Chief Judge

Jennifer R. Dorow
Print or Type Name

3
District Number

July 10, 2023
Date

| STATE OF WISCONSIN | CIRCUIT COURT<br>THIRD JUDICIAL DISTRICT | WAUKESHA COUNTY<br>23-SO-11 (67) |
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IN THE MATTER OF:
Adoption of the revised
Local Civil Rule

ORDER

WHEREAS, the Waukesha County Judges, on June 30, 2023, approved the revisions to the entire Waukesha County Civil Division local rules to be in effect August 1, 2023; and

WHEREAS, the Chief Judge of the Third Judicial Administrative District, under SCR 70.21(15e) and section 753.35(1)&(2) Wis. Stats., has authority to approve local circuit court rules; and

NOW, THEREFORE IT IS ORDERED that effective August 1, 2023, the attached Waukesha Civil Division local rules replaces all prior changes and rescinds 22-SO-01 (67):

**Rule 1: Case Administration**

**1.1 Case Filings**

(1) Except as otherwise provided herein, parties must comply with Wis. Stat. §§ 801.16 and 801.18 regarding case filing and electronic filing procedures. The Clerk of Circuit Court does NOT accept filings sent by email.

(2) All statutory filing fees must be paid in full before the Clerk of Circuit Court will accept the document for filing.

(3) The filing party is responsible for serving a copy of the document upon all parties to the matter or their attorneys of record. EFiling a document electronically will constitute service on all parties who have opted into the electronic filing system, except as otherwise provided in the statutes or these rules. Service on parties who have not opted into the electronic filing system must comply with the requirements of Wis. Stat. § 801.14. Service on parties

should be accomplished in a manner that ensures to the extent possible that there is no period of delay between the filing of documents and service of those documents on the parties.

(4) In all residential foreclosure cases, plaintiff must attach to the summons and complaint a notice of availability of mediation form and a mediation request form. The forms must be served on all defendants named in the case. The Clerk of Circuit Court will make these forms available and accessible.

**1.2 Communications with the Court**

Any communication with the Court must be in writing, provided to all parties, and clearly identify the names of the parties or counsel copied on the communication.

**1.3 Ex Parte Requests**

(1) Except for petitions filed under Wis. Stat. §§ 813.12, 813.122, 813.123, or 813.125, any party requesting an ex parte temporary restraining order, temporary injunction, or other emergency relief must include a written statement documenting the party's good faith effort to inform the party sought to be restrained or otherwise subject to the motion, or that party's attorney, if known, of the nature of the request and when it will be presented to the Court. The notification requirement may be waived by the Court for good cause submitted in writing.

(2) In an ex parte proceeding, an attorney must inform the Court of all material facts known to the attorney to enable the Court to make an informed decision, even those facts adverse to the attorney's position, as required by Supreme Court Rule 20:3.3(d).

**1.4 Consolidation of Cases**

(1) To promote efficiency, the Court on its own motion may consolidate any action involving a related case pending in another branch of the Circuit Court. Before a case may be consolidated with another case or cases assigned to a different branch, the consolidation order must be approved by all judges assigned to the cases which are the subject of the order.

(2) A motion to consolidate one or more cases must be filed in each case affected by the motion. If the motion is granted and the judge with the higher-numbered case consents in writing, the judge with the older, lower-numbered case will retain and preside over the consolidated case. The consolidated case will remain assigned to the judge with the lower-numbered case even if the lower-numbered case is disposed of prior to trial.

(3) When pleadings or written communications are filed after consolidation, they must include all case captions and reference the lower case number.

**1.5 Submission of Proposed Order, Findings or Similar Document**

Proposed orders, findings, or similar documents must be filed in Word format with a three inch top margin on the first page to allow for the Court's signature block. A party filing a proposed order, findings or similar document must serve all parties with the document and advise the Court in writing whether the other parties approve the document or that it is filed under the 10-day rule contained herein. If there is no agreement on the form of the proposed submission, within ten (10) calendar days from the date the proposed submission is filed any party objecting to it must file an alternative proposed version, along with a cover letter

identifying the basis for the objection. Absent good cause, objections filed after expiration of ten (10) calendar days are forfeited.

**1.6 Facsimile Transmission of Document to the Court**

(1) A facsimile document transmitted directly to the Court will be accepted for filing only if all the following criteria are met:

(a) The party submitting the document to the Court is not a voluntary eFiler or an individual required to use the electronic filing system pursuant to Wis. Stat § 801.18(3);

(b) The party submitting the document complies with all statutes and local rules regarding communications to the Court (see Civ. L. R. 1.2 and 1.5 above) and service;

(c) The document does not exceed 15 pages in length excluding cover sheet. A cost of $3.00 per page above the limit will be assessed unless an exception has been approved by the Court or court commissioner on a case-by-case basis. The party or attorney must certify that the assigned judge or court commissioner has approved the exception to the 15-page limit;

(d) No filing fee is required for the filing of the document.

(2) Facsimile documents transmitted to a non-court agency, party, or company for the receipt, transmittal, and delivery to the Clerk of Circuit Court will be accepted for filing only if the transmission complies with this local rule or has been approved by the Court or court commissioner and certified by the transmitting party or attorney.

(3) The party transmitting the facsimile document is solely responsible for ensuring its timely and complete receipt. The Clerk of Circuit Court is not responsible for errors or failures in transmission that result in missing or illegible documents, or when a Clerk of Circuit Court's facsimile machine is not operational for any reason.

