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### *101 : Cameras in the Courtroom*

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

The clerk or secretary of the judicial officer conducting the hearing or trial shall make a diligent effort to notify the attorneys and any unrepresented parties by telephone as soon as reasonably possible of the notice and place a copy of the Media Request for Cameras in Courtroom form into the file indicating the time of doing so.

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

A party moving that any judicial proceeding required by law to be public should be closed to the news media must notify the court and the Media Coordinator at least three (3) days prior to the hearing/trial. This requirement may be waived by the court if good cause for waiver is demonstrated. The motion will be heard before the commencement of the hearing. The burden shall be upon the moving party to show why Wis. Stats. 757.14 Wis. Stats. (Sittings, public) should not apply.

The name of the Media Coordinator and Deputy Media Coordinator will be on file in the District Court Administrator's office.

Rule Date : 5/1/2002

### *102 : Duty Judge Responsibilities*

Each week a duty judge is on call and available by telephone 24 hours a day for emergency matters. The duty judge roster is prepared by the District Court Administrator and commences each week on Friday at 4:30 p.m. If, during the working day, the assigned duty judge is unavailable, the staff of the assigned duty judge shall assist in finding a circuit judge to handle the matter.

At the discretion of the Chief Judge, court commissioners may be assigned to duty judge responsibility.

If a judge other than the assigned judge is handling duty week assignments, the assigned judge shall be responsible for notifying the Dane County sheriff's dispatcher, the jail, the district attorney, the clerk of court, public defender, district court administrator, other judges and all others as shown on the Duty Judge Schedule Change form adopted by the court.

Duty judges should avoid scheduling non-duty week work on duty weeks if that work will make him/her unavailable to perform duty week work. Non-duty judges should not refer matters assigned to them to

the duty judge. Unless specifically approved by the chief judge or district court administrator, reserve judges shall not be assigned evening or weekend duty matters.

Duty judges are responsible for the following matters:

#### Preliminary Hearings

Preliminary hearings before the duty judge may initially be scheduled only on Tuesdays (all day), Wednesdays afternoon, and Thursdays (between 8:30 and 10:30 a.m.), except they may not be initially scheduled on Tuesday mornings following a Monday holiday.

Unless time limits are waived, the preliminary hearing will be initially scheduled within 20 days after the initial appearance or within 10 business days if the defendant is in custody and bail has been fixed in excess of \$500.

On stipulation of the parties or on motion and for cause, if the duty judge is unable to commence the preliminary hearing for a case, the duty judge may order a set over for two weeks, unless a different time period is deemed appropriate, to the scheduled duty judge, giving notice in hand of the judicial assignment, the time, date and place of the re-scheduled preliminary hearing.

If the duty judge approves a substitution or disqualifies himself/herself from a preliminary hearing, an attempt shall be made to locate another circuit judge to take the hearing at the originally scheduled date and time. The district court administrator shall assist in this process.

#### Arraignments

The duty judge shall proceed immediately with the arraignment unless 30 days to file the information is requested by the State or unless otherwise ordered.

#### Warrants

The duty judge shall sign bench warrants after contempt hearings in small claims cases, if the judge assigned to small claims is unavailable. If a defendant is picked up on a small claims bench warrant, the bail hearing shall be scheduled before the judge assigned to small claims.

The duty judge shall sign Alternatives to Incarceration Program warrants for electronic or bail monitoring if the assigned judge is unavailable.

#### Injunctions

All harassment, child abuse and domestic abuse injunctions, and individual at risk set before the duty judge will be scheduled for Monday, Wednesday and Friday mornings.

Extensions for non-service should be scheduled for the next duty judge, but setovers for any other reason shall be to the calendar of the duty judge originally assigned to hear the case. The court may grant a party a one week setover to allow a party to attend a hearing with counsel of choice, if the court is provided with evidence that the attorney of choice is unavailable at the scheduled time of a hearing and the parties stipulate to the extension of the temporary restraining order.

For the purpose of hearing petitions, issuing temporary restraining orders and injunction hearings in harassment cases involving minors, the duty judge shall be designated as a juvenile judge.

If requested by the party, the duty judge shall review the decision of a court commissioner to deny a temporary restraining order.

After an injunction requiring firearm surrender is granted a compliance hearing shall be held by the duty judge in the week following the entry of the injunction. Compliance hearings will be held Tuesday and Thursday at 11:30 am. The compliance hearing will be canceled upon the filing of a Sheriff's Receipt documenting surrender or an agreed Respondent's Statement of Possession of Firearms (CV-800V at <http://www.doj.state.wi.us/ocvs/vawa/violence-against-women-document-library>) indicating there are no owned firearms.

#### Mental Commitment/Competency

Civil Commitment trials will be set on Monday and Thursday beginning at 1:30 pm.

Non-jury civil commitment setovers will be assigned to the next duty judge unless the setover is on the court's own motion. If not completed during the week, a mental commitment trial will be setover to a non-duty week of the same judge.

Especially in the case of civil commitment jury trials, the duty judge may need to request reserve judge assistance, or with the assistance of the district court administrator, find another active judge to assist with his or her calendar.

Post-commitment petitions for court review of medication competency under section 51.61(1)(g)3, Wis. Stats. (Patient's Rights), will be assigned to a probate court commissioner (rather than the "committing court"). Orders for the hearings will be made by the probate court, and hearings scheduled by the probate staff.

The duty judges shall conduct hearings under this section on the competency of a defendant that are ordered by a commissioner but cannot be heard by that commissioner.

Whenever there is reason to doubt a defendant's competency to proceed, the court/commissioner shall order an examination under section 971.14(2) Wis. Stats. (Competency Proceedings, Examination). If bail has not already been set, the court/commissioner shall first set bond and then determine whether an inpatient or outpatient examination is necessary. It is presumed that an outpatient examination shall be conducted by the DHFS. A date for hearing within 15 days of the order shall be set at the time the order is made, to be heard as follows:

If the order is made by the commissioner at the time of initial appearance, the commissioner shall conduct the hearing, unless the report finding is for incompetency or the commissioner learns that the matter is contested. In the latter event, the hearing shall be conducted by the duty judge for the week when the report is received or the commissioner learns that the matter is contested unless the date of receipt is a Thursday or Friday, in which case the hearing shall be conducted by the duty judge for the following week. If the commissioner finds a defendant competent, the commissioner shall complete the initial appearance.

If the order is made by the duty judge prior to bind over, that judge shall conduct the hearing and retain the case until bind over or dismissal.

If the order is made by the assigned judge, that judge shall conduct the hearing.

DHFS shall fax the report to the court, the district attorney, and defense counsel.

The duty judge will hear de novo hearings on mental commitment probable cause hearings and conduct hearings on juvenile mental or developmental disability treatment facility admissions as required by sec. 51.13(4). Stats.. The duty judge before whom the first appearance is made shall be responsible for finishing the case.

Extension hearing will be set on Friday afternoon.

#### Miscellaneous Responsibilities of the Duty Judge

Indigency waivers of costs and fees in any non-criminal case type prior to the case being filed, if after initial administrative review by the Clerk of Courts' Office the waiver petition is not granted. After a case has been filed, indigency waivers and appointment of counsel will be heard by the assigned trial judge.

Certification of birth and marriage documents and amendment of birth certificates, only if the judge assigned through the civil tab system is unavailable.

Requests to remove files (especially to expedite civil case mediation). [See also Rule 110]

Requests for ex parte restraining orders only if the assigned judge is not in the courthouse to review the papers. The assigned court shall attempt to find time to hold the hearing on a request for a preliminary injunction.

Be available to sign extradition papers if requested and will keep the case until completion.

Other routine matters requiring a judge's approval or attention if the assigned judge is not available and will not be available within a reasonable time, or the clerk of court requests, such as out of state subpoenas, restraining orders or discharge of bankruptcy orders.

Emergency and time-sensitive matters after working hours such as making probable cause (Riverside) determinations, issuing search warrants, emergency temporary guardianships and protective placements, juvenile emergency custody hearings, and emergency medical care consents when parents are absent.

Paternity warrants in cases which have not yet been assigned to a circuit judge.

Conduct any hearings on orders to show cause prepared by the probate office for delinquent probate or guardianship accounts. The probate commissioner shall prepare the order to show cause for the signature of the duty judge serving the week falling 30 days from the date the order is prepared. That judge shall provide a date and time during that week for the hearing. Notice shall be sent by the probate office by certified mail. The duty judge hearing the delinquency issue shall retain jurisdiction until disposition of the order to show cause.



Review Chapter 980 petitions to determine whether to issue an order for detention only if the assigned judge is not available to make a timely determination. Conduct uncontested Chapter 980 probable cause hearings only if the assigned judge is not available to timely conduct such proceedings. [See also Rule 316]

Rule Date : 6/7/2021

*103 : Assignment of Ancillary Proceedings Growing Out of Previously Assigned Cases*

Post-Judgment Hearing and Motions in Civil and Family Court Cases and Post Disposition Proceedings in Criminal Cases

All post-judgment matters will remain with the branch that entered the judgment subject to the authority of the chief judge to reassign the case. [See also Rule 401]

Repealed, see Rule 103(1)

**Bench Warrants Outstanding; Assigned Judge**

In felony cases where a defendant is brought in on an outstanding bench warrant issued after bind over the hearing on the bench warrant and any further matters will be heard by the Branch that was assigned the trial in the case pursuant to either random draw or intake at initial appearance. If that Branch is no longer in the criminal division, a criminal division Branch will be randomly assigned.

