#### **D. SCHEDULING CONFERENCES & PHONE SCHEDULING CONFERENCES**

##### **1. NOTICE**

- a. If all parties are represented by attorneys, three months from the date of filing has elapsed, and issue has been joined:
  - i. The clerk shall set the matter for a telephone scheduling conference on a date approximately 120 days after service of the petition or the date of filing if the parties are joint petitioners.
  - ii. Notice shall be sent to the attorneys/parties in advance of the date and time and each attorney/party shall be sent a copy of the “Family Scheduling Conference Order,” local form FA-2027 and a “Family Scheduling Conference Data Sheet,” local form FA-2002.
  - iii. Each party shall complete the “Family Scheduling Conference Data Sheet” and return it to the Court one week in advance of the scheduling conference.
- b. If either party is unrepresented, unrepresented parties and opposing counsel shall be required to appear at the courthouse, in the room specified in the order, to hold the scheduling conference.

##### **2. PROCEDURE FOR CONFERENCE**

- a. All telephone scheduling conferences shall be initiated by petitioner’s attorney who shall place the call to the judge’s clerk after opposing counsel is on the line, and the call will then be transferred to the judge.
- b. The judge may complete a family scheduling order and the clerk will mail a copy to all unrepresented parties. The order may establish:
  - i. dates for completion of discovery, naming experts, filing of reports, motions, and petitioning for mediation or for a Guardian ad Litem (G.A.L.) and Human Services Department (HSD) involvement.
  - ii. date of a pretrial/scheduling conference.
  - iii. a requirement for alternative dispute resolution.
- c. The court may continue the scheduling conference to a future date in the interest of case management.
- d. The order is final unless objected to within 10 days of mailing.

#### **E. PRE-JUDGMENT PRETRIAL/SCHEDULING CONFERENCE**

1. Parties and counsel are required to be present in person for any Pretrial/Scheduling Conference on the date as set in the Family Scheduling Order, or other notice, unless otherwise ordered by the court.
2. Upon completion of the Pretrial/Scheduling Conference, the judge may complete a Family Pretrial/Scheduling Order, local form FA-2029, and the clerk will mail a copy to

all unrepresented parties. The order may establish:

- a. the trial date and length;
  - b. dates for filing of trial briefs;
  - c. current Divorce Financial Solutions TaxCalc calculations on income, maintenance, and child support;
  - d. the date of any final pretrial;
  - e. any stipulations or other issues.
3. The order is final unless objected to within 10 days of mailing.
  4. Parenting Plans, in those cases where required, shall be filed prior to the Pretrial/Scheduling Conference, 60 days after the Mediation Response to Court, if filed, unless otherwise ordered.

## **II. MOTION PRACTICE**

### **A. SCHEDULING**

The assigned judge hears certain matters while the FCC hears others. Each judge has certain specific dates and times when motions are calendared to be heard. All motions are to be scheduled through the Judicial Assistant for the specific branch in question after informing the Judicial Assistant of the case number, the nature of the motion, and the estimated amount of time for argument on the motion. Due to potential time constraints, motions may not be scheduled on a date previously provided by the Judicial Assistant for a motion in the same case without prior approval of the judge.

Matters heard by the FCC are scheduled by contacting the Family Division in the Clerk of Courts office. The same information required in scheduling a motion before a judge will be required in scheduling a motion before the FCC, and the same rules apply. After consultation with the assigned Judge or the FCC, the Clerk of Courts may determine whether a matter is properly before the judge or FCC regardless of how it may be denominated or titled.