(4) If a document is transmitted by facsimile machine, no additional copies may be filed with the Clerk of Circuit Court. The Clerk of Circuit Court will discard all duplicate papers subsequently received by the Clerk of Circuit Court, Court, or court commissioner. Original documents are to be maintained by the transmitting party or his/her attorney.

(5) Pursuant to Wis. Stat. § 801.16(2)(f), documents filed by facsimile transmission completed after regular business hours of the Clerk of Circuit Court's office are considered filed on a particular day if the submission is made by 11:59 pm CST, as recorded by the Clerk of Circuit Court's facsimile machine. Documents submitted by facsimile transmission after 11:59 pm are considered filed the next business day.

**1.7 Remote Hearings**

(1) The Court, in its discretion, may utilize videoconferencing or telephone conferencing in lieu of in-person appearances. The Notice of Hearing will state whether a hearing is scheduled to occur via video or telephone conferencing. The Clerk of Circuit Court will maintain a working online calendar of remote meeting login IDs and passcodes for each

court, which may be shared with members of the bar but will not otherwise be publicly circulated.

(2) Remote hearings are formal court proceedings, and participants are subject to contempt of court for non-compliance with court rules. All parties must dress and conduct themselves as if physically present in the courtroom. Parties must appear by both video and audio means unless otherwise approved by the Court. Parties, witnesses and attorneys must display their full first and last name electronically so that the Court can clearly identify each participant. Parties are responsible for ensuring appropriate lighting and audio during the hearing, and that there are no inappropriate backgrounds or distractions. Any recording of a remote hearing, other than by the court reporter or official court audio recording system is prohibited.

(3) All parties who provide their cellular telephone number to the Court will receive a text message reminder at least 24 hours prior to the hearing with login information.

(4) Further instructions for how to appear remotely can be found at https://www.waukeshacounty.gov/circuitcourts/

**1.8 Dismissal Calendar**

In cases that are not being diligently prosecuted, including without limitation (a) cases in which no party has been served with process within the applicable period, (b) cases in which no timely answer has been filed and no motion for default judgment has been filed within a reasonable time, or (c) despite a Court order, the parties have not filed a proposed scheduling order, the Court may enter a 20-day dismissal order giving notice that the case will be dismissed unless within twenty (20) days good cause is shown why dismissal is not appropriate. If good cause is not shown, the Court may enter an order dismissing the case without further notice to the parties.

**1.9 Media**

Media requests to record a scheduled hearing must be directed to the Court and must comply with the Clerk of Circuit Court's media policy. This policy will be updated and made available at waukeshacounty.gov/CircuitCourts/COC.

**1.10 Restricted Access to Filings and Filing Papers Under Seal**

(1) The Court will consider any document or material filed with the Court to be public unless, at the time of filing, it is accompanied by a separate motion requesting that: (a) access to the document be restricted to the Court and counsel for the parties; or (b) that the document or material, or portions thereof, be sealed by the Court under Wis. Stat. § 801.21. No motion is necessary to seal or restrict a document or material otherwise protected from disclosure under Wis. Stat. § 801.19, or other statute or local rule.

(2) The separate motion to restrict or seal must be publicly filed and must describe the general nature of the information withheld from the public record. The Clerk of Circuit Court will file the document or material under temporary seal unless otherwise ordered by the Court.

(3) Any motion to restrict access or seal must be supported by sufficient facts demonstrating good cause for withholding the document or material from the public record. If

the documents or materials sought to be restricted or sealed have been designated confidential by someone other than the filing party, the filing party may explain in the motion that the documents or materials are being filed under seal pursuant to a court-approved protective order or otherwise, and that the filing party supports, objects to, or takes no position on the continued sealing of the documents or materials. In response, the person or party that originally designated the documents or materials as confidential may, if it chooses, provide sufficient facts demonstrating good cause to continue sealing the documents or materials. Absent a sufficient factual basis demonstrating good cause sufficient to seal the documents or materials, the motion will be denied and the documents or materials will be publicly filed by the Clerk of Circuit Court, unless otherwise ordered by the Court.

(4) Any party seeking to restrict access to documents or materials or to file confidential documents or materials under seal, whether pursuant to a court-approved protective order or otherwise, must include in the motion a certification that the parties have conferred in a good faith attempt to avoid the motion or to limit the scope of the documents or materials subject to sealing under the motion.

(5) The following documents or materials do not require a separate motion to be filed under seal: (a) financial disclosure statements in family and paternity cases; (b) "protected information" as defined in Wis. Stat. § 801.19(1)(a); and documents identified by the Director of State Courts pursuant to Wis. Stat. § 801.20(1).

(6) To the extent that any answers to interrogatories, transcripts of depositions, responses to requests for admissions, or any other documents filed or to be filed with the Court contain material designated as confidential, these documents, or any portion thereof, must be filed under temporary seal by the filing party with the Clerk of Circuit Court as follows:

Pro Se Paper Filers: Document(s) must be filed with the Clerk of Circuit Court's office in an envelope marked "SEALED".

EFilers: When submitting the document(s) via the eFiling system, the filer must check the "Seal" check box.

All documents submitted under seal will remain under temporary seal until the Court rules on the motion or otherwise ordered by the Court.

(7) Any party filing material claimed to be confidential under subsection (6) must include with that filing either: (1) a motion to seal the material pursuant to this rule; or (2) an objection to the designation of the material as confidential and a statement that the objection to the designation has been provided to the person claiming confidentiality. If such an objection is made, the person having designated the material as confidential may file a motion to seal under this rule within 21 days of the objection.