In felony cases where a defendant is brought in on an outstanding bench warrant issued prior to bind over the hearing on the bench warrant and any bail matters will be assigned to the initial appearance court commissioner and the preliminary hearing will be heard by the commissioner or the duty judge. The trial judge will remain the Branch assigned at initial appearance. If that Branch is no longer in the criminal division, a criminal division Branch will be randomly assigned.

A non-felony bench warrant shall be returned to the assigned trial Branch. If that Branch is no longer in the criminal division, a criminal division Branch shall be randomly assigned.

A post-judgment bench warrant shall be returned to the assigned trial judge. If that judge is no longer an active circuit court judge, a criminal division Branch shall be randomly assigned.

Rule Date : 2/26/2014

*104 : Filing & Assigning Writs of Certiorari, Writs of Habeas Corpus, Writs of Prohibition & Other Writ*

All writs will be filed in the clerk of court office, be given a CV number and assigned pursuant to the civil draw. If the assigned judge determines that the writ is a challenge to an underlying conviction or sentence, then the case will be administratively reassigned to the sentencing judge, if the sentencing judge is still an active circuit court judge.

Writs, and all other cases, filed by prisoners shall be processed according to the policy developed and approved by the prisoner litigation supervising judge, the clerk of circuit court and the chief judge. This policy will be on file in the offices of the clerk of court and the district court administrator.

Should there be any questions as to where an extraordinary writ is to be assigned, court personnel are to contact the chief judge, or in her/his absence, the district court administrator.

Rule Date : 5/1/1999

*105 : Conduct of Counsel and Self-represented Parties*

All opening statements, questioning of witnesses and closing arguments shall be done from counsel table or the podium unless, upon request, otherwise permitted by the presiding judge.

Rule Date : 5/1/2002

*106 : Objections*

During jury trials, objections to questions or evidence shall be made solely by stating "objection" and the succinct legal ground therefore (i.e., relevancy, competency, hearsay, etc.) without argument or elucidation. Responses from opposing counsel are to be made only upon a request to be heard by counsel and/or upon leave of the presiding judge.

Rule Date : 5/1/1990

*107 : Case Captions*

**Caption**

In the initial pleadings (e.g., complaint) the caption shall include the case classification type and code. The title of the action shall include the full names and addresses of all the parties, including persons appearing in a representative capacity (e.g., a guardian of a ward). All pleadings/papers shall be captioned State of Wisconsin, Dane county Branch \_\_\_\_, Circuit Court. The caption shall include the title of the action, the case number, and a name of document (e.g., answer). Subsequent documents filed after the pleadings should, at a minimum, state the full name of the first party, followed by "et al."

**Pleadings**

Every pleading, motion or other paper of a party represented by an attorney shall contain the name, state bar number, telephone number, and address of the attorney. A party who is not represented by an attorney shall include on the pleading, motion or other paper his or her name, signature and address. All pleadings, motions, and other papers shall be filed on white paper. Every new case filing requires a separate filing fee. Documents exceeding one page in length will not be accepted for filing unless stapled or bound at the top of the document with a secure device, including but not limited to metal tab fasteners or other devices as approved by the Clerk of Court. Paper clips and binder clips are not sufficient.

Rule Date : 5/27/2016

### *108 : Specificity of Motions*

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

Rule Date : 5/1/1990

### *109 : Withdrawal of Counsel*

#### General

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

#### Criminal

All requests by counsel to withdraw from criminal traffic, misdemeanor and felony cases shall be done by written motion, except that in misdemeanor cases the State Public Defender can substituted counsel if that substitution takes place within 30 days of initial appearance. Except where required by law, counsel will not be permitted to withdraw if scheduled proceedings will be delayed.

Rule Date : 9/1/2003

### *110 : Removing Files*

#### Civil, Criminal, Family

Files shall be reviewed by the public, parties or attorneys only in a court office. Files may be removed from these offices only if good cause is shown and only upon the receipt of a specific court order from the assigned judge that grants authorization to do so. Under no circumstances shall original records be kept longer than three (3) days. A written receipt shall be obtained for each file removed from the court office.

#### Probate

Files dated prior to 1989, and for which microfilm records exist, may be checked out by an attorney or agents for title companies through the register or a deputy register with the approval of a duty judge for a period not to exceed three days.

Rule Date : 5/1/2002

### *111 : Lengthy Trials*

When a judge has completed six (6) days in a trial commencing with the start of testimony, the judge's name will be withdrawn from the assignment systems until that trial is completed. The deputy clerk of the branch is responsible for notifying the assignment clerks of such a lengthy trial and its completion date.

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Rule Date : 6/1/2004

*112 : Weapons in Courtroom – Deleted, See Rule 125*

Rule Date : 1/1/0001

*113 : Facsimile Transmission of Documents to the Court*

Pursuant to section 801.16(2)(a) Wis. Stats. (Filing), facsimile documents transmitted directly to the courts shall be accepted for filing only if:

No filing fee is required.

No additional fee or charge must be paid by the circuit court for accepting or receiving the facsimile document.

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

No filing fee is required.

No additional fee or charge must be paid by the circuit court for accepting or receiving the facsimile documents.

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

The circuit court, judge or clerk is not responsible for:

Errors or failures in transmission that result in missing or illegible documents.

Periods when a circuit court facsimile machine is not operational for any reason.

No facsimile transmission shall exceed 15 pages, inclusive of any cover sheet, unless the assigned judge or commissioner allows an exception on a case-by-case basis. The first page of the transmission shall certify that such an exception has been approved.

Rule Date : 8/1/2016

*114 : Americans With Disabilities Act*

#### 1. Requiring Medical Documentation in ADA Situations

The decision to request medical documentation of a disability to determine either whether an individual falls under the ADA, or in order to determine appropriate modification of policy, practice or procedure,

should be a judicial determination, made according to rules or guidelines adopted by the court and after consultation with the judicial ADA Liaison or the court or county ADA coordinators. Medical documentation may be in written or verbal form. Only a judge shall issue a request for medical documentation. If a court commissioner believes documentation is necessary for a specific proceeding, the commissioner shall consult with the presiding judge of the division, who shall issue the request if appropriate.

Requests for medical documentation should be made on a case-by-case basis and only in extraordinary circumstances, for example, when the disability is affecting the continuation of proceedings. Unnecessary or irrelevant medical information should not be requested. If an individual refuses to provide the court with medical information for ADA purposes the court may not order it to be provided. The court shall attempt to meet the needs of the situation without that information. If a request for medical documentation is made, the treating physician may be asked for a recommendation for an appropriate modification of policy, practice or procedure. The court should consider the recommendation in making a decision.

Medical information provided to the court for ADA purposes shall be treated confidentially. It shall be made available only to the judicial officer hearing the matter or any other the judge feels necessary to determine appropriate accommodations. After use by the judge who requested it, the information shall be sealed in a labeled envelope and stored with the designated court ADA coordinator. Information reported by the individual concerned is not considered confidential, but medical data supplied by medical or psychiatric personnel shall always be treated as confidential.

## 2. Notices

Information shall be included on the jury summons as to where prospective jurors with ADA concerns should call. The following language shall be included on all notices, warrants and subpoenas:

"If you need help in this matter because of a disability, call (608) 266-4311 (TTY Relay 7-1-1) and ask for the Court ADA Coordinator."

Rule Date : 7/1/2001

### *115 : Length of Briefs*

Unless otherwise ordered by the court, typed initial and/or response briefs of a party or guardian ad litem shall include all information required in the caption pursuant to Dane County Circuit Court Rule 107, and have the following format:

Limited in length to forty (40) pages;

One inch top and bottom margins and one inch side margins;

Double spaced; and,

Typed size/font no smaller than 10 cpi, or 12 point proportional.

Hand written initial and/or briefs of a party or guardian ad litem shall not exceed 20,000 words. Reply briefs and briefs by non-parties shall be limited to 10 pages formatted as above, and hand written reply and non-party briefs shall not exceed 4,000 words, unless ordered by the court.

Rule Date : 11/15/2002

*116 : Staff Attorney Memoranda*

Staff Attorney memoranda are judicial work product. All such memoranda will be prefaced with a clear and express statement identifying them as "judicial work product," and said memoranda shall remain confidential. The original memos will be kept in binders in the staff attorney's office and will also generally be available to judges and law clerks on the network. The judge to whom the particular file is assigned may keep a copy of a memo, but that copy should not be kept in the court file. Court personnel are directed not to make copies of these memoranda without the express approval of the assigned judge.