### **B. MATTERS TO BE SCHEDULED BEFORE THE JUDGE**

The following matters will be heard by the Judge assigned to the case:

- Pre-judgment matters resulting in permanent orders, whether on motion or order to show cause. An example of a pre-judgment motion/order to show cause which requests a permanent order would be permission to sell a home during the pendency of an action.
- Motions to Compel Discovery in all actions, including Paternities
- Motions to Withdraw as Attorney
- Motions to Amend QDRO
- Motions regarding attorney fees
- Motions seeking permanent permission to move a child under Sec. 767.481 are scheduled before the Judge only upon direction of the assigned Judge, but otherwise are heard in FCC.
- Motions or orders to show cause regarding property division matters
- Motions for ex parte relief

1. Motions seeking permission to move a child under Sec. 767.481 will not be heard until court ordered mediation has been completed and a GAL has been appointed. The court may also order HSD involvement. All fees shall initially be paid by the party bringing the motion.
2. Stipulated divorce final hearings may be scheduled with the judge, but only with permission of the assigned judge.

### **C. MATTERS TO BE SCHEDULED BEFORE THE FCC**

The following matters will be heard by the FCC:

- All family law contempts, no matter what facts give rise to the alleged contempt, with the exception of post-judgment property division matters.
  - Pre-judgment temporary type hearings except those that would result in a permanent order such as the sale of a home during the pendency of the action.
  - Post-judgment motions including child support issues, maintenance, and motions seeking permanent changes of custody/physical placement.
  - Temporary hearings regarding permission to move a child under Sec. 767.481.
  - Motions seeking permanent permission to move a child under Sec. 767.481, unless otherwise directed by the assigned Judge.
  - Motions for emergency hearings on a change of custody/physical placement. A GAL may be appointed prior to any hearing on an emergency custody/physical placement motion.
  - Petitions to enforce physical placement
  - Default and stipulated divorces
  - Parenting actions
1. Parties cannot bypass the FCC by indicating that they will request a de novo hearing regardless of the FCC's decision.
  2. A stipulated divorce will not be scheduled for hearing until a Marital Settlement Agreement is on file, 120 days have elapsed from the time the respondent was served (or if joint petitioners, 120 days from filing), proof of service on the respondent is filed, and, if the Child Support Agency has an interest, proof of notice of hearing to the Child Support Agency is on file.
  3. A mandatory filing fee is required to be paid at the time of filing any motion to modify judgment or subsequent court order . This requirement does not apply to motions to enforce judgments, i.e. Contempt or placement enforcement actions.
  4. Motions seeking permission to move a child under Sec. 767.481 will not be heard until court ordered mediation has been completed and a GAL has been appointed. The court may also order HSD involvement. All fees shall initially be paid by the party bringing the motion.
  5. Motions seeking permanent change of custody/physical placement will not be set for a scheduling conference until the required filing fee has been paid, mediation has been completed, a Response to Court has been filed by the mediator (or mediation has been waived by the Court), a petition for the appointment of a G.A.L. is filed, and all fees have been paid. Unless otherwise ordered, all fees must be paid by the moving party, who may later request the court to order reimbursement from the other party. Other than in exceptional cases, by court order, Petitions for GAL and HSD involvement may NOT be

filed until mediation has been completed. Unless determined otherwise by the court, an HSD investigation and report will be ordered prior to the final motion hearing. Fourteen weeks from the time of the order will be allowed for completion of the HSD Report.

#### **D. DE NOVO HEARINGS**

Pursuant to request for a de novo hearing of a FCC decision shall be made within 20 calendar days from the date of the oral decision or the date of mailing of the written decision/order, if not given orally. The party requesting a de novo hearing must have been present at the hearing before the court commissioner. The decision/order made by the court commissioner must not have been based on a stipulation entered between the parties. Evidence at a de novo hearing shall be limited to that existing at the time of the FCC hearing. If a transcript of the FCC hearing exists, the parties may stipulate to a review of the transcript by the Circuit Court, but only with permission of the Court.

#### **E. BRIEFS**

Briefs in support of motions should be received by the Court at least 20 days prior to argument. Each Court may establish a briefing schedule in individual cases upon request.