(8) The designation of a paper as confidential under the terms of a protective order is not sufficient to establish the basis for filing that document under seal. The party seeking to withhold the document from the public record must file a motion to seal in accordance with this rule.

### 1.11 Interpreters

(1) If a party or witness needs the assistance of an interpreter for a hearing, the party or his/her attorney or the party calling the witness must submit a written request using state form GF-149 for an interpreter sufficiently in advance of the hearing to permit the retention and appearance of an interpreter.

(2) If an interpreter is requested for a hearing, the parties to the case must notify the Court within three (3) business days of the hearing if there is a request to adjourn or cancel the hearing because, among other things, the case resolved. If an interpreter is requested for a court or jury trial, the parties to the case must notify the Court within seven (7) calendar days of the trial if there is a request to adjourn or cancel the trial. Failure to comply with this rule or the failure to resolve a matter by a court-ordered deadline contained in a pretrial order may result in the Court imposing costs upon the parties.

## Rule 2: Discovery

### 2.1 Discovery Conference with Mediator

Except in actions exempted by the Court, the parties must meet with the mediator selected by the parties or identified in the scheduling order at least 90 days after the scheduling order to discuss the case and the possibilities for prompt resolution. The parties and the mediator must (a) discuss discovery to be completed prior to mediation, (b) identify any contemplated motions, particularly those that may impact the scheduling of mediation, and (c) secure a date for mediation on the mediator's calendar.

### 2.2 Form of Response

An objection or answer to an interrogatory, request to produce a document, or request for admission must reproduce the request to which it refers. Absent good cause or written agreement by the parties, objections not timely made to any discovery request are waived.

### 2.3 Standard Definitions Applicable to All Discovery

(1) The full text of the definitions set forth in subparagraph (2) is deemed incorporated by reference in all discovery, and may not be varied by litigants, but does not preclude the definition of other terms specific to the particular litigation, the use of abbreviations, or a more narrow definition of a term defined in paragraph (2).

(2) Definitions. The following definitions apply to all discovery:

(a) Communication. The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise).

(b) Document. The term "document" is defined to be synonymous in meaning and equal in scope of the usage of this term in Wis. Stat. § 804.09(1). A draft or non-identical copy is a separate document within the meaning of this term.

(c) To Identify.

(i) With Respect to Persons. When referring to a person, "to identify" means to give, to the extent known, the person's full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

(ii) With Respect to Documents. When referring to documents, "to identify" means to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s), and recipient(s).

(d) Person. The term "person" is defined as any natural person or any business, legal, or governmental entity, or association.

**2.4 Confidentiality of Discovery Materials**

(1) All motions and stipulations requesting a protective order must contain sufficient facts demonstrating good cause. Upon a showing of good cause, the Court may enter a protective order regarding confidentiality of all documents produced in the course of discovery, all answers to interrogatories, all answers to requests for admission, and all deposition testimony. A protective order template is included in the Appendix to these Local Rules.

(2) A party may challenge the designation of confidentiality by motion. The movant must accompany such a motion with the certification required by Civ. L. R. 2.7(1). Absent good cause, the party prevailing on any such motion may recover as motion costs its actual attorney fees and costs attributable to the motion.

(3) At the conclusion of the litigation, all material not received in evidence and treated as confidential under this Rule must be returned to the originating party or, if the parties stipulate, the material may be destroyed.

**2.5 Limitation on Discovery Requests**

(1) Interrogatories. Except as provided in sub (3), no party may serve more than a total of 25 interrogatories to another party in any case.

(a) The 25 permissible interrogatories may not be expanded by the creative use of sub-parts. Each sub-part of an interrogatory is counted as one interrogatory.

(b) Interrogatories inquiring about the name 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 are excluded and not counted toward the limit.

(2) Parties represented by the same attorney or law firm are regarded as one party for purposes of determining compliance with limitations on discovery.

(3) Parties may agree to permit additional discovery beyond that authorized under this rule or the Wisconsin Rules of Civil Procedure. Such agreement must be in writing or on the

record and need not be filed with the Court except in support of a motion seeking compliance with the stipulation. After complying with Civ. L. R. 2.7(1), a party may move the Court for permission to serve or pursue additional discovery beyond the limitations of these rules or the Wisconsin Rules of Civil Procedure.

**2.6 Depositions**

(1) Objections to a deposition notice, including a notice to an organization under Wis. Stat. § 804.05(2)(e), must be raised and resolved either by stipulation or protective order prior to the deponent sitting for the deposition. Absent good cause, objections to the notice not resolved prior to the deponent sitting for the deposition are waived.

(2) Objections to questions asked at a deposition must be stated concisely in a nonargumentive and nonsuggestive manner. An objection "to the form of the question," preserves all objections to the question unless the questioning party asks the objecting party the basis for the objection. An attorney may instruct a deponent not to answer a question only when necessary to preserve a privilege, to enforce a limitation ordered by a court, or to suspend the deposition to present a motion for a protective order under Wis. Stat. § 804.01(3).

**2.7 Discovery Motions**

(1) All motions to compel discovery or for a protective order precluding or limiting discovery must be accompanied by an affidavit by the movant certifying that, after the movant in good faith has conferred or attempted to confer with the opposing party to resolve the discovery dispute without court action, the parties are unable to reach an accord. The affidavit must recite the date and time of the conference or conferences and the names of all parties participating in the conference or conferences.

(2) Absent good cause, a motion to compel discovery must be filed no later than 90 days after the date upon which the discovery response was due (if no discovery response was served) or the date the discovery response was served.