Rule Date : 5/1/1999

*117 : Approval of Private Investigators at County Expense*

(Criminal or Juvenile Cases)

Court appointed counsel or pro se defendants must obtain prior court approval for appointment of private investigators at county expense upon a showing of need. Such a showing may be made on an ex parte basis. Compensation for court appointed private investigators will be for no more than the current rate paid by the state public defender. The initial appointment will be for a maximum of ten (10) hours of investigation. After the initial ten hours have been utilized, application for authority to pay for additional investigative services must then be made upon a showing of good cause.

Rule Date : 5/1/1999

*118 : Alternative Dispute Resolution / Notice of Mediation in Foreclosure Cases*

Unless otherwise directed by the court, ADR will be used pursuant to section 802.12 Wis. Stats. (Alternative Dispute Resolution) in all areas where appropriate.

In foreclosure actions, the Court shall require the plaintiff to inform the defendant in writing, using the forms adopted by the court, at the time of service, that ADR procedures (Sec. 802.12 Wis. Stats.) may be requested by either party. Such forms, when served, shall be printed on pink paper and placed directly behind the summons. This rule shall apply only to residential property with up to four units.

The adopted forms shall be available both on the Clerk of Courts website and in hard copy from the Clerk of Court's office and shall set forth the ADR procedures and deadlines.

Rule Date : 1/1/2013

*119 : New Judges and Substitutions*

Rule 119 is repealed effective February 1, 2017.

When a new judge takes office and is assigned the pending case load from his or her predecessor, the ten (10) days permitted by statute to file a substitution shall run from whichever is later, the date of actual notice from the court under the jurisdiction of the new judge, or the date the judge was sworn in.

Rule Date : 7/6/2007

*120 : Court Appointments of Guardians Ad Litem - Deleted*

Rule Date : 1/1/0001

*121 : Electronic Devices*

Audible signals of cellular and mobile telephones and pagers shall be turned off when in a courtroom or commissioner hearing room. Use of silent mobile devices may be used by professionals for the purpose of court related work. Use of electronic equipment shall be at the discretion of the presiding judge or commissioner.

While on a sequestered jury or while deliberating, jurors shall not be permitted to use computers or other electronic equipment for communication or access to the internet without the express permission of the trial judge.

Rule Date : 2/1/2010

*122 : Holidays and Closing Court Offices*

Dane County offices, including the clerk of circuit court and register in probate, are closed on the following days: New Year's Day, Martin Luther King, Jr. Day, Memorial Day, July 4, Labor Day, Thanksgiving, Day after Thanksgiving, Christmas Eve, Christmas Day, New Year's Eve.

In the event that normal business hours cannot be maintained or normal business cannot be conducted in the office of the clerk of court and/or the register in probate, any papers filed or fees paid on the next day business is conducted shall be deemed timely, if a deadline passed while the office was unable to conduct business. Halt of business operations or closure of the clerk's or register's office, for any reason other than total closure of county government, shall only be approved by the chief judge upon request by the clerk and/or register.

Rule Date : 5/1/2002

*123 : Unpaid Court Obligations, Entry of Civil Judgment*

Collection efforts for any and all unpaid court obligations past due, may be pursued by the entry of a civil judgment which the clerk of circuit court is directed to sign under policies as approved by the chief judge. This authority applies to all civil judgments entered by the clerk on or after August 20, 2002. Further, action by the clerk of circuit court to suspend operating privileges for failure to pay court obligations as authorized by Ch. 345.47(1) shall not take place until all other collection methods (i.e. reduction to civil judgment, referral to collections, state tax refund certification) have been given a reasonable opportunity to be effective.

Rule Date : 6/1/2009

#### *124 : Requesting Continuances of Court Hearings*

In any type of case, an unrepresented party or attorney requesting that any hearing or trial be set over to a later date shall make diligent efforts to ascertain the position of all other unrepresented parties and attorneys in the case prior to contacting the court. Requests for continuances shall be made in writing only, which may be sent by fax to the court, and shall contain the reason for the request as well as the position on the request of all other unrepresented parties and attorneys or a statement that, despite the described efforts to contact the others, the requestor has been unable to ascertain their positions on the request. Requests for continuance shall be made not less than five (5) working days before a scheduled hearing. Unless the court notifies the parties and attorneys that the request or stipulation for continuance has been granted, they must appear at the originally scheduled time.

Rule Date : 10/1/2011

#### *125 : Concealed Carry of Weapons in the Dane County Courthouse*

No one other than on-duty sworn law enforcement personnel may go armed with a weapon in the Dane County Courthouse.

Rule Date : 10/31/2011

#### *126 : Circuit Court eFiling*

As of January 1, 2016, eFiling is allowed in all case types currently enabled by the Wisconsin Supreme Court/Director of State Court's office.

See <https://www.wicourts.gov/ecourts/efilecircuit/>

Rule Date : 1/1/2016

## Rules for Criminal / Traffic Cases

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#### *201 : Defendant's Demeanor*

The defendant shall be seated at counsel table at all times unless otherwise permitted by the court.

Rule Date : 5/1/2002

#### *202 : Appearance in Court*

Final pre-trials shall be attended by counsel, if any, and the defendant. The defendant must appear unless excused by the court, even if a written authorization is presented. If the defendant is in custody, attendance is at the discretion of the court.

All persons charged with a felony must be present at the initial appearance unless, due to exceptional circumstances and upon motion by the defense, the judge or court commissioner enters an order authorizing non-appearance.



Rule Date : 11/16/2011

*203 : Jury Instructions - Deleted*

Rule Date : 1/1/0001

*204 : Amounts of Restitution – Moved to Rule 224*

Rule Date : 1/1/0001

*205 : Case Assignment at Initial Appearance*

#### Initial Assignments

At the initial appearance in a criminal case a trial judge shall be assigned by random draw and the preliminary hearing judge (in felonies) shall be assigned pursuant to the Duty Week roster as shown on the Master Calendar except as provided by this rule.

A single judge shall be assigned all files presented against a defendant at initial appearance.

If a defendant has a criminal case pending with a judge currently in the criminal rotation or is a co-defendant in a pending case, all cases shall be assigned to the criminal rotation judge with the earliest pending case. The district attorney shall advise the initial appearance court commissioner, who shall assign the judge of the earlier pending, or co-defendant, case.

If a defendant has a legal status from a prior case that may cause an appearance before a judge currently in the criminal rotation the new case shall be assigned to that judge.

Nothing in this rule overrides the authority of the Chief Judge to assign any specific case to an individual judge.

#### Re-assignments

Judicial reassignment after substitution and self-disqualification will be done randomly through the CCAP judicial assignment application or by specific order of the Chief Judge.

#### Scheduling at Initial Appearance

At the initial appearance in all misdemeanor and criminal traffic cases, a final pretrial conference date shall be given to the parties, except as provided in this rule. Each criminal division judge shall provide blocks of time to the arraignment clerk for final pretrial conferences on the week noted as 'FPT' on the master calendar at least 45 days in advance of the final pretrial conference dates. The arraignment clerk may ask the criminal division judge for more time blocks if needed.

Time blocks will be set according to the number and pattern adopted by the court.

A judge may change the FPT week and adjust these time blocks with sufficient notice to the initial appearance clerk.

In felony cases, a defendant who waives time limits for a preliminary hearing shall have their case scheduled for a Monday afternoon status conference. A defendant, who does not waive time limits, shall be scheduled for a preliminary hearing, pursuant to local rule.

When a new non-felony case is assigned at initial appearance other than by random draw due to notice by the District Attorney of an earlier pending case, co-defendant of a pending case or probation hold, the Initial Appearance Clerk shall advise the court commissioner of any scheduled court dates. The new case will be scheduled at the same time as the pending case. If there is no pre-existing date the next FPT time block will be used.

A non-felony case with a speedy trial demand filed shall be referred directly to the branch office for scheduling.

#### Rotation

When any new case filed after April 1 in a rotation year has:

a defendant with a pending case, or a defendant who has a legal status as described in sub. (1)(a) and, the judge who would normally be assigned is leaving the criminal division,

in place of randomly assigning the judge, the case will be assigned to the judge entering the division who is teamed for the purpose of calendar and schedule coordination with the judge leaving the division.

Rule Date: 4/27/2015

#### *206 : Bail Hearings*

1. Except where the prosecution and defendant otherwise agree, bail hearings before the judges will not be held within 72 hours of bail being previously addressed and will be scheduled only upon written motion.
2. If a complaint and warrant has been issued for a defendant's arrest, counsel or the defendant may request an initial appearance at which time bail will be addressed. The request shall be made to the Clerk of Courts office with notice to the District Attorney's office or other appropriate prosecuting agency. The request shall specify at which regularly scheduled out-of-custody initial appearance session the defendant intends to appear. The request should be made no later than 3 working days prior to the selected session. The Clerk of Courts office shall schedule the case for an initial appearance at that time. Prior to the initial appearance, the warrant shall only be withdrawn by stipulation of the parties.
3. Except where the prosecution and defendant otherwise agree, an in-custody bail hearing before the initial appearance court commissioner, for a person with no other holds, will be held as follows:

A defendant booked into jail before 8:00 AM Monday is eligible for a bail hearing Tuesday.

A defendant booked into jail before 8:00 AM Tuesday is eligible for a bail hearing Wednesday.