Briefs shall contain a short, concise statement of the party's argument in support of its position, together with the citations of the authorities upon which it relies. The adversary party shall, within ten days after filing the supporting brief, file an answering brief containing a short, concise statement of the position upon which it relies together with citation of the authorities. The opposite party shall have five days thereafter for filing their reply. No brief beyond the reply shall be filed except upon leave granted. The Court may, by order, excuse the filing of supporting, answering and reply briefs, and may shorten or extend the time fixed by this rule for the filing of briefs. Each party shall serve a copy of his brief upon his adversary party and file proof of such service at the time of filing its brief.

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

### **III. APPEARANCES BY ATTORNEYS REQUIRED**

Unless excused by the Court, all parties and their attorney's shall appear:

- At all motions or trials unless otherwise specifically provided herein.
- At all Pretrial/Scheduling Conferences with the client, unless the attorney has full authority to settle, or the client is immediately available by telephone and the court has excused the client.

## **IV. CONTINUANCES – ADJOURNMENTS**

An attorney who has a conflict with a motion date scheduled by another party must contact the attorney who initially scheduled the motion before requesting any adjournment from the Court. The attorney who scheduled the motion may then contact the Clerk's office to set up a different motion date. No adjournments will be granted without consent of the moving party or on motion.

## **V. INDIGENCY**

Any request for the waiver of fees or deposits on the basis of indigency must be made on approved forms and accompanied by any required financial information.

## **VI. DISCHARGE OF GUARDIAN AD LITEM**

Guardians ad litem (GAL) shall serve until entry of the Court's final order as provided in Sec. 767.407(5), Wis. Stats, which final order shall include the entry of Judgment in a divorce action, unless an order discharging the GAL is entered earlier or the GAL is ordered by the Court to serve beyond the entry of the final order in the action.

## **LOCAL RULE REGARDING VIDEO CONFERENCING APPEARANCES IN CRIMINAL AND OTHER CASES (REVISED APRIL 1, 2011)**

The Circuit Court Judges of Washington County are committed to avoiding the need to transfer criminal defendants and respondents in Chapters 48, 51, 55, 938 and 980 cases to Washington County for non-critical court appearances and appearances at critical stages of the proceeding where a defendant or respondent wishes not to attend. Any attorney appearing in such a case in Washington County shall be required to notify the judicial assistant (JA) for the branch in which a case is pending of the attorney's belief that a hearing in which a defendant or respondent might otherwise be produced will involve other than a critical stage of the proceedings or a critical stage of the proceedings where the defendant or respondent wishes not to attend. Critical stages of the proceedings include evidentiary hearings, trials or fact-finding hearings, plea hearings at which a plea of guilty or no contest, or an admission, will be offered, and sentencing or dispositional hearings. Attorneys shall advise the JA of the appropriate branch of the possibility of a video conference appearance by a defendant or respondent as soon as practicable.

Effective March 1, 2009.

## **AMENDED LOCAL COURT RULE REGARDING FACSIMILE TRANSMISSION OF DOCUMENTS TO THE COURT**

1. Facsimile documents transmitted directly to the Courts shall be accepted for filing only (at the Clerk of Circuit Court Fax of 262-335-4776 or the Register in Probate/Juvenile Fax of 262-306-2224) if:
  - a. The facsimile document is faxed to the appropriate office at the phone number set forth above.
  - b. The facsimile transmission does not exceed fifteen (15) pages in length, excluding cover sheet. If the facsimile transmission exceeds 15 pages, the party or attorney shall certify that the assigned judge or court commissioner has approved the facsimile transmission.
  - c. The facsimile document is of a type for which no filing fee is required.
  - d. The transmission does not result in any additional fee or charge to the appropriate office for accepting or receiving the facsimile document.
2. The party transmitting the facsimile document is solely responsible for ensuring its timely and complete receipt.
3. Neither the Circuit Court Judge, the Clerk of Circuit Court nor the Register in Probate/Clerk of Juvenile Court is responsible for:
  - a. Errors or failures in transmissions that result in missing or illegible documents.
  - b. Periods when a facsimile machine is not operational for any reason.
4. Facsimile papers are considered filed upon receipt by the Clerk of Circuit Court or Register in Probate/Clerk of Juvenile Court and are the official record of the Court and may not be substituted. No additional copies may be sent. The Clerk of Circuit Court or Register in Probate/Clerk of Juvenile Court shall discard any duplicate papers subsequently received.