(3) Failure to comply with this rule may result in immediate denial of the motion.

**2.8 Completion of Discovery**

Unless the Court orders otherwise, all discovery (excluding depositions to preserve testimony for trial) must be completed 20 days before the final pretrial hearing. Completion of discovery means that discovery must be scheduled to allow depositions to be completed, interrogatories and requests for admissions to be answered, and documents to be produced before the deadline and in accordance with the Wisconsin Rules of Civil Procedure. On motion and for good cause, the Court may extend the time during which discovery may occur or may reopen discovery.

## Rule 3: Motions

### 3.1 Venue Motions

(1) A motion for change of venue must be accompanied by a brief and affidavit setting forth the legal and factual grounds for the requested change, along with a proposed order transferring venue. The order must specify which party is responsible for paying the statutory transfer fees.

(2) A party opposing a motion to change venue must file an objection to the motion within ten (10) calendar days as specified in Civ. L. R. 1.5. The objection must set forth the legal and factual basis for opposing the change of venue along with any affidavits supporting any factual grounds for the objection. A proposed order denying the motion must be filed with the objection.

### 3.2 Motions for Default Judgment

(1) A party seeking judgment by default due to the failure of an adverse party timely to answer or otherwise respond to the summons and complaint (or other pleading requiring a timely response) may file a notice of motion and motion for default judgment subject to the 10-day rule specified in Civ. L. R. 1.5. The moving party must file along with the motion, or must have previously filed with the Court, the following: (a) affidavit evidencing proof of service of the summons and complaint (or other pleading forming the basis for the default); (b) a declaration of nonmilitary service if the adverse party is a natural person; (c) affidavit evidencing the party's failure to timely answer or otherwise respond; (d) affidavit evidencing service of the motion papers by mail to the last known address; and (e) a proposed order under Civ. L. R. 1.5 granting the motion.

(2) The notice of motion must include the following language in all capital letters and bold type:

**THIS MOTION IS BEING FILED UNDER WAUKESHA COUNTY – CIVIL LOCAL RULE 3.2. IF YOU OBJECT TO THIS MOTION YOU MUST FILE YOUR OBJECTION IN WRITING TO THE COURT WITHIN TEN (10) CALENDAR DAYS FROM THE DATE OF THIS NOTICE. IF NO OBJECTION IS RECEIVED WITHIN THAT TIME, THE COURT MAY GRANT THE MOVING PARTY'S REQUEST FOR JUDGMENT WITHOUT FURTHER HEARING. A COPY OF ANYTHING FILED WITH THE COURT MUST ALSO BE SENT TO THE ATTORNEY LISTED BELOW.**

(3) If the party against whom judgment is sought does not file an objection to the motion within ten (10) calendar days of the filing of the motion, the Court may, in its discretion, grant the motion without a hearing.

(4) When the damages requested in the pleading forming the basis for the default are not liquidated, or in actions subject to Wis. Stat. § 802.02(1m), or when the movant is requesting exemplary or punitive damages, the movant must itemize the requested damages and request an evidentiary hearing.

### 3.3 Summary Judgment Motions

(1) A party seeking summary judgment on all or part of a claim under Wis. Stat. § 802.08 must file a notice of motion and motion for summary judgment in accordance with the provisions contained in the scheduling order in the case. Unless ordered by the Court, the movant need not obtain a hearing date prior to filing the motion, but the Court will schedule a hearing after receiving the motion.

(2) Moving Party's Principal Materials in Support of Motion. Along with the notice of motion and motion, the moving party must file

(a) a memorandum of law;

(b) a statement setting forth any material facts to which all parties have stipulated;

(c) a statement of proposed material facts as to which the moving party contends there is no genuine issue and that entitle moving party to a judgment as a matter of law; the statement shall consist of short numbered paragraphs, each containing a single material fact, including within each paragraph specific references to the affidavits, parts of the record, and other supporting materials relied upon to support the fact described in that paragraph; a moving party may not file more than 150 separately numbered statements of fact; and

(d) any affidavits and other materials referred to under Wis. Stat. § 802.08.

(3) Opposing Party's Materials in Response. Each party opposing a motion for summary judgment must file within 30 days of service of the motion and the materials required by subsection (2) above:

(a) a memorandum of law;

(b) a concise response to the moving party's statement of facts that must contain: a reproduction of each numbered paragraph in the moving party's statement of facts followed by a response to each paragraph, including, in the case of any disagreement, specific references to the affidavits, parts of the record, and other supporting material relied upon;

(c) a statement, consisting of short numbered paragraphs, of any additional facts that require the denial of summary judgment, including references to the affidavits, parts of the record, and other supporting materials relied upon to support the facts described in that paragraph. A non-moving party may not file more than 100 separately-numbered statements of additional facts. Each separately-numbered paragraph must be limited to one material fact; and

(d) any opposing affidavits and other materials referred to under Wis. Stat. § 802.08.

(4) Moving Party's Materials in Reply. A moving party may file within 14 days of the service of the opposing party's materials under subsection (3) above:

(a) a reply memorandum of law;

(b) a reply to any additional facts submitted by the opposing party pursuant to subsection (3)(c) in the form prescribed in subsection (3)(b) above; and

(c) any affidavits and other materials referred to under Wis. Stat. § 802.08 submitted in reply.

(5) Effect of Uncontroverted Statements of Fact. The Court will deem uncontroverted statements of material fact admitted solely for the purpose of deciding summary judgment.