A defendant booked into jail before 8:00 AM Wednesday is eligible for a bail hearing Thursday.

A defendant booked into jail before 8:00 AM Thursday is eligible for a bail hearing Friday.

A defendant booked into jail before 8:00 AM Friday is eligible for a bail hearing Monday.

4. Except where the prosecution and the defendant otherwise agree, an in-custody bail hearing before the initial appearance court commissioner, for a person with other hold(s), will be held within 14 calendar days of booking into jail.

Rule Date : 7/1/2016

*207 : Presentence Reports and Scheduling*

At any time after an adjudication of a defendant's guilt for a felony, and at the court's discretion, a presentence investigation may be ordered. The clerk's office will then forward the minute sheet with the request for presentence investigation to Probation and Parole, Department of Corrections. The PSI should be prepared and filed within 30 days from the date the presentence is ordered. Sentencing should be held as soon thereafter as possible. The agent writing the report will attend the sentencing unless excused by the judge prior to the hearing. Agents requesting not to appear shall give notice of the request to the prosecution and defense.

A pre-sentence report or memorandum prepared on behalf of a defendant shall be filed with the court and served on opposing counsel no less than one week prior to the sentencing hearing. Reports filed after this deadline might not be considered by the court and will not be grounds for postponement of the sentencing hearing.

Rule Date : 1/1/2012

*208 : Non-Felony Time for Substitution*

In all CT and CM cases the defendant shall have 20 days after the initial appearance to file a request for substitution of the assigned judge.

Rule Date : 5/1/2019

*209 : Felony Arraignment Procedure – in part Deleted, in part moved to Rule 224*

Rule Date : 1/1/0001

*210 : Time Payments*

The payment of fines, costs, fees, surcharges, etc. will be done within 60 days of sentencing. If a defendant desires more than 60 days to pay, an application will be submitted within ten (10) days of the date of conviction to the court collections officer. Any request for an extension of time to pay past the time set forth in the original agreement shall be submitted to and reviewed by the court collection officer, subject to review by the assigned judge if requested by the party.

Rule Date : 5/1/2002

*211 : Huber/Work Release Privileges*

Except as set forth in 2., periods of confinement in jail, either by sentence or as a condition of probation, shall be with Huber / work release privileges unless otherwise ordered by the court.

Unless otherwise ordered by the court at sentencing, defendants convicted of and placed in the jail as a sentence or as a condition of probation for the following offenses will not be eligible for Huber / work release privileges until the defendant has demonstrated 90 consecutive days, including presentence incarceration, of appropriate behavior in the jail as defined by written policies of the Office of Dane County Sheriff. A defendant may seek review of the Sheriff's denial of Huber / work release privileges before the sentencing judge.

#### Charges

Robbery, armed 943.32(2)  
Kidnapping, all charges 940.31  
Taking Hostages 940.305(1) & (2)  
Sexual Assault 940.225(1) & (1)(a) & (b) & (c)  
Sexual Assault of a child 948.02(1) & (1)(a)  
Stalking, all charges 940.32  
Homicide 940.01(1)(a) & (b), 940.05(1) & (2g)  
Felony Murder 940.03  
Battery by Prisoner 940.20(1)  
Assault by Prisoner 946.43(1m)(a) & (1m)(b)  
Prisoner Expel/Throw Bodily Substance 946.43(2m)(a)  
Battery to Law Enforcement Officer/Firefighter 940.20(2)

Rule Date : 1/1/2007

#### *212 : Community Service Rate - Deleted*

Rule Date : 1/1/0001

#### *213 : Jail Commitment Time*

Unless otherwise ordered all commitments to jail will commence by 7:00 a.m. on the day the jail time is to begin.

Rule Date : 5/1/2002

#### *214 : Costs and Fees in Multiple Files/Counts*

One set of court costs, victim-witness fees, jail assessment fees, and domestic abuse assessments (if applicable) shall be imposed for each case.

Rule Date : 5/27/2016

#### *215 : Enforcement of Fines and Costs*

Jail will not be ordered as an alternative for the nonpayment of fines, costs and assessments in non-criminal cases;

Suspension of driving privileges will not be ordered as an alternative for nonpayment of fines, costs and assessments in non-driving CT, CM and CF cases;

Suspension of driving privileges for up to 2 years may be ordered to enforce payment of fines, costs and assessments in driving related non-criminal cases;

Nonpayment of fines, costs and assessments will be reduced to a civil judgment and sent for collections by the Clerk of Courts;

Courts may take into account days spent in custody, along with all other relevant factors, in setting fines, costs and periods of incarceration.

Rule Date : 12/1/2010

*216 : Electronic Monitoring - Deleted*

Rule Date : 1/1/0001

*217 : Deadline for Resolution of Jury Cases in Criminal Traffic, Misdemeanor and Felony Case - Deleted*

Rule Date : 1/1/0001

*218 : Dress of Defendants - Deleted*

Rule Date : 1/1/0001

*219 : Appointment of Counsel/County Reimbursement*

Appointment of counsel shall be made by the assigned trial judge. When the court appoints criminal defense counsel at county expense (not an appointment by the public defender's office), at the time the appointment is made the defendant will be required to sign a statement acknowledging that he or she may be ordered to reimburse the county for all or part of the counsel fees through a wage assignment or other means. The court may order immediate partial payment of fees or execution of a wage assignment as a condition of appointment.

Rule Date : 5/1/2002

*220 : Treatment Alternative Program - Deleted*

Rule deleted.

Rule Date : 12/18/2015

*221 : Sentence Credit*

Sentence credit for time served shall be determined by the time of sentencing by the district attorney and the defense counsel. Specific dates and the total number of days shall be stated on the record. Upon request and at the discretion of the court, the order establishing the amount of sentence credit ordered may be delayed for up to 14 days from the date of sentencing, but no longer. Defense counsel is not relieved from responsibility in a case until sentence credit is determined.

Rule Date : 5/1/2002

*222 : Multi-Branch Files*

Contested and uncontested sentencings may be heard by branches other than that assigned with the approval of the assigned judge and both parties. The parties will be responsible for transferring the file to the branch hearing the matter.

Rule Date : 3/1/2005

*223 : Applying Inmate Wages*

Unless otherwise ordered, the judgment of conviction shall provide that when a defendant is sentenced to prison all court financial obligations shall be paid at the rate of 25% of the prison wages and work release funds and the balance remaining at release from prison be paid as a condition of extended supervision or parole at a rate determined by the supervising agent. Restitution shall be paid pursuant to separate court order.

Rule Date : 7/1/2012

*224 : Scheduling Order*

The Circuit Court adopts the Standard Scheduling order for Criminal Cases with the full force of circuit court rules. The Standard Order will be maintained in an appendix to the local rules.

Rule Date : 8/1/2008

## Rules for Civil, Administrative Review & Small Claims Cases [Return to List](#)

*301 : Jury Calendar*

The district court administrator (DCA) should establish a master and jury week calendar at least 15 months in advance. Requests for additional jury weeks shall be submitted in writing to the DCA and the jury clerk. All changes, "trades" or other modifications of the master calendar should be made through the DCA so that an accurate and up-to-date calendar can be maintained.

Rule Date : 3/1/1994

*302 : Jury Selection*

All juries will be selected on the first day of the week of the trial unless the clerk of court designates a different or additional day.

Rule Date : 5/1/1990

*303 : Trial Briefs, Proposed Verdict and Instructions*

Unless otherwise provided by the judge assigned the case, all trial briefs, proposed verdict and instructions shall be filed one week prior to jury selection of the case. Trial briefs shall be exchanged by counsel unless ordered otherwise by the assigned judge. [See also Rule 115]

Rule Date : 3/1/1994

*304 : Continuances*

All stipulated requests for continuance of trial date shall require the consent of the parties in writing or on the record and must be for good cause shown. Non-stipulated requests for continuance must be on motion and hearing and for good cause shown by the party or with the party's written consent. All requests for continuance are subject to the approval of the court.

Rule Date : 5/1/1990

*305 : Default Judgment Hearings*

Except as to mortgage foreclosures, in all actions where personal service was obtained upon the defendant, no notice to defendant is required prior to entry of judgment.

In mortgage foreclosure actions, the plaintiff shall include the specific property description in the proposed findings of fact, conclusions of law and judgment submitted for the court's signature.

In cases where no personal service is obtained upon the defendant (i.e., substitute or published), notice of motion for default judgment shall be given to defendant by regular mail at defendant's last known address. The notice shall provide that in the event defendant does not request a hearing from the court, in writing, on plaintiff's motion within 15 days of the date of the notice, default judgment may be entered.

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

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

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

Rule Date : 7/1/2001

*306 : Administrative Review Venue and Briefing Schedule*

Section 102.23(1)(a) Wis. Stats. (Judicial Review) provides that review of unemployment compensation and worker's compensation cases shall be "in the circuit court of the county where the petitioner resides, except that if the petitioner is a state agency, the proceedings shall be in the circuit court of the county where the respondent resides. The proceedings may be brought in any circuit court if all parties stipulate and that court agrees". The court will not review unemployment compensation and worker's compensation, unless the petitioner or the respondent, where the state agency is the petitioner, resides in Dane County.

