
Waupaca County Circuit Court Rules

Revised Effective Date: 9-9-19

Rule 1: Publication and Revision of Circuit Court Rules

- 1.00 These local court rules are adopted by the Waupaca County Circuit Court Judges to assist in the efficient administration of justice. Use of the words “Court or Judge” herein includes a Court Commissioner or any lawfully appointed Judicial Magistrate.
- 1.01 These rules shall be posted for public review in the County Courthouse by the Clerk of Circuit Court.
- 1.02 These rules shall be adopted by written order of the majority of Waupaca County Circuit Court Judges, subject to approval of the Chief Judge of the Eighth Judicial District.
- 1.03 These rules shall be effective 9-9-19 and replace the revised rules of June 1, 2010.
- 1.04 Once adopted, these court rules shall be filed with the Clerk of Circuit Court, and the Clerk of Circuit Court shall provide copies to the members of the County Bar Association, Chief Judge of the Eighth Judicial District, District Court Administrator, State Bar Association, State Law Library, and the Office of the Director of State Courts. The Clerk of Circuit Court shall print and make available to the public, at cost, all rules adopted or amended under Wis. Stat. § 753.35.
- 1.05 Modification to these rules may be ordered by any circuit judge in any case to assist the efficient administration of justice.
- 1.06 From time to time an appendix to these rules may be created by the Waupaca County Circuit Court Judges.

Rule 2: Access by the Public and Press

- 2.00 Unless good cause has been shown to the Judge, a party moving that any judicial proceedings required by law to be public be closed to the news media must notify the Court in writing at least 72 hours prior to the time set to hear the motion. The purpose of this rule is to permit legal counsel to appear on behalf of the media and

be heard. The burden shall be upon the moving party to show cause why the proceedings should not be public, as required by statute.

- 2.01 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 Judge 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. Each media organization must provide an individual notice; one notice shall not suffice for all other media representatives.

The clerk or judicial assistant of the Judge 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.

- 2.02 Any person with a disability which interferes with his or her ability to participate in or to observe public court proceedings may make a request of the Clerk of Circuit Court for assistance.

Rule 3: Case Processing Time Guidelines

- 3.00 It will be the practice of the Court to schedule every case for a next action or review date at every stage in the life of the case.
- 3.01 An order of dismissal shall be prepared and mailed to litigants or their counsel for all case types when there has been no apparent activity in the case for some period of time. No order shall be prepared if activities have been suspended due to the issuance of an arrest warrant, the filing of a petition in bankruptcy, or the filing of a stipulation and order for reconciliation in family actions.
- 3.02 Objection to dismissal shall be made in writing to the assigned judge of the action to be dismissed. The judge may deny the objections, vacate the order of dismissal, or schedule a hearing.
- 3.03 All formal and informal estates shall be closed or, in the alternative, a petition for extension filed within eighteen (18) months of the estate's opening.

- 3.04 Failure to comply with Rule 3.03 may result in the appointment of a new personal representative and/or attorney for the estate after the issuance of an Order to Show Cause.
- 3.05 Pending actions will be suspended upon receipt of a notice of stay from the United States Bankruptcy Court. Unless a notice that the stay has been lifted or that the bankruptcy petition has been dismissed is received by the Court within 120 days of the receipt of the notice of stay, the suspended action will be dismissed without notice to any party. The plaintiff may reopen the matter upon notice that the bankruptcy stay has been lifted or that the bankruptcy proceedings have been terminated.

Rule 4: Rules of Decorum

- 4.00 Lawyers shall never lean upon the bench, or appear to engage the Court in a manner which would lessen the dignity of the proceedings in the eyes of the jury and public.
- 4.01 When a lawyer or party is addressing the jury, he or she shall not crowd the jury box.
- 4.02 During examination of jurors on voir dire, the lawyer or party conducting the examination shall, insofar as practical, use collective questions, avoid repetition, and seek only material information.
- 4.03 During trial, no lawyer or party shall exhibit familiarity with witnesses, jurors, or opposing counsel, and generally the use of first names shall be avoided. In jury arguments no juror shall be addressed individually or by name.
- 4.04 Lawyers and court officials shall, while in attendance upon the Court, be attired in such a manner as not to lessen the dignity of the Court or of proceedings in the eyes of the jury and public.
- 4.05 Witnesses shall be examined with courtesy and respect, and their good faith presumed until the contrary appears.
- 4.06 The swearing of witnesses shall be an impressive ceremony and not a mere formality.
- 4.07 In jury cases which are disposed of upon a motion for nonsuit or directed verdict, the judge in dismissing the jury should briefly explain the procedure and why a verdict was unnecessary.
- 4.08 The judge shall wear a robe while presiding on the bench, provided the judicial discretion may be exercised otherwise in proper situations.