On the 15<sup>th</sup> day of July 2016.

## **LOCAL COURT RULE REGARDING TEMPORARY PHYSICAL CUSTODY OF A CHILD**

IT IS HEREBY DIRECTED THAT, the Washington County Human Services Department shall, in all cases in which WCHSD has temporary physical custody or legal custody of a child, have authority to make decisions for enrollment with health providers for the child; and,

IT IS HEREBY DIRECTED that, the Washington County Human Services Department shall, in all cases in which WCHSD has temporary physical custody or legal custody of a child, have authority to consent to the provision of routine medical care for the child including immunizations and vaccinations; an assessment of the child's medical, nutritional, dental, developmental and emotional and behavioral status, and an initial mental health screening; and;

IT IS HEREBY DIRECTED that, immunizations shall be defined by the recommended immunization schedule for children ages 0-18 years as approved by the Advisory Committee on

Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP); and,

IT IS HEREBY DIRECTED that, if the initial mental health screening shows the need for a mental health assessment or mental health treatment, parental consent will be required before an assessment or any treatment can be given to the child; and,

IT IS HEREBY DIRECTED that, if such consent cannot be obtained the WCHSD will return to the court to seek a court order for a mental health assessment or treatment.

Dated, this 24th day of May, 2013

## **LOCAL COURT RULE REGARDING MONEY DAMAGE CLAIMS IN EVICTION ACTIONS**

IT IS ORDERED that:

- A. The following Rules shall apply in any action wherein the Court orders a Writ of Restitution of the Premises or a Judgment of Eviction in a landlord/tenant matter.
  1. A tenant who appears at an initial return in an eviction action, or has otherwise submitted to the Court's jurisdiction, who was not served by personal or substituted service and who fails to object to the Court's jurisdiction over the person, has waived any such objection so as to subject the tenant to a potential personal judgment for monetary damages.
  2. If at the initial return in an eviction action a tenant who is properly subject to the personal jurisdiction of the Court due to personal or substituted service, fails to appear and the plaintiff dismisses the eviction portion of the portion due to the prior vacating of the premises by the tenant, a money damage judgment may be entered by default against the tenant subject to the right of the plaintiff to amend the judgment as provided herein if a specific amount of damages is requested in the complaint.
  3. In cases where an eviction judgment has been granted, within 90 days after the tenant vacates the subject property, the landlord shall file with the Clerk of Courts office a written itemization on Form SC5029 setting forth any amount claimed for back rent, utilities and other damages and setting forth the date the tenant vacated.
  4. The itemization shall be filed in person or electronically in the Clerk of Courts office within 90 days of the date the tenant vacates or, if mailed by first class mail to the Clerk of Courts office, then within said 90 days with a postmark indicating compliance with this Rule.
  5. The landlord shall send a copy of the itemization by first-class mail to the tenant's last known address or to the tenant's attorney, if any, simultaneously with the filing/ mailing of the itemization as required above.
  6. The Washington County Clerk of Courts office shall mail to the tenant at the tenant's last known address a copy of the itemization and a notice that the tenant shall file any objection to the landlord's itemization in writing and within 21 days of the date of the



Clerk of Courts notice enclosing the itemization.