This local rule does not change Wisconsin Statutes such as section 227.40 Wis. Stats. (Declaratory Judgment Proceedings), providing for declaratory judgment proceedings reviewing the validity of a rule

to be brought in Dane County, or section 801.50 Wis. Stats. (Venue in civil actions or special proceedings), providing for civil actions brought against the state, state board, commission or officer to be brought in the County of Dane unless another place is specifically authorized by law, or section 77.59(6)(b) Wis. Stats. (Deficiency and refund determinations), providing for appeals from decisions of the tax appeals commission to be appealed in Dane County Circuit Court.

Rule Date : 5/1/1999

*307 : Summary Judgment Motion Scheduling*

With all motions for summary judgment, except as to mortgage foreclosures actions and unless otherwise directed by the court, there shall be submitted a brief, affidavits, and notice of standard briefing schedule (30 days for response brief and affidavits, 15 days after service thereof for reply brief or letter stating none to be filed). Summary judgment briefs shall cite to the record for factual assertions. The motion will be decided without oral argument unless otherwise ordered. [See also Rule 115]

Rule Date : 5/1/2002

*308 : Small Claims: Service of Summons in Dane County*

The plaintiff must arrange service and serve the defendant(s) by personal service, substituted service, or publication and provide proof of service to the court; section 799.12(2),(3),(4) Wis. Stats. (Service of Summons).

Except in eviction and replevin actions, summonses in small claims actions where the plaintiff has had filing fees waived due to indigency, may be initially served by the clerk of court office by regular mail to defendants with addresses within Dane County, provided the summons and any supporting documents do not exceed five (5) 8.5 v 11" pages. The filing party is responsible for arranging service of summons that exceed 5 pages. The clerk of court office will advise the plaintiff if a summons is returned by the post office. If a summons is returned to the clerk of court's office by the post office, or if the defendant's mailing address is outside Dane County, the plaintiff must serve the defendant(s) by personal service, substituted service, or publication and provide proof of service to the court; section 799.12(2),(3),(4) Wis. Stats. (Service of Summons).

All rent and damage claims and deficiency claims are to be mailed to the defendant(s) by the plaintiff and shall include a breakdown of the rent and/or damage expenses. Proof of service must be provided to the clerk of court prior to the entry of a money judgment. Proof of service may be established by an affidavit of mailing verifying that the document was mailed to the defendant(s) at their last known address and was not returned as undeliverable by the post office to the plaintiff. If the rent and damage or deficiency claim is returned as undeliverable by the post office to the plaintiff, the plaintiff must serve the defendant(s) by personal service, substituted service, or publication and provide the proof of service to the court.

Rule Date : 1/1/2012

*309 : Small Claims: Filing Written Answer in Lieu of Appearance at Joinder*



Except in eviction and replevin actions involving Dane County residents, a defendant in a small claims action may file a written answer in any action specified in section 799.01 Wis. Stats. (Applicability of Chapter). Such written answer must be received by the clerk of court office not later than the return date set in the summons. A copy of the written answer must be mailed to plaintiff's lawyer, if any, or to plaintiff. If a written answer is filed pursuant to this rule, neither plaintiff nor defendant is required to appear on the return date contained in the summons, section 799.22(4) Wis. Stats. (Judgment on failure to appear or answer) and section 799.05(3) Wis. Stats. (Summons).

Rule Date : 7/1/2012

*310 : Time of Hearing and Method of Service*

In evictions and replevin actions, the petition/motion to set aside judgment shall be served by mail with certificate of mailing or affidavit of mailing not later than 48 hours before the specified hearing time.

Rule Date : 5/1/1990

*311 : Small Claims; Issuance of Writ of Restitution*

An affidavit of default is required, identifying non-compliance with stipulations for payment, before ex parte writ of restitution will be ordered.

Rule Date : 3/1/1994

*312 : Consolidation of Civil Cases*

Small Claims Cases

Motions to consolidate filed prior to a judicial assignment shall be filed with the clerk of court office and heard by the court commissioner. If the consolidation is granted, the cases shall be consolidated into the earliest filed case. Motions to consolidate small claims cases filed after assignments to a judge will be heard by the assigned judge.

Large Claims Cases

Motions to consolidate shall be assigned to and heard by the judge with the earliest filed case. If the consolidation is granted, the cases shall be assigned to the judge with the earliest filed case and the order shall include a signature line for the approval of all the assigned judges. Unless otherwise directed by the chief judge or presiding judge, each consolidated case will be a separate assignment to the new judge.

Rule Date : 1/1/2016

*313 : Small Claims Earnings Garnishments*

Pursuant to section 812.35 Wis. Stats. (Commencement of Action), the clerk of court is authorized to issue earnings garnishment forms after payment of the fee but before the filing of the notice of earnings garnishment. The notice of earnings garnishment must be filed by the creditor no later than five (5) business days after the date the garnishee is served.

Rule Date : 1/1/1995

*314 : Small Claims Filings*

In civil actions in which the amount claimed is within the limits set by section 799.01 Wis. Stats. (Applicability of Chapter), the case shall be filed as a small claims action and shall proceed under small claims procedures.

Rule Date : 1/1/1997

*315 : John Doe Proceedings*

All John Doe cases will be assigned sequential case numbers using the year prefix and the JD designation. This number shall be noted on all further pleadings and exhibits. A prosecutor may file directly with a judge, and that judge's office will advise the clerk of court administrative staff. All others shall file with the clerk of circuit court office, and a judge shall be randomly selected from the civil-family-contested probate draw.

Rule Date : 3/17/2008

*316 : Chapter 980 Cases*

Cases filed under this statute shall be assigned to judges using the civil/family/contested probate draw. The trial judge will be assigned when the petition is filed.

The assigned judge shall conduct all proceedings in the case except that the Duty Judge shall make the initial determination whether to issue an order for detention if the assigned judge is not available to make a timely determination. In addition, the Duty Judge shall conduct the probable cause hearing to the extent of accepting a waiver or granting an agreed-upon continuance, if the assigned judge is not available to timely conduct such proceedings.

Rule Date : 12/1/2006

*317 : Police and Fire Commission Reviews*

If a petitioner files both a certiorari review and a statutory review, section 62.13(5) Wis. Stats. (Police and Fire Departments), concerning the same disciplinary action of the Police and Fire Commission, the two cases shall be assigned to the same judge. It is the obligation of the party filing the second such action to inform the clerk of court at the time of filing that there was a previous case filed regarding the same PFC action and the name of the judge to whom it is assigned. Each case will be a separate assignment.

Rule Date : 1/1/2016

*318 : Holding Orders for Signature*

Any order submitted by an attorney or party and sent to a judge for signature shall be held for 7 business days after date of receipt to allow opposing counsel or parties an opportunity to comment. If no objection is received the court may sign the order. Notwithstanding the foregoing, if a submitting

attorney certifies under this rule that a proposed order or judgment was circulated electronically or by mail to all opposing counsel, who all affirmatively responded that they approved of or had no objection to the proposed order or judgment, the court may choose to sign the document immediately.

Rule Date : 11/1/2017

*319 : Motions to Compel Discovery or for Protective Orders*

No motion to compel discovery nor for a protective order shall be scheduled for hearing unless the moving party demonstrates in the affidavit that accompanies the motion that he/she has made a good faith effort to obtain the relief requested by informal consultation with the party against whom the motion is brought.

Rule Date : 3/1/2007

*320 : Consolidated Creditors Actions*

Section 218.04(9j) Wis. Stats allows collection agencies to combine multiple accounts against a single debtor and bring one consolidated action on behalf of the creditor or creditors. The summons and complaint must be prepared by an attorney or at the direction of an attorney. The individual creditor or creditors' names must be listed in the caption, or the check box that states "See attached for multiple plaintiffs" must be checked, with the attachment listing each creditor's individual claim(s), and their address information. A separate judgment amount will be entered for each creditor. If the judgment is to be docketed, a separate docketing fee will be charged per creditor. The court will not determine what portion of the costs should be awarded to each creditor. The attorney filing the action will be required to apportion the costs between creditors and submit a bill of costs to the court so that the judgment can properly reflect the portion of the costs awarded to each creditor. A proposed bill of costs shall be filed no later than three business days prior to the scheduled return date.

Rule Date : 3/1/2005

## Rules for Family Court

[Return to List](#)

Rule 401

401 : Family Court Structure

Family Court Matters

Family Court Matters shall include all actions defined in Chapter 767 and Chapter 769 of the Wisconsin Statutes. Judges will be assigned family cases through a family-civil contested probate random draw system in proportions determined by the chief judge. All postjudgment matters will be assigned to the judge who entered the judgment. [See also Rule 103(1)]

Rule Date : 6/23/2021

## 2. Filing

Family court actions must be commenced with the clerk of court office [see sec. 801.1 8(9)(a)]. Any document requiring the signature of a court commissioner shall be taken to the court commissioner center for signature, unless e-filed with the Court.