- 4.09 Court shall be formally opened each day in which court business is transacted either by the bailiff or the clerk.
- 4.10 As the judge enters the courtroom, the bailiff or clerk shall require all present to rise and stand. At the commencement of jury trials when the judge has reached the bench, the bailiff or the clerk shall say, "Hear ye! Hear ye! The Circuit Court for the county of Waupaca is now open. Silence is commanded." All shall be seated and the business of the Court shall proceed.
- 4.11 In recessing, the judge shall announce, "The Court is now in recess" or the equivalent.
- 4.12 The flag of the United States shall at all times while court is in session be displayed at, on, or in close proximity to the bench, or on standard to the right of the Judge.
- 4.13 Judges, lawyers, clerks, and staff shall at all times be civil in their dealings with one another. All court and court related proceedings, including discovery proceedings, whether written or oral shall be conducted with civility and respect for each of the participants.
- 4.14 Judges and lawyers shall be punctual in convening and appearing for all hearings, meetings, and conferences; and if delayed, shall notify other participants, if possible.
- 4.15 Lawyers, judges, clerks, and staff shall advise clients, witnesses, jurors, and others appearing in the court that proper conduct and attire is expected within the courthouse; and shall, where possible, prevent clients, witnesses, or others from creating disorder or disruption.
- 4.16 All participants in the judicial process, whether judges, lawyers, or clerks shall conduct themselves in a manner which demonstrates sensitivity to the necessity of preserving decorum and the integrity of the judicial process.
- 4.17 During jury trials, objections to questions or evidence shall be made solely by stating, "objection" and the succinct legal ground therefore (i.e., relevancy, hearsay, etc.) without argument or elucidation. Responses from opposing counsel are to be made only upon a request to be heard and leave of the presiding judge.
- 4.18 In the courtroom, beverages (except as provided by the Court), food, and gum chewing are not allowed. Hats of any type are not permitted to be worn in the courtroom. Coats not worn are to be placed on the coat racks located outside the courtrooms. Newspapers are not to be read during court proceedings. Feet are not to be placed on chairs or benches. Silence is to be maintained, and noisy or

restless children should be immediately removed by their caregiver. All cell phones should be in the off position when in the courtroom.

- 4.19 Lawyers shall make all reasonable efforts to reach informal agreements on preliminary and procedural matters and shall attempt to expeditiously reconcile differences through negotiation without needless expense and waste of time.
- 4.20 Lawyers shall not abuse judicial process by pursuing or opposing discovery arbitrarily or for the purpose of harassment or undue delay. If an adversary is entitled to something, it shall be provided without unnecessary formalities.
- 4.21 Lawyers shall never knowingly deceive or mislead another lawyer or the Court.
- 4.22 Lawyers shall at all times act in good faith and shall honor promises and commitments to other lawyers and the Court.
- 4.23 All other rules of decorum not specified in the rules listed above will follow Chapter 62 of the Supreme Court Rules regarding standards of courtesy and decorum.
- 4.24 It is important that parties appearing by telephone are in a location that is free from background noise and interruptions. Any interruption by persons on the call, either intentional or inadvertent, is disruptive to the proceedings. The Court will disconnect the teleconference call if, in its sole determination, there are unacceptable interruptions or disruptions by parties who are appearing by telephone. If persons on the telephone cause any disruption or interference with the efficient course of the proceedings, the Court may terminate the call without warning. The Court may decide not to reconnect the call. If the call is disconnected, the hearing will proceed despite the absence of the parties appearing by telephone. Thus, any person who wants to ensure their ability to participate in or observe the proceedings must attend in person.

Rule 5: Case Load Assignment

- 5.00 In compliance with mandates requiring circuit judges to perform all judicial duties, an intake system is adopted.
- 5.01 The three judges shall preside over intake court for four weeks at a time on a rotating basis.
- 5.02 Generally, when an action is filed, it shall routinely be assigned to one of the three Circuit Court Judges by way of blind draw on an equal distribution basis.
- 5.03 Notwithstanding Rule 5.02, all JV, JC, TP, AP, JO, and JG case types shall be assigned to Branch I.

New family law filings shall be assigned by blind draw with twenty (20) percent assigned to Branch I and forty (40) percent assigned to each Branch II and Branch III.

Rule 6: Intake Court

- 6.00 Regardless of the assigned judge, the Intake Court shall hear initial appearances and bail hearings in all misdemeanor and felony proceedings.
- 6.01 The Intake Court shall hear all returns on forfeiture matters, including traffic, ordinance violations, and DNR matters.
- 6.02 The Intake Court shall hear preliminary hearings in felony cases if such hearing is requested within the applicable time limits even if this requires the hearing be scheduled after the branch that has completed its intake assignment.