(6) Stipulated Facts. Parties are encouraged to stipulate to facts. Stipulated facts will not count against any party's allotment of proposed facts and do not require references to evidentiary support.

(7) Citations to Facts in Memoranda. Assertions of facts in the parties' supporting memoranda must refer to the corresponding numbered paragraph of the statement of facts, statement of additional facts, or statement of stipulated facts.

(8) Prior Leave of Court Required to Increase Number of Statements of Fact or Statements of Additional Fact. A party may not file any proposed statements of material fact or statements of additional fact in excess of the limit set forth in this rule unless the Court has granted leave to do so upon a showing that an increase is warranted.

(9) Length of Memoranda.

A principal memorandum in support of, or in opposition to, summary judgment must not exceed 30 pages and a reply memorandum must not exceed 15 pages (excluding any caption, cover page, table of contents, table of authorities, and signature block). The Court may, in its discretion, allow parties to exceed the page limitations if a party for cause shown files a motion for leave to file an oversized memorandum prior to filing the party's memorandum.

(10) Sanction for Noncompliance. Failure to comply with the requirements of this rule may result in sanctions up to and including the Court denying or granting the motion without a hearing.

**3.4: Limitation on Length of Briefs**

Absent Court approval, a movant's brief must not exceed 25 pages, a responding brief must not exceed 25 pages, and a reply brief must not exceed 10 pages (excluding any caption, cover page, table of contents, table of authorities, and signature block). This rule does not apply to summary judgment briefs addressed in Civ. L. R. 3.3(9). The Court may disregard any briefs exceeding the permitted length, or ones that contain non-standard typeface or margins to avoid compliance with this rule.

### 3.5 Adjournment of a Hearing

Before requesting an adjournment of a hearing, the person seeking the adjournment must contact every other party to the case, or if represented, the party's attorney, and determine if there is any objection to the request. The motion or letter requesting the adjournment must inform the Court whether the other party(ies) join in or stipulate to the requested adjournment or if one or more parties object to the request. Failure to comply with this rule may result in the Court summarily denying the request.

## Rule 4: Trial Administration

### 4.1 Jury Demand and Payment of Jury Fee

A jury demand can be made at any time prior to the deadline included in the scheduling order. Jury fees are due by the date specified in the scheduling order. Absent good cause, an untimely jury demand or untimely payment of jury fees will constitute a waiver of trial by jury.

### 4.2 Adjournment

A request for an adjournment of a trial must be in writing and comply with Civ. L. R. 3.5, and must set forth specific reasons for the request.

### 4.3 Conduct During Trial

Unless approved by the Court, only one person may conduct voir dire on behalf of a party, and only one person on behalf of a party may examine a particular witness or argue motions or lodge objections related to that witness.

### 4.4 Exhibits

(1) Mandatory/Voluntary eFilers. Unless otherwise ordered by the Court, all proposed exhibits must be eFiled no later than 48 hours before the beginning of trial via the *File Exhibit* link in the Circuit Court eFiling system.

(2) Paper Filers. Unless otherwise ordered by the Court, all proposed exhibits must be received in hard copy form no later than 48 hours before the beginning of the trial via mail to Waukesha Clerk of Circuit Court, Civil Division, 515 W. Moreland Blvd, Waukesha, WI 53188, or in person at the Waukesha County Courthouse, 515 W. Moreland Blvd. Room C167.

(3) Failure to file exhibits as specified above or in a court order, and the failure to provide copies of the proposed exhibits to the opposing party(ies) at or before the time filed with the Court may result in the proposed exhibit(s) not being admitted or considered by the Court.

(4) It is the responsibility of the parties to display exhibits using the Court's audio/visual technology. Court staff will not play any type of media or otherwise connect any technology to courtroom computers. Our Court Technology AV Guide with information as to built-in presentation technology can be found here:
https://www.waukeshacounty.gov/CircuitCourts/alldiv-info-pages/CourtroomTechnology/

(5) The Clerk of Circuit Court must maintain a complete and accurate electronic or digital copy of all evidence received at trial and, unless otherwise ordered by the Court, the

offering party is responsible for producing all exhibits in electronic form. The Court in its discretion may order that originals of any exhibit, including, but not limited to, large exhibit(s) (charts, models, maps, etc.), original deposition transcripts, and non-documentary physical evidence received at trial be maintained in the condition filed by the party offering the exhibit(s) or by some other person or vendor.

## Rule 5: Minor Settlements

### 5.1 Petitions

A petition for approval of a minor settlement must identify facts supporting venue and state the age of the minor, the nature and extent of the injury giving rise to the claim, the circumstances leading to the injury and liability, considerations bearing on settlement, and the proposed distribution of the settlement funds. The petition must request the appointment of a guardian ad litem for the minor, and be accompanied by a proposed order appointing the guardian ad litem and proposed order approving the minor settlement.

### 5.2 Disclosure of Potential Conflicts

A guardian ad litem appointed for a minor settlement is an advocate for the best interests of the minor. A guardian ad litem must represent to the Court that there are no known conflicts of interest that impact the guardian ad litem's involvement in the case and recommendation to the Court, and must disclose any potential conflicts of interest in the attorney's role. If an attorney petitioning for appointment as guardian ad litem represents another party(ies) in the same matter, the attorney must disclose the representation to the Court and explain how that representation will not create a conflict of interest in acting as guardian ad litem.

### 5.3 Participation at Hearings

Unless approved by the Court on motion for good cause shown, the minor, the guardian ad litem, and at least one parent or guardian must attend the hearing to approve the minor settlement. The Court may require production of other evidence relating to the claim or injury.