Rule Date : 6/23/2021

## 3. Scheduling Divorce Trials and Final Hearings

All stipulated divorces with children shall be scheduled with the court commissioner center, unless otherwise ordered by the Court. All annulment final hearings, legal separation final hearings, and stipulated divorces without children shall be scheduled with the assigned branch, unless otherwise ordered by the Court.

Rule Date : 6/23/2021

## 4. Child Support Services Applications.

All family court actions, with minor children, when filed, must be accompanied with a completed Child Support Services (IVD) application even if the parties do not request or envision a need for child support. All completed applications shall be submitted to the Commissioner Center.

Rule Date : 6/23/2021

## 402 : Proceedings before the Family Court Commissioner.

1. Confer and Consult. In all actions before the court, the attorneys shall an attempt to confer and consult with the opposing party or counsel prior to the scheduled hearing to attempt to resolve the matter or narrow the issues for review.

2. Discovery. Hearings before the family court commissioner shall not be used for discovery purposes. The family court commissioner may curtail discovery which is not relevant to the pending hearing and may modify motions or order to show cause which would require parties to bring materials to a hearing which would be more appropriately obtained through discovery procedures. Unless ordered otherwise by the assigned judge, a determination of whether a motion to compel discovery will be heard by the judge or commissioner shall be based on which court official is likely to hear the underlying dispute.

### 3. Pre-Judgment Matters:

All pre-judgment motions or orders to show cause for temporary orders shall be brought before the family court commissioner. Under appropriate circumstances, commissioners may elect to conduct hearings regarding sales of assets.

### 4. Post-Judgment Matters:

Actions to modify or enforce judgments or orders shall be filed with the Court Commissioner' Center.

A Court Commissioner shall review all post-judgment motions to modify or enforce custody and placement, and if legally sufficient, do any of the following: schedule the matter for a status hearing; refer the parties to Family Court Services for mediation; or forward the matter to the assigned judge for further scheduling

Third Party Visitation Actions. All initial petitions for third-party visitation shall be scheduled with the assigned circuit court branch. Any action to enforce or modify a third party visitation order shall be scheduled with the Commissioner.

## 5. Scheduling

If requested by the moving party, divorce temporary order hearings and status hearings on post-judgment custody and placement motions shall be scheduled within fifteen (15) working days. This 15 day rule applies only to the first hearing on the motion filed within 60 days of the commencement of the action. Subsequent motions for modifying temporary orders and all other pleadings shall be scheduled within 45 days of the request for hearing. These time frames may be shortened if good cause is shown for an earlier scheduling.

An unrepresented party or attorney requesting that any hearing or trial be set over to a later date shall make diligent efforts to ascertain the position of all other parties and attorneys, including the attorney for the state, prior to contacting the court. Requests for continuances shall be made in writing only, which may be sent by fax or e filed to the court, and shall contain the reason for the request as well as the position on the request of all other unrepresented parties and attorneys or a statement that, despite the described efforts to contact the others, the requestor has been unable to ascertain their positions on the request. Requests for continuance shall be made not less than five (5) working days before a scheduled hearing, unless otherwise agreed by the parties. Unless the court notifies the parties and attorneys that the request to stipulation for continuance has been granted, they must appear at the originally scheduled time.

## 6. Alternative Appearances:

Hearings before the court commissioner may be held via Zoom (or other virtual program authorized by the Chief Judge), via telephone, or in person, in the discretion of the commissioner. A party objecting to appearance by virtual means shall inform the Court no later than 7 days prior to the hearing.

## 7. Offers of Proof.

At hearings before the court commissioner the parties or counsel shall present supporting evidence via offers of proof unless otherwise requested by a party or counsel no later than 7 days prior to the hearing, or otherwise required by the assigned commissioner. If the commissioner elects to require testimonial evidence in lieu of offers of proof, the matter may be adjourned to another date that is better able to allow for additional time for live testimony versus offers of proof.

## 8. Policy on De Novo Hearings

Any party who was present at the hearing has the right to have the assigned judge hold a new hearing by filing a written request with the judge's clerk, with a copy sent immediately to the opposing party, within 15 days of the oral decision of the family court commissioner, or within 15 days of mailing or upon e-notice to a registered electronic notice party of the written decision if the order was not orally given at the time of the hearing. Findings and orders entered by the Family Court Commissioner by stipulation or entered by default are not subject to de novo review.

Notices requesting a hearing de novo will not stay the order unless the judge specifically grants a stay of the order. Should a party request a hearing de novo, the court will not proceed with any enforcement actions requested by that same party before that hearing, e.g. the court will not grant a bench warrant and commitment order requested by the petitioner, if the petitioner requests a bench warrant based upon a failure of the respondent to comply with the order upon which the petitioner has requested a de novo hearing.

The family court commissioner shall not hear any motions to modify an order or temporary order if the matter is pending a de novo hearing or if a judge has held a hearing on the matter and the court has taken the matter under advisement. The order in existence will remain in effect until the court renders its decision.

#### 9. Process on Relocation Cases

A properly filed motion and notice of hearing as to a request for relocation outside of 100 miles shall be scheduled with the court commissioner on designated Monday afternoons no later than 30 days from the date of the filing of the motion, Unless otherwise requested, all initial appearances in relocation matters will be conducted via telephone conference.

The commissioner center will notify the FCS office and they will prepare to provide mediation as to the relocation issue immediately following the initial appearance telephone conference, either in-person or by other virtual means, and will report the outcome to the court commissioner. If the parties have reached an agreement, the court commissioner will reduce the agreement to an Order and provide copies of the signed Order to the parties and/or counsel, if applicable. If the parties are unable to reach an agreement they will immediately be sent back to the commissioner for continued hearing. The commissioner may enter interim orders including the appointment of a GAL and a referral to FCS for an expedited custody study as to the issue of relocation.

The commissioner will send a memo to the assigned branch updating the judge on the status of the case and may also defer to the judge the issue of a temporary order permitting relocation pending final disposition, The FCS study evaluator will complete the relocation study and file the assigned branch within 50 days of receipt of the referral. The assigned branch will schedule further proceedings within 60 days of the initial appearance.

#### 10. Drafting Order

The moving party shall draft and submit a proposed order within 14 days of the hearing, under a 7-day hold and review, unless directed otherwise by the commissioner.

If a party or counsel for party fails to timely file an order, the assigned judge or commissioner may refuse to schedule any further motions or hearings by the delinquent party/counsel in that matter until such time as the order has been filed.

Rule Date : 6/23/2021

#### 403 : Financial Disclosure Statement; Failure to File Timely; Confidential Documents

1. A financial disclosure statement and verification of income for 3 months prior to the hearing date must be filed by both parties 2 working days in advance of any hearing concerning child support, maintenance, property division or any other financial matter, including but not limited to temporary order hearings, contempt hearings, final divorce hearings and hearings on motions to modify financial matters, and provided to the other party or counsel. A copy must be provided to the Dane County Child Support Agency, if maintenance or child support are involved.
2. If child support is the only issue to be addressed, a party may file an Income & Expense Statement, and verification of income for 3 months prior to the hearing date, in lieu of a complete Financial Disclosure Statement.
3. Confidential Documents: Any document filed by a party or counsel, not specifically listed as "confidential" in the statute, may be sealed as "confidential" by the judge or commissioner upon making appropriate findings to support an order to seal.

Rule Date : 6/23/2021

#### 404 : Arrearages

1. Unless otherwise ordered, all arrearages in temporary maintenance and support shall be carried forward as an arrearage in the judgment, or until further order of the court.
2. Except as otherwise ordered, dismissal of a family action upon stipulation of the parties or for failure to prosecute will result in expungement of all arrearages except those owed to the state.

Rule Date : 6/23/2021

#### 405 : Findings, Conclusions and Judgment

Unless otherwise submitted at the final hearing, and distributed by the court at the final hearing, within 30 days of the final hearing, the Petitioner shall file the judgment with attached agreement(s) (MSA, MPA, or arbitration decision), The Petitioner shall ensure that a copy of the judgment is sent to any unrepresented party.

The findings of fact, conclusions of law and judgment shall include the last known address and earnings of each party, unless an updated Financial Disclosure Statement is on file and referenced. When real estate is involved, the legal description shall be required. If a marital settlement agreement is incorporated into the judgment, a copy of the marital settlement agreement shall be attached to all copies of the judgment.

If no objection is received by the court within 7 working days, or such period as established by the court, any objection is deemed waived.

The judge or commissioner who entered the divorce decree will electronically sign the judgment, and court staff will provide copies to the parties if unrepresented and not designated as an electronic notice party and will provide a copy of the judgment to the Dane County Child Support Agency.

#### Failure to File Timely

In the event the findings, conclusions and judgment are not filed within 30 days required under Wis. Stat. Sec. 767.251 (2), the judge may initiate an order to show cause for contempt against the attorney/party responsible for preparing and filing said documents and the judge may impose sanctions.

#### Divorce Annulment Worksheet

A hard copy of the Divorce Annulment Worksheet shall be filed on or before the final hearing in all divorce or annulment actions. The completed worksheet shall be submitted to the assigned branch or commissioner assigned to the final bearing.