If a defendant waives time limits for scheduling a preliminary hearing, the assigned Court shall hear the preliminary hearing.

- 6.03 The Intake Court shall issue search warrants and conduct *Riverside* proceedings.
- 6.04 The Intake Court shall issue occupational licenses.
- 6.05 The Intake Court shall hear extradition and interstate detainer proceedings.
- 6.06 The Intake Court shall hear habeas corpus petitions which are unrelated to pending or closed criminal files. If the proceedings are related to pending or closed files, the assigned Court shall handle the proceeding.
- 6.07 The Intake Court shall set all contested ordinance cases for pre-trial conferences in the Intake Court, unless there exists related criminal proceedings. If there are related criminal proceedings, the ordinance cases shall track the criminal proceeding in the assigned branch.
- 6.08 Except for good cause shown, contested ordinances shall be allowed no more than two pre-trial conferences. If the contested ordinance requires the scheduling of a motion hearing, jury trial, or court trial, the assigned branch shall hear the motion and/or trial.
- 6.09 The Intake Court shall hear all Chapter 51 and Chapter 55 proceedings, including probable cause hearings, trials, extensions, and *Watts* reviews.

Rule 7: Pre-Intake Court

- 7.00 The Pre-Intake Court is defined as the Court which is scheduled to commence intake responsibilities after the current branch's duties are complete.

- 7.01 The Pre-Intake Court shall be assigned injunctive relief cases for harassment, domestic abuse, child abuse, and individuals at risk except for the two weeks prior to commencing intake court.
- 7.02 For the previously described two week period the next pre-intake court is responsible.
- 7.03 The Pre-Intake Court shall be assigned contested eviction proceedings.

Rule 8: Civil Practice

- 8.00 Generally, civil cases will be commenced with the filing of a Summons and Complaint. When commencing a mortgage foreclosure action, the plaintiff shall attach to the Summons and Complaint, Notice of Availability of Mediation with the Winnebago Conflict Resolution Center.
- 8.01 Generally, all civil cases will be reviewed for service and answer ninety (90) days after filing. If at that time it is found that a case has not reached issue, a dismissal order or default proceeding may be initiated by the Court. If issue has been joined, the Court should set the matter for a scheduling conference.
- 8.02 The District Attorney shall contact the assigned Court within ten (10) days after receiving service of an answer in a forfeiture proceeding pursuant to Wis. Stat. § 961.55 and schedule a hearing within the time limits provided in the statute.
- 8.03 The petitioner or petitioner's attorney shall contact the assigned Court for scheduling any other civil action which may require actions prior to ninety (90) days after filing.
- 8.04 Motions – General Filing Requirements: All motions shall be heard at a date and hour set by the judge or the judge's judicial assistant. It is the attorney's responsibility to schedule a motion with the Court. A motion filed only with the Clerk of Circuit Court will not be scheduled until a specific request by phone or in writing is made of the Court for a date and time. Motion, supporting documents, and briefs shall be filed at least twenty (20) days before the hearing date, unless provided otherwise by these rules or order of the Court.

General Motions: All motions shall state the supporting statute or statutes. A brief statement of facts and proposition of law relied upon with citation of the authorities in support of the relief requested may be required. Unless authorized by the Court, briefs on all motions except Summary Judgment motions (see Rule 8.05), shall be no more than seven double-spaced pages. All documents shall be served upon the opposing party and filed with the Court at least twenty (20) days

before the hearing. The opposing party shall serve and file a written response with a citation of authorities at least ten (10) days before the hearing.

Telephone Motions. Telephone motions or scheduling conferences can be arranged by calling the judge's judicial assistant. After approval by the court, a date and time will be set by the judicial assistant. The party requesting the telephone motion or scheduling conference is responsible for notifying all parties, initiating the call, and connecting all parties to the call who wish to appear by telephone. Any party appearing by telephone should make themselves aware of Rule 4.25.

- 8.05 Summary Judgment Motions: A Motion for Summary Judgment shall be filed with the Clerk of Circuit Court and a copy provided to the assigned judge. A briefing schedule and/or a hearing date will then be scheduled by the assigned judge.

Any brief supporting or opposing summary judgment shall not exceed ten (10) pages double-spaced. Any final reply brief shall not exceed five (5) pages double-spaced. All supporting affidavits and documents shall be attached as appendices or exhibits to the motion or brief. Reference to documents in the case file or depositions is not permitted. Pertinent parts of documents, depositions, interrogatories, or admissions shall be reproduced, attached, and highlighted.

Noncompliance with this rule may result in the striking of documents, dismissal, imposition of costs, and such other sanctions as deemed appropriate.