7. The written objection of the tenant shall be filed in person or electronically in the Clerk of Courts office within 21 days of the date of the Clerk of Courts notice or mailed by first-class mail to the Clerk of Courts office within said 21 days with a postmark indicating compliance with this Rule.
8. The tenant shall send a copy of the objection by first-class mail to the landlord, its agent or attorney simultaneously with the filing/mailing of the objection as required above.
9. All parties to an eviction action shall timely notify the Clerk of Courts office of any change of address. The failure of the tenant to provide to the Clerk of Courts office an updated address or to file a change of address with the US Post Office shall not be a defense to the failure by the tenant to receive the landlord's itemization of damages as sent by the Clerk of Courts.
- 10. The failure of the landlord to timely file an itemization of damages shall result in the dismissal of the money damage claim. TIME IS OF THE ESSENCE.**
- 11. The failure of the tenant to timely file an objection to the itemization shall result in judgment on the money damage claim being entered against the tenant and in favor of the landlord in accordance with the itemization. TIME IS OF THE ESSENCE.**
12. Upon the timely receipt of an objection to a timely filed itemization of damages, the monetary dispute shall be set for further hearing.
13. In any case where a monetary judgment has been entered by default due to the failure of the tenant to appear pursuant to these rules, a judgment creditor may petition the court by motion supported by affidavit to increase the judgment as a result of monthly rental damages accruing after the judgment was entered provided however that such a request is made within 90 days after the entry of the original judgment.
14. The Court shall cause to be delivered to any party present at the time a Writ of Restitution of the Premises is ordered or Judgment of Eviction granted, a notice approved by the Clerk of Courts office summarizing the above rules.
15. Pursuant to Sec. 799.40(4)(a), any stay of proceedings based on the tenant's application for emergency assistance may only be granted if applied for before issuance of a writ of restitution and then for not more than 10 working days.

This Local Court Rule is in effect on or after August 1, 2018.

Dated on the 6<sup>th</sup> day of August, 2018.

## **LOCAL COURT RULE REGARDING COURTESY PAPER HARD COPY OF ELECTRONICALLY FILED DOCUMENTS**

IT IS HEREBY ORDERED that a courtesy paper hard copy of every electronically filed document that exceeds 20 pages (including related attachments, exhibits, affidavits, pleadings, briefs, and other materials), and all summary judgment documents regardless of length, must be contemporaneously delivered by regular mail or hand delivery, but not by fax, to the clerk of courts office for the assigned judge. Transmission by fax or e- mailing to the assigned judge or judge's judicial assistant does not qualify as the delivery of a courtesy paper hard copy.

The courtesy copy shall, on its face and in the lower right hand corner, be clearly marked "COURTESY COPY" and shall indicate the date the document was electronically filed. These notations may be handwritten. The case title and assigned case number shall be contained on the face of all courtesy copy documents.

The Clerk of Courts office shall not be required to review, scan, or retain the courtesy copy, but instead shall promptly forward the courtesy copy to the assigned judge.

Failure to supply the court with a courtesy copy required by this rule may result in the delay of court action until the appropriate courtesy copy is received.

Delivery of a courtesy copy to the court in compliance with this local rule shall not be considered a violation of the prohibition in §801.17(9)(b) of the Wisconsin Statutes against sending the court a paper copy of an electronically filed document. This statutory provision is deemed directory rather than mandatory, since there is no penalty for sending a courtesy paper copy to the court and since a later sent paper copy is not the official record and can be discarded by the judge after use, like a paper copy sent following a facsimile filing. (See legislative comments to 801.17.)

This local rule is effective February 1, 2016.

Dated this 12<sup>th</sup> day of January, 2016.

## **LOCAL COURT RULE REGARDING DISTRIBUTION OF JUVENILE DISPOSITIONAL REPORTS**

IT IS ORDERED that:

**REPORT PREPARATION:** A designated representative of the Washington County Department of Human Services shall prepare a Court Report in accordance with the mandates of Sec. 48.33 and 938.33, Wis. Stats.

**FILING DEADLINE:** Dispositional reports prepared by the Department will be filed with the Court two (2) business days prior to the scheduled dispositional hearing.