Rule Date : 6/23/2021

#### 406 : Ex Parte Orders

An ex parte order awarding custody of children to a party in a family court action will not be signed without a verified petition or affidavit stating substantial reasons why it is in the best interests of said children for the order to be signed, otherwise ordered by the court.

Rule Date : 6/23/2021

#### 407 : Family Court Services (FCS)

##### 1. Parent Education Program

When Parent Education is ordered, both parents must attend. If litigants have previously attended Parent Education, the requirement may be waived by FCS, the judge or the commissioner. Parent Education may be completed at another agency if approved in advance by the Family Court Services Director, Parent Education must be completed within 45 days of the Court's referral.

##### 2. Mandatory Mediation

Court ordered referrals for mediation are made by a judge or a commissioner and may be based on a motion, petition, letter, or at a hearing. When mediation is ordered, both parents must participate. A waiver of mediation pursuant to statutory criteria may be requested from the referring judge or commissioner. There is no cost for the initial mediation session, but the parties will be required to pay a fee for repeat or extended sessions. Parties may also arrange for private mediation from a third party provider, as permitted by statute. Mediation must be completed within 45 days of assignment (60 days in families with domestic violence that has been identified by the Court) of the Court's referral.



When the FCS counselor receives a mediation referral, they or a member of the staff will email notice to the branch clerk. The clerk may do an administrative file review. A mediation-to-study referral will not be made automatically. A study will only be ordered if mediation has failed or has been waived.

### 3. Mediation Agreement

FCS only provides mediation services for parties to review and discuss potential agreements to resolve the pending disputes. FCS does not provide mediation for temporary orders.

If the parties reach an agreement or a partial agreement in mediation at FCS, the counselor with whom the mediation occurred shall circulate the agreement to the parties and attorneys of record. If there are no objections or modifications, the parties shall sign the certification of mediation and return it to FCS in the enclosed envelope. Failure to do so within 14 days will result in a status conference before the Court. The agreement is then forwarded to the assigned judge. If there are no objections to the mediated agreement, the Court may enter an order incorporating the terms of the agreement as a final order of the matters set forth in the mediated agreement. In pending, pre-judgment divorce cases, the judge may, but is not required to, schedule a hearing regarding the agreement prior to adopting it as a final order.

If mediation is unsuccessful, the counselor will notify the referring Court official, and all parties, indicating no farther action will be taken unless directed by the Court, FCS will also advise if a failed mediation was the result of one or both parties' lack of participation. Unless the assigned judge requires the matter be returned after a commissioner receives notification of an unsuccessful mediation, the commissioner will schedule a status conference to hear from the parties, attempt to resolve the matter or narrow the disputed issues, and enter other appropriate orders. If the failed mediation is returned to the commissioner and is not resolved at the status conference, it will be forwarded to the assigned judge with a brief synopsis articulating resolved issues and those still outstanding. The judge will determine whether a study should be conducted and whether a GAL should be appointed.

### 4. Legal Custody and Physical Placement Study

After receiving notification of an unsuccessful mediation from either FCS or a Court Commissioner, the assigned judge will set a status conference. At the status conference, the Court will determine whether a GAL should be appointed or a study should be ordered, if the case is to be referred for a study, the judge may choose a full study or a Brief Focused Assessment (BFA), depending on the issues brought forth. If the referral is unclear, the Court Counselor may request clarification from the FCS Director or the assigned judge, these requests will be copied to all parties. If during the course of a BFA the counselor identifies significant concerns outside of the referral, they will promptly inform the judge, who may choose to modify the referral,

When the study is assigned, the FCS director will notify the branch by email and the parties by mail noting the date FCS recommendations are due. Counselors will include in their recommendations the dates of the case referral, assignment, and completion of the report. Studies are to be completed within 90 days (120 days in families domestic violence that has been identified by the Court), unless the counselor has received an extension. All study referrals will be accompanied by a motion.

The following matters will not be referred for a study: guardianship disputes, contempt and enforcement issues, monitoring of Court Orders, disputes regarding transportation or time and place of transitions, minimal changes to the schedules, vacation and holiday schedules, disputes regarding choice of schools or extracurricular activities, cases where the parents continue to reside in the same residence, and cases where parties have jointly retained a private practitioner to conduct a study concerning the pending motion or petition, Cases in which both parents live outside of Dane County will be closely evaluated by the judge, commissioner, and Director of FCS to determine whether it is appropriate for a study referral to FCS. Recommendations to the Court should be in letter format using statutory criteria as a guideline and should explain the reasons for the recommendation. The counselor will not be expected to prepare any further report or updated recommendation, except when directed to do so by the assigned judge upon good cause shown.

Inquiries and comments between counselors and judges/commissioners about the merits of a case shall be in writing with copies to all interested parties. Parties, attorneys, the Guardians ad Litem and Family Court Counselors may communicate with each other for the purpose of exchanging information and explaining their respective positions regarding the issues involved in the case. All written materials sent by parties and attorneys must be copied by the sender to all other parties and attorneys, with the exception of the Family Study Questionnaire and other initial paperwork sent out by the FCS office. Other substantive information received by the counselor will be available for review in the file. Communication between counselors and outside evaluators should be in with copies provided to all parties or orally with all the parties and counsel.

#### 5. Study Agreements

If during the course of the study process, the parties reach an agreement on the outstanding issues, the counselor shall prepare a document reflecting that agreement. The document will be forwarded to the court for review and farther order. No waiting period or certification form will accompany the document as is done in mediated agreements.

#### 6. Failure to comply

After failure to appear at Parent Education, a mediation or a study appointment, FCS shall send notice of a second appointment. This notice will advise the party (parties) that failure to appear on the new date could result in either the motion being dismissed or granted, depending on which party failed to appear, petitioner or respondent, Notification will be sent to the referring Court official when a second appointment is missed.

Failure of the non-moving party to attend Parent Education or mediation or to comply with the directives of FCS or the Court during the course of the study will not delay the initiation or completion of a study by FCS. Failure to comply may result in additional costs and fees to be assessed by the Court.

#### 7. FCS Records and Dissemination

A party and/or attorney of record may request access to the Family Court Services file regarding their case once the study is completed. That request should be made to the counselor in charge or their delegate, who will prepare the file and make arrangements for its review. Each person reviewing the FCS file must sign a FCS Non-Dissemination Agreement, violation of which is punishable by contempt or

other sanctions imposed by the court. The file review shall occur within five business days. If the file needs to be reviewed during the time study is being conducted, the request should be made to the assigned judge. The file will not be available five business days before trial.

Currently, portions of the case file are automatically sequestered and a specific request must be made to the assigned judge to review these documents. Documents that have been sequestered will be identified in the file by a check sheet and may include financial information, Department of Human Services records, medical, mental health, and AODA records. The parties may request additional information in the file be sealed by making a request to assigned judge. Sequestered documents may be viewed but not copied.

FCS will charge a reasonable fee for copying non-sequestered records.

Once the case is closed in our office, permission from the assigned judge is required to access the file.

NO further distribution of viewed or copied materials is permitted.

#### 8. FCS Fees

The responsibility for fees shall be set by FCS according to the fee schedule established by Dane County ordinance. Parties must pay fees or obtain a fee waiver within the time period set by FCS. Any party may seek a fee review by requesting a Judicial Review Form from the FCS office or the Court Commissioner Center. That form and the accompanying documentation should be sent directly to the Court Commissioner Center within 15 days of being notified of responsibility for payment. A court commissioner will review the request with the accompanying documents to determine whether to affirm the FCS director's decision on the assessed payment tier, the amount assessed against the objecting party, and/or the allocation of the fee between the parties, or modify the director's decision on the fee in whole or in part. Failure to timely file a request for review may result in a summary denial of the requested review.

Failure to pay a required fee will result in a fee payment hearing before the commissioner.

#### 9. FCS Privacy Policy

No media of any kind may be used in the FCS office to record, capture, copy, or photograph any meeting, mediation or study session, person or document. All electronic media (cell phones, iPhones, etc.) equipment must be turned off upon arrival at the FCS office.

Rule Date : 6/23/2021

#### 408 : Abuse, and Harassment Temporary Restraining Orders

Harassment, Domestic Abuse, Child Abuse and Individuals at Risk restraining order petitions shall be filed in the Records Center, Room 100, or may be e-filed.

Child Abuse and Harassment cases involving juvenile respondents will be assigned a juvenile (JI) number; all other restraining order cases will be assigned a civil (CV) number.

Rule Date : 6/23/2021

#### 409 : Guardians ad Litem: Appointment and Payment

1. The court will determine whether a guardian ad litem (GAL) should be appointed, sua sponte or upon the request of either party or family court counselor. The court will consider whether to appoint a particular GAL suggested jointly by the parties/counsel or suggested by the family court counselor.

2. Any request to appoint a GAL shall require both parties to submit a recently completed financial disclosure statement (FDS) or Income & Expense Statement (if applicable). unless the parties have stipulated to the apportionment and payment of the GAL fees The Court may require a hearing on the request for appointment of GAL or may order appointment at the court's discretion based on a review of the file and the request, Failure to timely file a FDS may be deemed an admission of ability to pay. Unless the court finds there is an emergency need for a GAL, the court shall require the payment of a deposit or the posting of security for GAL fees or other payment arrangements.