### 5.4 Termination of GAL Responsibilities

Unless the Court directs otherwise, after Court approval of the minor settlement and the guardian ad litem files written confirmation that the funds have been deposited or invested as provided in the Court's order, the guardian ad litem is discharged and relieved of his or her responsibilities in the matter. The guardian ad litem must comply with Civ. L. R. 1.10(1) and avoid filing confidential financial or personal information in the public record.

## Rule 6: Small Claims Case Administration

### 6.1 Service by Mail

Plaintiffs who have attempted personal service of a non-eviction small claims summons and complaint on a defendant residing in Waukesha County and failed to effect service may serve the defendant by mail. Plaintiff must file with the Clerk of Circuit Court an affidavit of no personal service along with a request for mail service under Wis. Stat. § 799.12(3) and provide the Clerk of Circuit Court the appropriate number of copies of the summons and complaint for the number of defendants to be served, along with the statutory fee for each defendant to be served by mail.

### 6.2 Written Answer

A defendant must file a written answer with the Clerk of Circuit Court in a contested non-eviction small claims case and send a copy of the answer on the plaintiff or plaintiff's attorney pursuant to Civ. L. R. 1.1(3). Failure to comply with either requirement may result in judgment against the defendant.

### 6.3 Organizational Appearances in Small Claims Cases

If a party is a corporation or governmental entity, the party must appear through an attorney admitted to practice in the Court. If the party is a limited liability company, it may appear by an attorney admitted to practice in the Court, or by a member or other authorized agent. The authorized agent must file or present proof of authority to appear in the form included in the Appendix to these Local Rules.

### 6.4 Mandatory Mediation

(1) Within ten (10) calendar days of receiving the Notice of Hearing from the Clerk of Circuit Court, the party filing the case must contact a mediator and schedule mediation with the adverse party(ies). Failure timely to initiate the scheduling of mediation may be grounds for dismissal. The cost of mediation will be divided equally between the parties. The parties may use any mutually agreed upon mediator. If the parties cannot mutually agree upon a mediator, the parties will mediate with Mediation Resolutions or a mediator designated by the Court.

(2) Each party must personally appear at the mediation with or without an attorney. Organizational parties must comply with Civ. L. R. 6.3. The mediation process must be completed prior to any scheduled contested hearing. Failure to attend mediation may be grounds to grant judgment or dismissal against the offending party. The Court or court commissioner may grant judgment or dismissal upon the Court's own motion or upon the motion of a party.

(3) The mediation requirement does not apply to the claim for a writ of restitution in an eviction case. The parties are required to mediate all claims for monetary damages in eviction actions (*e.g.* past due rent or damage to property, etc.) after the claim for a writ of restitution is decided.

(4) Any mediated settlement must be signed by each party with the signor's name typed or printed legibly beneath his/her signature. Attorneys signing any stipulation or settlement agreement must insert their State Bar number on the document. Failure to comply with this rule may result in the rejection of the settlement until corrected.

(5) The Court will not enforce a provision in an agreement that permits entry of judgment against a defaulting party without notice. A party aggrieved by another party's non-compliance with a settlement agreement and dismissal of the case must file a notice of motion and motion to reopen the case, serve the notice of motion and motion on the alleged defaulting party, and file a proposed order under Civ. L.R. 1.5.

**6.5 Contested Matters**

All contested small claims cases and requests for injunctive relief under Wis. Stat. Ch. 813 will proceed to a hearing before a court commissioner prior to any trial. Civ. L. R. 4.4 regarding the filing of exhibits applies to these contested cases. On the return date, the court commissioner may schedule the matter for a contested hearing, adopt an agreement between the parties, or grant judgment or dismiss the claim. The court commissioner's decision will become a judgment eleven (11) calendar days after rendering, if oral, and sixteen (16) calendar days after mailing, if written, unless it is a default judgment which has immediate effect.

**6.6 De Novo Review and Demand for Trial**

(1) Any party may request de novo review of the court commissioner's decision by making a demand for trial, except findings and orders entered by a court commissioner upon stipulation or default are not subject to de novo review. A demand for trial seeking de novo review of a court commissioner's decision must be made in writing within ten (10) calendar days from the date of an oral decision, or within fifteen (15) calendar days from the date of mailing of a written decision, except in accordance with Wis. Stat. § 813.126(1), any request for de novo review of a ruling entered by a court commissioner in an action under Wis. Stat. §§ 813.12, 813.122, 813.123, or 813.125 must be filed within 30 calendar days after the court commissioner's ruling. Failure to file a timely demand for trial will result in the demand being denied. Unless ordered otherwise, Civ. L. R. 4.4 regarding the filing of exhibits applies to trials on de novo review of all court commissioner rulings.

(2) The demand for trial must be filed with the Court and mailed to all parties. Proof of mailing must be filed with the Court prior to obtaining a hearing date.

### 6.7 Evictions

(1) An action for eviction may be filed after the time specified in a Notice to Vacate ("Notice") has expired. The Notice must be attached to the complaint along with an affidavit evidencing how the defendant(s) was served with the Notice. If the Notice was served by posting and mailing, the times and dates of attempted service must be specified in the affidavit. If the Notice was served by certified mail, a dated receipt must be attached to the affidavit. The affiant must legibly print his/her name on the affidavit and state his/her relationship to the property owner. If an attorney signs the affidavit, the attorney must include his/her State Bar number. A form affidavit is attached to the Appendix to these Local Rules.