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

In cases where personal service is not obtained upon the defendant (i.e., substitute or published), notice of motion for default judgment shall be given to the 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 fifteen (15) days of the date of 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 of default including the fact the aforesaid notice was provided to the 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, or consider affidavits 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.

- 8.07 No mortgage/land contract foreclosure shall be granted except upon a hearing in open court by affidavit or testimony; due notice of which shall have been given to all defendants at least ten (10) days prior to the hearing.

Where no timely answer has been filed, a default foreclosure judgment may be taken by affidavit if notice of the default hearing is given. This same rule applies to any confirmation of sale when no timely answer has been filed.

- 8.08 Motions to consolidate shall be assigned to and heard by the judge with the earliest filed case. If consolidation is granted, the cases shall be assigned to the judge with the earliest case and the order shall include a signature line for the approval of all the assigned judges.

- 8.09 *The Marion Advertiser, The Waupaca County Post, The Clintonville Chronicle and The Clintonville Tribune Gazette* have all filed the necessary certificate to qualify for publishing of legal notices. While the county board annually rotates the "official paper" among the above listed newspapers for purposes of service of pleadings and other papers, the use of the newspaper from the above listed most likely to notify the party based upon the party's last known post office address shall be utilized.

- 8.10 In all pretrial matters, attorneys must have the authority to negotiate in the absence of their clients or, if authority is not granted, immediate telephonic access to the clients shall be required. The judge may in any case require all parties to be personally present at the pretrial.

- 8.11 Attorneys are required to have their calendars with them in court so that dates can be set in the courtroom when possible. In the event that an attorney does not have his or her calendar in court, a date will be set in accordance with the judge's calendar.

- 8.12 All stipulated requests for continuance of trial date shall require the consent of the Court 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. All requests for continuance are subject to the approval of the Court.

- 8.13 Any party wishing a jury trial must timely post the appropriate jury fee pursuant to Wis. Stat. §§ 805.01(2) and 814.61(4). The non-refundable jury fee is payable at or before the scheduling or pretrial conference, whichever comes first.
- 8.14 Alternative Dispute Resolution: Settlement alternatives set out in Wis. Stat. § 802.12 shall be ordered in the discretion of the presiding judge.
- 8.15 Discovery Motions - Good Faith Effort to Resolve: All motions to compel discovery or for protective order pursuant to Chapter 804 of the Wisconsin Statutes must be accompanied by a statement in writing by the movant that, after consultation with the opposing party and sincere attempts to resolve their differences, the parties are unable to reach an accord. Such statement shall recite the date, place, and name of all parties participating in such conference.
- 8.16 No party may ask more than twenty-five (25) interrogatories, including sub-parts, of any other party in its initial interrogatory request. Additional interrogatories may only be propounded to an opposing party after leave to do so is obtained from the trial judge.

The Court may upon its own initiative after reasonable notice, or pursuant to a motion, limit the number of depositions and interrogatories and may also limit the length of depositions.

The frequency and extent of the use of the discovery methods otherwise permitted or limited by these rules may be further limited if the Court determines that:

- (i) The discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive;
 - (ii) The party seeking discovery has had ample opportunity in the action to obtain the information sought; or
 - (iii) The burden or expense of the proposed discovery outweighs its benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.
- 8.17 Any attorney or pro se litigant who is required by statute or directed by a judge to prepare Findings of Fact, Conclusions of Law and/or Judgment, or other order(s), shall prepare the appropriate document(s) for the judge's signature and filing no later than 30 days after relief is granted. Unless specifically controlled by statute or otherwise ordered by the judge, it is the responsibility of the moving party and/or his/her attorney to draft and submit the appropriate document(s). Failure

of any attorney or pro se litigant to comply with this rule may result in the imposition of sanctions and/or money terms whether authorized by statute or in the discretion of the judge.

- 8.18 All exhibits shall be presented to the clerk to mark with the appropriate number. Once an exhibit is received into evidence, it is the custody of the Clerk of Courts, unless ordered to be returned by the Court or replaced by a copy. All exhibits shall be held by the Clerk of Court Office consistent with Clerk of Courts policy or order of the Court.
- 8.19 When a civil jury trial is settled within two business days of the trial date, costs associated with summoning the jury and court inconvenience will be assessed in the sole discretion of the presiding circuit judge. The party assessed shall be required to make payment to the Clerk of Circuit Court within a prescribed period, and the payment thereof shall be enforced by contempt proceedings.
- 8.20 Chapter 980 proceedings shall be initially assigned as provided in Rule 5.02. Any action subsequent to the initial Chapter 980 actions shall be assigned to the same court.