**AVAILABILITY OF REPORTS:** Upon the filing of the Dispositional Report, it shall be the Order of the Court that the Juvenile Clerk shall distribute copies to counsel for the parties and the guardian ad litem in accordance with WI. Stat. 48.396(3)(b)2 and 48.396(3)(c)1m. No Court Report shall be copied for release to a child, parent, the media, or others, without authorization of the Juvenile Court. However, contents of the report may be shared and discussed between counsel and client(s).

Dated on the 3<sup>rd</sup> day of November, 2016.

## **LOCAL COURT RULE FOR JUDICIAL ASSIGNMENTS FOR**

# WASHINGTON COUNTY AND CASELOAD DISTRIBUTION ROTATION OF JUDICIAL ASSIGNMENTS

WHEREAS, SCR 70.23(3) requires the Chief Judge for each judicial administrative district to approve and file a plan for the rotation of judicial assignments in multi-judge circuits within the district as part of the permanent scheme of judicial administration; and

WHEREAS, Washington County has an existing plan for rotation of judicial assignments by a prior order dated September 2, 1983, as amended by order dated November 30, 1999, which plan assigned cases involving Mental Commitments, Probate, Guardianships, Adoptions, and Juveniles differently than other types of cases;

WHEREAS, it is deemed appropriate and advantageous to adopt a new plan that assigns cases involving Mental Commitments, Probate, Guardianships, Adoptions, and Juvenile cases in the same manner as all other cases, since such a plan for the rotation of judicial assignments will (1) better equalize the workload in an equitable manner among the judges in Washington County, considering the special circumstances in the circuit, (2) better assure general jurisdiction availability and competence of all judges in the circuit, and (3) increase court efficiencies;

NOW THEREFORE, IT IS HEREBY ORDERED AND APPROVED that the following plan for the rotation of judicial assignment shall be effective in Washington County as of January 1, 2021:

I. Intake Court

- A. Responsibility for Intake Court shall be rotated between and among the four branches on a monthly basis as follows: Branch 1, January, May, and September of each year; Branch 2, February, June, and October of each year; Branch 3 March, July, and November of each year; and Branch 4, April, August, and December of each year.
- B. The Judge assigned to Intake Court shall be responsible for review and issuance of §968.12, Wis. Stats., search warrants and any night or weekend court sessions required by law.
- C. All initial appearances in the following matters shall be heard in Intake Court:
  - 1. Traffic and ordinance matters,
  - 2. All criminal cases, including felonies and misdemeanors,
  - 3. Small claims,
  - 4. Non-support, paternity, URESA, and child support,
  - 5. Issuance of occupational licenses.
- D. The Judge presiding in Intake Court at the time of the initial appearance for those matters described in paragraph I.C. shall be assigned to hear those matters through disposition.
- E. Domestic abuse, child abuse, individual at risk, and harassment injunction cases shall be assigned to Intake Court as of the date of the first scheduled hearing, and the Judge assigned to the first scheduled hearing shall be assigned to hear such injunction cases through disposition.

II. Other Cases

- A. Large claims civil cases shall be assigned equally by the Clerk of Courts on a rotation system, which includes all writs, except in specific criminal cases, and includes all administrative reviews under Chapter 227.
- B. Family law cases shall be assigned equally by the Clerk of Courts on a rotation system.
- C. Mental Commitments, Probate, Guardianships, Juvenile, Adoption, and Guardianship cases shall be assigned equally by the Clerk of Courts on a rotation system.

III. Temporary Assistance

In the event of a temporary absence or inability of a Judge to act, or the temporary congestion of the calendar of a branch of the Washington County Circuit Court, the Judges of the other branches may render such assistance as necessary and appropriate.

IV. Prior Orders

Upon approval and filing of this order by the Chief Judge, and effective as of January 1, 2021, all prior orders regarding rotation of judicial assignments are terminated and replaced by this order.