(2) Ten (10) calendar days before any hearing on damages, the plaintiff must file an affidavit itemizing the plaintiff's damages along with proof of mailing to defendant's last known address. If the claim for a writ of restitution proceeded to hearing as a result of alternate service of the summons and complaint and the writ of restitution was obtained by default, the plaintiff must serve notice of the hearing on the plaintiff's claim for damages pursuant to Wis. Stat. § 801.11.

Appendix

**STATE OF WISCONSIN CIRCUIT COURT WAUKESHA COUNTY**

,
Plaintiff,

vs.

**CASE NO.:**

,
Defendant.

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**PROTECTIVE ORDER**

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Based on the Stipulation of the parties and the factual representations set forth therein, the Court finds that exchange of sensitive information between or among the parties and/or third parties other than in accordance with this Order may cause unnecessary damage and injury to the parties or to others. The Court further finds that the terms of this Order are fair and just and that good cause has been shown for entry of a protective order governing the confidentiality of documents produced in discovery, answers to interrogatories, answers to requests for admission, and deposition testimony.

IT IS THEREFORE ORDERED THAT, pursuant to Wis. Stat. § 804.01(3) and Civ. L. R. 2.4(1):

**(A) DESIGNATION OF CONFIDENTIAL OR ATTORNEYS' EYES ONLY INFORMATION.** Designation of information under this Order must be made by placing or affixing on the document or material, in a manner that will not interfere with its legibility, the words "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY."

(1) One who produces information, documents, or other material may designate them as "CONFIDENTIAL" when the person in good faith believes they contain trade secrets or nonpublic confidential technical, commercial, financial, personal, or business information.

(2) One who produces information, documents, or other material may designate them as "ATTORNEYS' EYES ONLY" when the person in good faith believes that they contain particularly sensitive trade secrets or other nonpublic confidential technical, commercial, financial, personal, or business information that requires protection beyond that afforded by a CONFIDENTIAL designation.

(3) Except for information, documents, or other materials produced for inspection at the party's facilities, the designation of confidential information as CONFIDENTIAL or ATTORNEYS' EYES ONLY must be made prior to, or contemporaneously with, their

production or disclosure. In the event that information, documents or other materials are produced for inspection at the party's facilities, such information, documents, or other materials may be produced for inspection before being marked confidential. Once specific information, documents, or other materials have been designated for copying, any information, documents, or other materials containing confidential information will then be marked confidential after copying but before delivery to the party who inspected and designated them. There will be no waiver of confidentiality by the inspection of confidential information, documents, or other materials before they are copied and marked confidential pursuant to this procedure.

(4) Portions of depositions of a party's present and former officers, directors, employees, agents, experts, and representatives will be deemed confidential only if designated as such when the deposition is taken or within 30 days of receipt of the deposition transcript.

(5) If a party inadvertently produces information, documents, or other material containing CONFIDENTIAL or ATTORNEYS' EYES ONLY information without marking or labeling it as such, the information, documents, or other material shall not lose its protected status through such production and the parties shall take all steps reasonably required to assure its continued confidentiality if the producing party provides written notice to the receiving party within 10 days of the discovery of the inadvertent production, identifying the information, document or other material in question and of the corrected confidential designation.

**(B) DISCLOSURE AND USE OF CONFIDENTIAL INFORMATION**. Information, documents, or other material designated as CONFIDENTIAL OR ATTORNEYS' EYES ONLY under this Order must not be used or disclosed by the parties or counsel for the parties or any persons identified in subparagraphs (B)(1) and (2) below for any purposes whatsoever other than preparing for and conducting the litigation in which the information, documents, or other material were disclosed (including appeals). The parties must not disclose information, documents, or other material designated as confidential to putative class members not named as plaintiffs in putative class litigation unless and until one or more classes have been certified. Nothing in this Order prohibits a receiving party that is a government agency from following its routine uses and sharing such information, documents or other material with other government agencies or self-regulatory organizations as allowed by law.

(1) CONFIDENTIAL INFORMATION. The parties and counsel for the parties must not disclose or permit the disclosure of any information, documents or other material designated as "CONFIDENTIAL" by any other party or third party under this Order, except that disclosures may be made in the following circumstances:

(a) Disclosure may be made to employees of counsel for the parties or, when the party is a government entity, employees of the government, who have direct functional responsibility for the preparation and trial of the lawsuit. Any such employee to whom counsel for the parties makes a disclosure must be advised of, and become subject to, the provisions of this Order requiring that the information, documents, or other material be held in confidence.

(b) Disclosure may be made only to employees of a party required in good faith to provide assistance in the conduct of the litigation in which the information was disclosed who are identified as such in writing to counsel for the other parties

in advance of the disclosure of the confidential information, documents or other material.

(c) Disclosure may be made to court reporters engaged for depositions and those persons, if any, specifically engaged for the limited purpose of making copies of documents or other material. Before disclosure to any such court reporter or person engaged in making copies, such reporter or person must agree to be bound by the terms of this Order.

(d) Disclosure may be made to consultants, investigators, or experts (collectively "experts") employed by the parties or counsel for the parties to assist in the preparation and trial of the lawsuit. Before disclosure to any expert, the expert must be informed of and agree to be subject to the provisions of this Order requiring that the information, documents, or other material be held in confidence.

(e) Disclosure may be made to deposition and trial witnesses in connection with their testimony in the lawsuit and to the Court and the Court's staff.

(f) Disclosure may be made to persons already in lawful and legitimate possession of such CONFIDENTIAL information.