Rule 9: Criminal Law Practice

- 9.00 In this section, criminal case and criminal action shall refer to all criminal matters, misdemeanor, felony and criminal traffic with CT, CF, and CM case numbers.
- 9.01 Whenever it is brought to the attention of the clerk that a defendant has criminal cases pending in more than one court, including sentencing after revocation, he or she shall transfer all cases to the Court assigned the lowest numbered case or earlier filed action.
- 9.02 All stipulated requests for continuance of trial date shall require the consent of the Court 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. The Waupaca County District Attorney's Office shall advise the Court of any victim rights concerns, which shall be considered before any continuance will be granted. All requests for continuance are subject to the approval of the Court.
- 9.03 All persons charged with a felony must be present at the initial appearance. An attorney for a person charged with a misdemeanor may appear for a defendant at the time of the initial appearance with proper written authorization and shall be responsible for obtaining his/her client's signature on any bond ordered.
- 9.04 A status conference shall be scheduled by the Court in all criminal actions after entry of a not guilty plea. The final status conference shall be scheduled at least

12 days prior to the scheduled trial date. Notice of the final status conference/pre-trial conference and trial date shall be mailed by clerk to the district attorney, defense counsel, and the defendant.

The attorney, if any, who is to conduct the trial on behalf of the defendant and the defendant shall personally appear at the final status/pre-trial conference. Prior to the status conference, the parties shall discuss any proposed plea negotiations, unresolved discovery, stipulations of fact, and final jury status. If the case is resolved, the plea(s) shall be entered and the case shall proceed to sentencing, unless a Pre-Sentence Investigation report is requested or other cause for scheduling sentencing at a later date exists.

- 9.05 If the Court is informed at the status conference that the case is not yet resolved, and the case has been scheduled for a jury trial, jury summonses shall be mailed by the clerk no later than 12 days prior to trial. Settlement of the case within two business days of the jury trial date may result in costs associated with summoning the jury, and the Court inconvenience being assessed in the sole discretion of the presiding circuit judge. The party assessed the costs shall be required to make payment to the Clerk of Circuit Court within a prescribed period, and payment thereof shall be enforced by contempt proceedings.
- 9.06 A Plea Questionnaire and Waiver of Rights form shall be completed by the defendant and any attorney for the defendant, and submitted to the Court at the time of the plea to any criminal charge.
- 9.07 Incarcerated defendants shall be permitted to dress in "street clothes" for all appearances before a jury. Defense counsel shall advise the Waupaca County Sheriff's Office of the arrangements for changing defendant's clothes 72 hours before the court appearance.

If an inmate is a witness (other than the defendant) at the final status/pre-trial conference, request must be made to have him/her appear in street clothes.

- 9.08 Not later than seven (7) days prior to the scheduled sentencing hearing, the Department of Corrections shall file the Pre-Sentence Investigation report with the Clerk of Courts Office. Defense counsel, district attorney, and defendant shall have reviewed the PSI report prior to the time scheduled for sentencing.
- 9.09 Defendants charged with any criminal offense shall be required as a condition of bail/bond to provide fingerprints, photographs, and other identifying data under Wis. Stat. § 165.84. Any defendant charged with a violent crime as defined in Wis. Stat. § 165.84(7) shall further, as a condition of bond, provide a biological specimen for DNA analysis.

- 9.10 The State shall make reasonable efforts to provide all available materials required by Wis. Stat. § 971.23(1) to the defense within twenty (20) days of arraignment and must provide all required materials within a reasonable time prior to trial.

The defense shall make all reasonable efforts to provide all available materials required by Wis. Stat. § 971.23(2m) to the State within thirty (30) days prior to trial and must provide all required materials within a reasonable time prior to trial.

The State and defense shall provide additional materials forthwith as they become available.

- 9.11 Unless otherwise ordered by the Court, any party wishing to utilize evidence at trial contained in an audio tape, video tape, CD, DVD, or other recorded format must prepare a transcript and provide a copy to the Court and opposing counsel at the final status/pre-trial conference.

Prior to any proceedings, the party wishing to utilize the aforementioned evidence shall determine whether it is compatible with the Court's audio/visual equipment or provide a device for the playing of same.

- 9.12 All exhibits shall be presented to the clerk to mark with the appropriate number.

Once an exhibit is received into evidence, it is the custody of the Clerk of Courts unless ordered to be returned by the Court or replaced by a copy. All exhibits shall be held by the Clerk of Courts Office consistent with the Clerk of Courts policy or order of the Court.

- 9.13 Attorneys are required to have their calendars with them in court so that dates can be set in the courtroom when possible. In the event that an attorney does not have his or her calendar in court, a date will be set in accordance with the judge's calendar.

- 9.14 The specific amount of restitution sought should be ascertained by the State prior to sentencing.

- 9.15 The State and defense shall consult prior to sentencing to establish the number of days of custodial credit.

