

Monroe County Circuit Court Rules (Seventh Judicial District)

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IN RE THE PROMULGATION OF LOCAL COURT RULES

Purpose

The purpose of these rules is to establish uniform rules of courtroom decorum throughout the trial courts of Wisconsin, and to assist judges and attorneys through prescribed courtroom procedures. They are intended to supplement but not to supersede the Code of Professional Responsibility and Canons of Judicial Ethics and the Supreme Court Rules and legislative enactments of the State of Wisconsin.

Court rules, prior to adoption or revision, shall be presented to both circuit judges for their approval, and the approval of the chief judge of the Judicial Administrative District, which shall be noted in writing on such rule. Proposed and approved rules shall be provided to all counsel of Monroe County, the district attorney's office, and the public defender's office. Should counsel from other counties desire a copy of any or all of Monroe County Court rules, copies shall be mailed to them upon their request. Any orders adopting rules shall specify an effective date. Once adopted and approved, the Court shall file the rules with the clerk of circuit court. The clerk of the circuit court shall send a copy of the filed rules to the secretary of the local bar association in this circuit, the court administrator for this judicial district, the State Bar of Wisconsin, the 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.

Effective Date: April 10, 2006

1.00 Courtroom

1.01 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 in a stand to the right of the judge.

1.02 Court shall be formally opened each day in which court is transacted either by the bailiff or the clerk of court.

1.03 As the judge enters the courtroom, the bailiff or clerk of court shall require all present to rise and stand. When the judge has reached the bench, the bailiff or clerk of court shall say, "All rise, the Circuit Court for Monroe County is now in session, the Honorable presiding. Silence is commanded." All shall be seated and the business of the court shall proceed. At all times during the same day when the judge reenters the courtroom, the bailiff or clerk of court shall say, "All rise" followed by "Please be seated" after the judge is seated at the bench.

1.04 In recessing, the judge shall announce, "The court is now in recess."

1.05 When a jury has been selected and is to be sworn, the clerk of court shall request the jurors to rise while the juror's oath is being administered.

1.06 There shall be no unnecessary conversation, loud whispering, newspaper or magazine reading, or other distracting activity by anyone in the courtroom while court is in session. Tobacco in any form shall not be used in the courtroom. Pop, soda, coffee, and food shall not be possession in the courtroom while court is in session.

2.00 Judge's Conduct

2.00 The judge shall at all times safeguard the rights of the parties and the interests of the public. They shall be dignified, courteous, and considerate of the parties, attorneys, jurors, predilections, control their temper and emotions and avoid conduct on their part which tends to demean the proceedings or to undermine their authority in the courtroom.

2.01 The judge shall wear a judicial robe and sit at the bench at all times while court is in session, provided judicial discretion may be exercised otherwise in extreme conditions.

2.02 The judge shall be punctual in convening court and prompt in the performance of their judicial duties, recognizing the time of litigants, jurors, and attorneys is valuable and that lack of punctuality on their part creates dissatisfaction with the administration of the business of the court.

2.03 The judge shall see to it at all times that the parties, witnesses, and jurors are treated fairly, with due consideration and respect. No discourtesies toward them shall be permitted.

2.04 During the presentation of the case, the judge shall maintain absolute impartiality and shall neither by word nor sign indicate they favor any party to the litigation.

2.05 The judge shall refrain, so far as possible, from intervening during the course of the trial. However, the judge is more than a referee. The judge has the right to question or even to call witnesses to clarify questions and answers and to make inquiries where obviously important evidentiary matters are ignored, not as a partisan or advocate.

2.06 In jury cases which are disposed of upon a motion for dismissal or indirect verdict, the judge in dismissing the jury shall briefly explain the procedure and why a verdict was unnecessary.

3.00 Attorney Conduct

3.01 Attorneys practicing before the courts in Monroe County will comply with the rules of civility promulgated by the Wisconsin Supreme Court and the Wisconsin State Bar Association.

3.02 Counsel shall not knowingly misinterpret the contents of a document, the testimony of witnesses, the language or argument of opposite counsel or the language of a decision or other authority; nor shall the attorney offer evidence which they know to be inadmissible.

3.03 The right to be present during the trial of civil cases may, in the court's discretion, be deemed to be waived by a party or their counsel by voluntary absence from the courtroom at a time when it is known that proceedings are being conducted or are about to be conducted. In such event the proceedings, including the giving of additional instructions to the jury after they have once retired or receiving the verdict, may go forward without waiting for the arrival or return of counsel or a party.

3.04 Each attorney shall be prepared to proceed promptly with matters at the time they are scheduled. If a continuance is requested for good cause, or if the matter is settled, each attorney shall notify the court at the earliest possible time.

3.05 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.

3.06 Lawyers shall examine witnesses from a position at the lectern except when handling exhibits. In no case shall a witness be crowded during examination.

3.07 When a lawyer or party is addressing the jury, the lawyer shall not crowd the jury box.

3.08 During the 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.

3.09 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.

3.10 Lawyers and court officers shall, while in attendance upon the court, be attired in such a manner as not to lessen the dignity of the court or of proceedings in the eyes of the jury and public.

3.11 Lawyers shall advise their clients and witnesses of the formalities of the court and seek their full cooperation therewith. It is expected that lawyers will guide clients and witnesses as to appropriate attire. In addition lawyers shall advise their witnesses that, when sworn, they should stand near the bench or the witness stand. After the witness is sworn, the clerk shall direct the witness to give the court his or her full name, and request the witness to spell his or her full surname. The witness can then be seated.