(2) ATTORNEYS' EYES ONLY INFORMATION. The parties and counsel for the parties must not disclose or permit the disclosure of any information, documents, or other material designated as "ATTORNEYS' EYES ONLY" by any other party or third party under this Order to any other person or entity, except that disclosures may be made in the following circumstances:

(a) Disclosure may be made to counsel and employees of counsel for the parties who have direct functional responsibility for the preparation and trial of the lawsuit. Any such employee to whom counsel for the parties makes a disclosure must be advised of, and become subject to, the provisions of this Order requiring that the information, documents, or other material be held in confidence.

(b) Disclosure may be made to court reporters engaged for depositions and those persons, if any, specifically engaged for the limited purpose of making copies of documents or other material. Before disclosure to any such court reporter or person engaged in making copies, such reporter or person must agree to be bound by the terms of this Order.

(c) Disclosure may be made to consultants, investigators, or experts (collectively "experts") employed by the parties or counsel for the parties to assist in the preparation and trial of the lawsuit. Before disclosure to any expert, the expert must be informed of and agree to be subject to the provisions of this Order requiring that the information, documents, or other material be held in confidence.

(d) Disclosure may be made to deposition and trial witnesses in connection with their testimony in the lawsuit and to the Court and the Court's staff.

(e) Disclosure may be made to persons already in lawful and legitimate possession of such ATTORNEYS' EYES ONLY information.

**(C) MAINTENANCE OF CONFIDENTIALITY.** Except as provided in subparagraph (B), counsel for the parties must keep all information, documents, or other material designated as confidential that are received under this Order secure within their exclusive possession and must place such information, documents, or other material in a secure area.

(1) All copies, duplicates, extracts, summaries, or descriptions (hereinafter referred to collectively as "copies") of information, documents, or other material designated as confidential under this Order, or any portion thereof, must be immediately affixed with the words "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY" if not already containing that designation.

(2) To the extent that any answers to interrogatories, transcripts of depositions, responses to requests for admissions, or any other papers filed or to be filed with the Court reveal or tend to reveal information claimed to be confidential, these papers or any portion thereof must be filed under seal by the filing party with the Clerk of Circuit Court utilizing the procedures set forth in Civil L. R. 1.10. If a Court filing contains information, documents, or other materials that were designated "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY" by a third party, the party making the filing shall provide notice of the filing to the third party.

**(D) CHALLENGES TO CONFIDENTIALITY DESIGNATION.** A party may challenge the designation of confidentiality by motion. The movant must accompany such a motion with the statement required by Civil L. R. 1.10. The designating party bears the burden of proving that the information, documents, or other material at issue are properly designated as confidential. The Court may award the party prevailing on any such motion actual attorney fees and costs attributable to the motion.

**(E) CONCLUSION OF LITIGATION.** At the conclusion of the litigation, a party may request that all information, documents, or other material not filed with the Court or received into evidence and designated as CONFIDENTIAL or ATTORNEYS' EYES ONLY under this Order must be returned to the originating party or, if the parties so stipulate, destroyed, unless otherwise provided by law. Notwithstanding the requirements of this paragraph, a party may retain a complete set of all documents filed with the Court, subject to all other restrictions of this Order.

**STATE OF WISCONSIN CIRCUIT COURT WAUKESHA COUNTY**

_____,
Plaintiff

**AFFIDAVIT OF SERVICE OF NOTICE OF TERMINATING TENANCY**

_____,
Defendant(s)

Case No. _____

**STATE OF WISCONSIN )**
**_____COUNTY ) SS**

The undersigned, being first sworn, on oath deposes and say:

1. He/She is an adult resident of the State of Wisconsin and makes this affidavit upon personal knowledge.
2. Then he/she served the notice terminating tenancy (check appropriate box)
   - ☐ 5 Day Notice
   - ☐ 14 Day Notice
   - ☐ 28 Day Notice
   - ☐ Other ____ Day Notice
3. In the following manner (check appropriate box) on the _____ day of _____, 20_____:

☐ a) Copy given to tenant personally.

☐ b) Copy given to member of tenant's family (14 or older), who was informed of the contents of the notice.

☐ c) Copy given to a person occupying or in charge of premises and copy mailed to tenant by regular and/or certified mail.

☐ d) Tenant not found after reasonable diligence:
Attempts to personally deliver made at the following dates & times
1) _____ 2)_____ 3)_____
☐ Copy posted on premises and mailed to tenant by regular and/or certified mail.
☐ Copy mailed to tenant by certified and/or registered mail.

Dated: _____ _____

Landlord or Agent of Landlord

Subscribed and sworn to before me on
This _____ day of _____, 20___.

_____
Notary Public, State of Wisconsin
My Commission expires _____

**STATE OF WISCONSIN CIRCUIT COURT WAUKESHA COUNTY**

_____,

Plaintiff

_____,

Defendant

**SMALL CLAIMS AUTHORITY TO ACT**

Case No. _____

_____, a party in the above-captioned case pursuant to Sec. 799.06(2) hereby authorizes _____ to commence, prosecute, defend, appear and act in the above-captioned matter and who is:

☐ An agent of the named party

☐ A member of the named limited liability company pursuant to Sec. 180.0801, Wis. Stats.

☒ An employee of the party

☐ An agent of a member

☐ An employee of the agent

Further, the named individual has full authority to compromise and resolve any and all claims.

Dated: _____ _____

Printed/Typed Name of Party

By: _____

Party's Signature and Authority