- 9.16 Any attorney appointed by the Court shall submit his/her billing to the appropriate Court no later than 30 days after completion of the counsel's appointed duties. Failure to do so may result in reduction of compensation in the presiding judge's discretion.

Rule 10: Small Claims Practice

- 10.00 Small claims actions shall be randomly assigned to the three Circuit Court Judges by way of blind draw on an equal distribution basis except for eviction proceedings.
- 10.01 Waupaca County by this rule authorizes service of summons in all small claims actions, except eviction and replevin actions, by regular mail in lieu of personal or substituted service for resident (Waupaca County) defendants at their personal residence. Service in replevin actions on resident defendants may be by personal service or substituted service or by certified mail with return receipt requested. Service in eviction actions shall be by personal or substituted service. Personal service shall be required on all nonresident defendants in all types of actions.
- 10.02 Except in eviction actions, a defendant (resident or non-resident) in a small claims action may file a written answer in any action specified in Wis. Stat. § 799.01. Such written answer must be received by the Clerk of Courts Office no 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.
- 10.03 All contested small claims cases, except evictions, shall be scheduled for a pre-trial before a court commissioner prior to any trial. Parties should bring relevant and material documents and/or evidence helpful to the understanding of a party's claim. Copies of written documents/materials should be provided to any opposing party/counsel prior to the pre-trial date.
- If the case is not settled at pre-trial, the case will be scheduled for a court trial by the assigned judge. The Court Commissioner may, with the signed consent of the parties, hold a trial and make a decision on the pre-trial date. Any party may request a de novo hearing before a circuit judge. The request must be made within 10 days of a written decision of the Court Commissioner or within fifteen (15) days of an oral decision by the Court Commissioner.
- 10.04 A plaintiff in any collect account action for goods provided or services rendered (for example, medical services, farm supplies, consumer running accounts, or any other similar account(s)) is required in the Complaint (and Summons) to itemize by date, the goods provided, or services rendered. This may be done directly on the Complaint or by attaching a copy of such business charges to the Complaint. No pre-trial or trial will be held, in the discretion of the Court, until such itemization is provided to the Court and defendant(s).
- 10.05 Any party filing a motion to reopen a default judgment or dismissal may, in the discretion of the Court, have costs imposed for reopening, pursuant to Wis. Stat. §

799.25(13). Default judgments or dismissals will be reopened only upon good cause.

- 10.06 Any attorney or pro se litigant who is required by statute or directed by a judge to prepare Findings of Fact, Conclusions of Law and/or Judgment, or other order(s), shall prepare the appropriate document(s) for the judge's signature and filing no later than 30 days after relief is granted. Unless specifically controlled by statute or otherwise ordered by the judge, it is the responsibility of the moving party and/or his/her attorney to draft and submit the appropriate document(s). Failure of any attorney or pro se litigant to comply with this rule may result in the imposition of sanctions and/or money terms whether authorized by statute or in the discretion of the judge.
- 10.07 In consolidated creditors actions brought pursuant to Wis. Stat. § 218.04(9j), 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.
- 10.08 All exhibits shall be presented to the clerk to mark with the appropriate number. Once an exhibit is received into evidence, it is the custody of the Clerk of Courts unless ordered to be returned by the Court or replaced by a copy. All exhibits shall be held by the Clerk of Courts Office consistent with Clerk of Courts policy or order of the Court.
- 10.09 In eviction actions, upon filing a Summons and Complaint, the case shall be scheduled for a return date before a court commissioner within the applicable timeframe outlined in Wis. Stat. § 799.05.

If the tenant fails to appear at the return date, the Court Commissioner may enter judgment in favor of the landlord. The landlord shall be given sixty (60) days to submit a final request for damages.

If the tenant appears at the return date, but fails to raise a valid legal defense, the Court Commissioner shall enter judgment in favor of the landlord.

If the tenant appears at the return date and raises a valid legal defense, the matter should be scheduled for a court trial before the assigned judge within thirty (30) days of the return date.

Rule 11: Family Law Practice

11.00 All divorce, legal separation, and annulment matters shall be assigned to the various circuit court judges in accordance with a blind draw conducted at the time of the filing in the Clerk of Courts Office in the same manner as any other civil matter. Subject to substitution requests, the judge so selected by blind draw shall be assigned the case for purposes of final hearing and all post-judgment matters consistent with Rule 5.03.

11.01 When a petition for divorce, legal separation or annulment is filed, the Clerk of Court's Office shall set a date for a Stipulated Divorce/Pre-Trial Conference and affix the date thereof to the pleadings.

At the Stipulated Divorce/Pre-Trial Conference, if the matter is resolved, a stipulated hearing may be held.

If the matter is not resolved, the parties shall be prepared to discuss the issues in dispute, the status of discovery and the need for further scheduling.