3. The court shall make an initial determination of each party's ability to pay GAL fees, If both parties are found indigent, the county shall pay the CAL fees. If both parties are not found indigent, the court shall determine how the parties shall pay the GAL fees. The order appointing the GAL shall include the hourly rate of the GAL, and it should • set a monthly payment due from each party once the initial deposit has been utilized.

4. The GAL shall provide monthly bills to the parties or counsel in private pay cases if the bill exceeds \$300. In private pay cases, the bill shall show each party's escrow balance. All bills shall itemize the actual hours expended and fees incurred. In private pay cases and court appointed cases, the GAL shall notify the court when the unpaid balance exceeds \$1000. The court may set a status conference to address the unpaid balance. In county pay cases, the GAL shall notify the court and the parties with information about the hours expended and the fees incurred and shall submit bills to the clerk of court at a frequency requested by the clerk of courts.

At any time during the pendency of the case, the GAL may notice the parties and counsel of a proposed disbursement of a specific amount of the funds from the trust account, together with a notice of the right to object within ten (10) days, If no written objection is received by the GAL, the GAL may disburse the funds as proposed from the trust account. If either party does object, the objecting party shall notify the court, with a copy to the GAL, in writing within ten (10) days of the notice. A hearing will be scheduled before the court. The notice of the proposed disbursement of funds shall include a copy of paragraph 5 of this rule. Any objection must be filed with the court within ten (10) days of receipt of the bill. The objection must be itemized, corresponding to the itemization in the billing statement, and it must state specific reasons for each objection. Upon receipt of an objection, the court may set the matter for hearing or may defer addressing the issue to the next scheduled proceeding.

5. At the conclusion of the action, and prior to the discharge of the GAL, if requested the court shall review the financial account of the GAL billings and receipts. The court shall make a final determination of what portion of GAL fees and costs shall be paid by each party or the county. No final judgment will be granted by the court without a provision regarding payment of the GAL fees and costs, including date certain for payment of remaining fees, Any final stipulation submitted by the parties for approval of the court shall contain a provision regarding payment of remaining GAL fees.

Rule Date : 6/23/2021

#### 410 : Appointment of Guardian ad Litem in Cases Using Binding Arbitration

Unless waived by the circuit court judge, the court shall appoint a Guardian Ad Litem (GAL) in all cases in which parties agree to resolve the issues of custody and physical placement and/or visitation rights under Wis. Stat. section 767.43 through binding arbitration. The GAL must be appointed before any of the arbitration procedures on these issues begin. Additionally, the parties must provide the court with a certified written custody/physical placement study as stated in Wis. Stat. Section 767.1405(14)

Rule Date : 6/23/2021

#### 411 : Order of Appearance in Family Cases

In divorce cases where a signed, stipulated marital settlement agreement has been submitted to the court, it is deemed good cause to not require the procurement and service of an order of appearance on the non-moving party unless specifically ordered by the court in an individual case.

Rule Date : 6/23/2021

#### 412 : Support Orders and Judgments

All orders which contain a provision for support, family support, or maintenance, shall contain the following:

- the address of both parties;
- the name, address, and phone numbers of the employers of the parties;
- the name and birth date of any minor children;
- the language required by Wisconsin Statute sections, including 767.225, 767.54, 767.511, 767.58, 767.75, 767.57;
- a single payment amount and frequency along with a specific commencement date.

Rule Date : 6/23/2021

## Rules for Probate Court

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### *501 : Subject Matter*

Probate court matters shall include all probate actions under Wis. Stats. Chapter 851 through 879, testamentary trust actions under Chapter 701, guardianship actions under Chapter 54, protective placements under Chapter 55, Juvenile guardianships under Chapter 48, involuntary civil mental and alcoholic commitments, and adoption cases. All documents pertaining to these matters shall be filed in the office of the register in probate.

Rule Date : 7/9/2007

### *502 : Judicial Assignments and Scheduling*

All judges will be assigned contested probate, trust and guardianship matters according to the proportions of the civil/family draw. Once a judge hears a contested matter in a case, all further contested matters will be assigned to the same judge.

All juvenile guardianships of the person cases shall be drawn to the judges in the juvenile division. Hearings shall be conducted by court commissioners if the case is uncontested. If contested, the case shall be forwarded to the judge drawn on the case.

All contested trust and estate actions shall be scheduled for a settlement conference before a probate court commissioner. If no settlement is reached, the action shall be assigned to a judge.

In contested guardianships, if the matter is an emergency and the assigned judge is not available, the case shall be referred to the duty judge, who may request a reserve judge to be assigned.

Rule Date : 1/1/2016

### *503 : Proceedings Before Probate Court Commissioner*

The probate court commissioners, in addition to conducting settlement conferences on all contested matters, shall conduct such hearings as determined by the individual judge responsible for the probate calendar.

Rule Date : 5/1/1993

### *504 : Documents Relating to Scheduled Hearings*

All documents related to a contested case shall be filed at the register in probate office, docketed and scanned promptly and forwarded to the assigned judge's office.

Rule Date : 6/1/2016

### *505 : Closing Estates*

Receipts or other evidence of transfer shall be filed within 120 days after entry of Final Judgment pursuant to section 863.41 Wis. Stats. (Receipts to be filed).

Receipts or other evidence of transfer in informal proceedings shall be filed at or before the time of the personal representative's statement to close the file.

Rule Date : 5/1/1999

### *506 : Claims Filed*

The office of the register in probate shall return a claim filed when there is no pending probate file. In all cases when a probate matter is pending, a claim shall be accepted for filing regardless of the timeliness, form, or nature of the claim.

Rule Date : 5/1/1990

*507 : Mental and Alcoholic Commitment*

Demands for jury trial shall be in writing, unless otherwise authorized by a judge.

After the court commissioner makes a finding of probable cause, the probate court will appoint two examiners the morning following the probable cause hearing. Pursuant to section 51.20(9)(a) Wis. Stats. (Involuntary commitment for treatment, Examination), the subject or the subject's attorney may select one of the examiners if the selection is made known to the probate court (608-266-4332) within 24 hours after completion of the probable cause hearing. The court will appoint the selected examiner if the subject or the subject's attorney certifies to the court that he or she has personally spoken to the proposed examiner and that all of the following have been verified:

The examiner has specialized knowledge appropriate to the needs of the subject;

The examiner will be available to perform a personal examination of the subject;

The examiner agrees to perform the examination at a rate of not to exceed that established by the county for other evaluations in Ch 51/55 proceedings;

The examiner will file a written report with the court at least 48 hours in advance of the final hearing; and,

The examiner will be available for testimony at the final hearing, either in person or by telephone.

The subject or the subject's attorney also has a right to secure an additional (third) medical or psychological examination to be paid for by the subject, or if indigent and with approval of the court, at reasonable expenses to the individual's county of legal residence.

A person appointed by the state public defender's office to represent the subject of a commitment action shall immediately notify the staff of the register in probate's office of such appointment.

Probate court commissioners are designated as Mental Health Review Officers, pursuant to section 51.14(12) Wis. Stats. (Outpatient treatment of minors).

Rule Date : 5/1/1990

*508 : Time for Inventory*

The inventory in any estate shall be filed or exhibited to the probate registrar within 6 months of the issuance of domiciliary letters, unless the time is extended by order.

Rule Date : 3/1/2005

*509 : Time to Close Estates*

Whether filed under formal or informal administration, an estate proceeding shall be closed by the entry of a judgment under section 863.27 Wis. Stats. (Contents of final judgment) or the filing of a verified statement under section 865.16 Wis. Stats. (Self-proved will), within 12 months of the issuance of domiciliary letters, unless the estate remains open pursuant to an order extending time. In any estate not closed in the time provided by this rule, the probate court commissioner or probate registrar shall order the personal representative, and any attorney for the estate, to show cause why the estate has not been closed and shall proceed as provided by law.

This rule shall be effective for all estates where domiciliary letters are issued after 2-1-05 and for all pending estates after 8-1-05.

Rule Date : 3/1/2005

#### *510 : Hearings on Admissions in Juvenile Mental Cases*

In judicial review proceedings for the admission of a minor to an inpatient facility for treatment of mental illness, developmental disability or alcohol or drug abuse, the petitioning facility must be represented by counsel at any hearing scheduled pursuant to Wis. Stats. Sec 51.13 (4)(d).

Rule Date : 12/1/2006

## Rules for Juvenile Court

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#### *601 : Adoption of Policy Manual*

The Circuit Court adopts the Dane County Juvenile Court Policies and Procedures Manual with the full force of circuit court rules.

A current copy of the entire Policy Manual of the Dane County Juvenile Court will be maintained in the clerk of courts office, in the juvenile court office, and in the office of each current juvenile judge. The Manual shall be reviewed, updated, and approved by the Dane County Circuit Court Judges at least every two years, no later than March 1 of the year following rotation. Amendments, changes and deletions in the interim shall be approved by a majority of the current juvenile judges and the chief judge.

Rule Date : 5/1/1999