If both parties at the Stipulated Divorce/Pre-Trial Conference are unrepresented, each shall meet with the judicial assistant of the assigned court prior to the hearing to determine whether all necessary paperwork has been completed.

Prior to any stipulated hearing with pro se parties, the parties shall file completed disclosure statements, a Marital Settlement Agreement or Proposed Marital Settlement Agreement, and proposed Findings of Fact, Conclusions of Law and Judgment of Divorce.

11.02 In any action affecting the family, each party shall, either within 20 days after making service on the opposite party of any petition or pleadings or before filing such petition or pleadings in court, serve a copy of the same upon the Family Court Commissioner. A copy of all Findings of Fact, Conclusions of Law, and Judgment shall be provided to the Family Court Commissioner in all actions affecting the family.

11.03 The party petitioning for a temporary order hearing (Wis. Stat. § 767.23) shall give the other party at least 48 hours notice prior to said hearing.

11.04 At temporary order hearings, both parties shall bring wage statements from their respective employers for a period of twelve (12) weeks prior to the hearing date, a

Financial Disclosure Statement signed under oath, and copies of state and federal income tax returns for the two prior years in the possession or control of each party. Failure to file these documents shall authorize the Family Court Commissioner to accept the statement of the other party as accurate. The Family Court Commissioner may at his/her discretion continue any matter until the financial disclosure is filed.

- 11.05 Any party seeking de novo circuit court review of an order made by the Family Court Commissioner shall file the appropriate motion no later than 10 days after the date of the Family Court Commissioner's order to be reviewed. Failure to do so will constitute waiver of a de novo circuit court review. If waiver occurs, any motion for reconsideration will be addressed to the Family Court Commissioner.
- 11.06 All stipulations for orders to suspend proceedings in divorce actions to attempt reconciliation shall be submitted to the presiding judge for approval.
- 11.07 The stipulation and order referred to in Rule 11.06 shall indicate the date by which the parties must report to the Court the status of the reconciliation, together with the request for dismissal of the divorce action or a resumption of proceedings.
- 11.08 If no report is received as required by Rule 11.06, the Court shall file a twenty (20) day dismissal order.
- 11.09 Alternative Dispute Resolution: Settlement alternatives set out in Wis. Stat. § 802.12 shall be ordered in the discretion of the presiding judge.
- 11.10 Legal and physical custody, and physical placement issues will be controlled by the Order Creating Waupaca County Family Court Counseling Agency. Any attorney and/or pro se litigant requesting a change in physical placement and/or legal custody will be directed to attend mediation prior to the scheduling of any court hearing.
- 11.11 Every party in an action affecting the family which involves children (including paternity) where legal custody/physical placement is at issue, is required to attend the Waupaca County Department of Health and Human Services Department's "Parents Forever." This is an educational program about the effects a dissolution of marriage has upon a child or to provide training in parenting and/or co-parenting skills (Wis. Stat. § 767.115). Each party is responsible for paying his/her own cost for attendance. Attendance by any party may be waived in the discretion of the presiding judge.

- 11.12 If the appointment of a guardian ad litem is necessary, a deposit of \$1,000 (each party to pay \$500) is to be posted. This fee is to be made payable to the guardian ad litem. Payments of guardian ad litem fees will be assessed to any party in the sole discretion of the presiding circuit judge.
- 11.13 If a guardian ad litem's bill reaches \$1,000 and the parties are not reimbursing the guardian ad litem for his/her work, the guardian ad litem shall immediately notify the Court.
- 11.14 All child support, family support and maintenance paid pursuant to pre-existing or new orders shall be paid to the Department of Workforce Development or its designee.
- 11.15 Any party ordered to make payments for maintenance, child support, or family support under interim or final orders in an action affecting the family shall pay to the Wisconsin Support Collections Trust Fund an annual receiving and disbursing fee pursuant to Wis. Stat. § 767.29(1)(d) and its successor statutes. Only one fee shall be imposed on any individual payor for each case file.
- 11.16 Each annual fee payment required by Rule 11.14 shall be made at the time of, and in addition to, the first payment in each year for which payments are ordered. Future legislative modifications of Wis. Stat. § 814.61(12)(b) are incorporated into these rules as they become effective.
- 11.17 Every party, by order or stipulation, directed to make payments of an annual receiving and disbursing fee under Rule 11.14 shall be notified of the requirement to pay the fee and the amount of the fee by including the provisions concerning the fee in any subsequent written order.
- 11.18 In any shared placement arrangement, prior to any hearing to address child support issues, the parties shall meet to determine the number of overnights with each party.
- 11.19 When any party is receiving public assistance, has applied for public assistance, or has received public assistance during the pendency of the action or an arrearage exists in favor of the State of Wisconsin, the moving party shall give notice to the Waupaca County Child Support Agency in accordance with Wis. Stat. § 767.217, submit a copy of the Financial Disclosure Statement, the final stipulation, if any, and the Findings of Fact, Conclusions of Law and Judgment of Divorce.
- 11.20 Pursuant to Wis. Stat. § 767.235(2), unless non-residence in the State is shown by competent evidence, service by publication, or the Court shall for other good cause otherwise order, both parties in actions affecting the family shall be

required to appear upon the trial. An order of the Court or Family Court Commissioner to that effect shall accordingly be procured by the moving party.

- 11.21 Any attorney or pro se litigant who is required by statute or directed by a judge to prepare Findings of Fact, Conclusions of Law and/or Judgment, or other order(s), shall prepare the appropriate document(s) for the judge's signature and filing no later than 30 days after relief is granted. Unless specifically controlled by statute or otherwise ordered by the judge, it is the responsibility of the moving party and/or his/her attorney to draft and submit the appropriate document(s). Failure of any attorney or pro se litigant to comply with this rule may result in the imposition of sanctions and/or money terms whether authorized by statute or in the discretion of the judge. Pro se litigants filing an action must bring the Findings of Fact, Conclusions of Law, and Judgment of Divorce with them to the final hearing. If they do not have the Findings of Fact, Conclusions of Law, and Judgment of Divorce with them at the scheduled time for the stipulated divorce hearing, the case will not be heard and will be rescheduled to enable them to prepare the Findings of Fact, Conclusions of Law, and Judgment of Divorce.
- 11.22 All exhibits shall be presented to the clerk to mark with the appropriate number. Once an exhibit is received into evidence, it is the custody of the Clerk of Courts unless ordered to be returned by the Court or replaced by a copy. All exhibits shall be held by the Clerk of Courts Office consistent with Clerk of Courts' policy or order of the Court.

Rule 12: Probate Practice

- 12.00 Probate proceedings under Chapter 51, Chapter 54 and Chapter 55 are assigned as provided in Rule 6. All estate proceedings shall be assigned to the Register in Probate. Any probate action requiring a hearing before a circuit court judge shall be assigned to the judge on intake at the time the initial application/petition was filed. Any subsequent hearings in a Chapter 54 and/or Chapter 55 case shall be heard by the assigned judge.
- 12.01 Any attorney representing a corporate personal representative must submit an itemized time billing in order to secure approval for attorneys fees. The itemization must be attached to the final account.
- 12.02 Any attorney or pro se litigant who is required by statute or directed by a judge to prepare Findings of Fact, Conclusions of Law and/or Judgment, or other order(s), shall prepare the appropriate document(s) for the judge's signature and filing no later than 30 days after order entered. Unless specifically controlled by statute or otherwise ordered by the judge, it is the responsibility of the moving party and/or his/her attorney to draft and submit the appropriate document(s). Failure of any

attorney or pro se litigant to comply with this rule may result in the imposition of sanctions and/or money terms whether authorized by statute or in the discretion of the judge.

12.03 All exhibits shall be presented to the clerk to mark with the appropriate number. Once an exhibit is received into evidence, it is the custody of the Register in Probate unless ordered to be returned by the Court or replaced by a copy. All exhibits shall be held by the Register in Probate until further order of the Court unless stipulated otherwise.

12.04 The Probate Registrar is considered an interested person for purposes of demanding formal proceedings in an informal estate for any specific issue or for subsequent administration of the estate.

Rule 13: Facsimile Transmission of Documents to the Court/E-Filing

13.00 Facsimile documents transmitted directly to the Courts shall be accepted for filing if:

- a. Pursuant to Wis. Stat. § 801.16, the filing of pleadings or other papers with the Clerk of Circuit Court or Register in Probate, do not require a filing fee, and the facsimile transmission is to a plain-paper facsimile machine at a telephone number designated by the Court. Documents submitted by facsimile transmission shall not exceed 15 pages unless an exception is approved by the assigned judge or court commissioner on a case-by-case basis.
- b. If the facsimile transmission exceeds 15 pages, the party or attorney shall certify that the assigned judge or court commissioner has approved the facsimile transmission.
- c. Documents filed under this rule may be transmitted to the following number: (715) 258-6497.

13.01 Facsimile papers are considered filed upon receipt by the Clerk of Circuit Court if received during regular business hours of 8:00 a.m. to 4:00 p.m. The fax papers are the official record of the Court and may not be substituted. No additional copies may be sent. The Clerk of Circuit Court shall discard any duplicate papers subsequently received by the Clerk of Circuit Court, assigned judge or court commissioner.

13.02 Papers filed with the Clerk of Circuit Court by facsimile transmission completed after regular business hours are considered filed on a particular day if the submission is made by 11:59 p.m. central time, as recorded by the court facsimile