3.12 Lawyers shall examine witnesses with courtesy and respect, and a witness' good faith should be presumed until the contrary is evident.

3.13 Attorneys, clients, and witnesses shall remain quiet in the courtroom corridors as loud talking and laughter disrupt court proceedings. Conference rooms shall be used for all discussions.

3.14 Attorneys' conduct before the court and with other counsel should be characterized by candor and fairness. All personality conflicts between attorneys and colloquies between the attorneys should be avoided.

3.15 Attorneys shall, insofar as possible, refrain from interrupting each other, speaking at the same time, or arguing between themselves, thus assisting in making a proper record. Attorneys should instruct their witnesses to testify slowly and clearly so that the court and the jury can hear their testimony and should caution witnesses not to chew anything while testifying.

3.16 Attorneys should address the court from a position at the counsel table or lectern. If it is necessary to discuss some question out of the hearing of the jury at the bench, the attorneys may so indicate to the court; and if invited, they may approach the bench for that purpose.

3.17 Unless excused by the judge after the jury has retired to deliberate upon a verdict in a criminal case, the attorneys representing the defendant and the state shall remain in the immediate area of the courtroom so as to be available at all times during the deliberations of the jury and when the verdict is received.

3.18 Attorneys and clients are expected to be in the courtroom on the date and time scheduled. Attorneys with time conflicts in other courts will be given due consideration. Should an attorney be unable to make a scheduled court appearance, proper notice shall be made to the appropriate parties, besides the court, so that such hearing may be rescheduled accordingly and all parties for either side given timely notice not to appear.

3.19 Attorneys shall be required to have their calendars with them in court so that dates can be set in the courtroom of the judge of file 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.

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

4.00 Clerk of Court/Bailiff Conduct

4.01 The clerk of court shall be in charge of all case records and files and shall be responsible for courtroom administration, including the feeding, housing, and transportation of the jury when required.

4.02 The clerk of court shall have the duty to see that each witness is sworn separately and that the oath is administered in a manner calculated to impress the witness with the importance and solemnity of the oath taken.

4.03 When a jury has been selected and is to be sworn, the clerk of court shall request the jurors to rise while the juror's oath is being administered.

4.04 It shall be the duty of the bailiff to maintain order at all times as litigants, witnesses, and the public assemble in the courtroom, during the progress of the trial, and during recesses of the court. This includes the duty to admit persons to the courtroom and direct them to seats and to refuse admittance to the courtroom in such trials where the courtroom is occupied to its full seating capacity.

4.05 It shall be the duty of the jury bailiff to take charge of and supervise the jury during the course of a trial, during court recesses, and during time of jury deliberation to assure that no unauthorized persons come into contact with members of the jury. If such an attempt is made, the jury bailiff and bailiff shall notify the judge at once. During sequestered trials, the bailiffs shall take the foregoing precautions on a 24 hour a day basis.

4.06 The jury bailiff shall assist jurors as necessary with personal problems if they arise and shall inform the judge of any unusual problems of jurors which should be called to his or her attention.

4.07 The jury bailiff and bailiff shall at no time discuss with the jurors, litigants, witnesses or attorneys any issues involved in the trial nor make any effort to assist the jurors in their deliberations.

5.00 Assignment of Cases and Priority

5.01 Initial appearance - definition

When the plea of not guilty or guilty is received from defendant.

1. Initial appearance - juvenile
When party denies or admits allegation.

5.02 Misdemeanors

Judge who presides at initial appearance is judge who is assigned case.

5.03 Felonies

Judge who presides at preliminary hearing is judge who is assigned case.

5.04 Conflicts in court schedules if both branches have trials including one or more of the same attorneys, the branch which is not on intake will have priority. (This applies to both jury and bench trials.)

5.05 Judge who is assigned to case will preside over all hearings, including but not limited to arraignment, motions, trials, final pleas, and sentencing.

Exception:

1. Pretrials and status
2. Hearings when assigned judge is ill or otherwise unavailable.
(Assignment by general assignment)
3. Consolidations
When a defendant has cases assigned by both judges, they can consolidate before one judge by agreement of judges, attorneys and district attorney's office. This agreement can be made over the phone prior to a hearing, but must be made in writing at the time of hearing.

(Note: Should a defendant wish to plead after pretrial or status not heard by assigned judge, then assigned judge's office shall be contacted to see if a time can be scheduled for the plea before the assigned judge as soon as possible or if the assigned judge consents to another judge hearing the plea.)

(Note: For traffic cases, the clerk's office will stamp the name of the judge assigned on the citation after initial appearance is made as defined above.)

6.00 Case Processing Time Guidelines

6.01 The following case processing time guidelines are for the processing of cases and are designed to provide a guide to the judiciary and the bar. Unless otherwise indicated, the guidelines represent the time period from filing to final disposition.

Felony	6 months
Misdemeanors	3 months
Criminal Traffic	3 months
Traffic Forfeiture	4 months
Non-Traffic Forfeiture	4 months

PI/PD	18 months
Contract/Money Judgment	12 months
Administrative Review	12 months
Other Civil	12 months
Divorce	12 months
Paternity	6 months
Reciprocal Support	6 months
Other Family	6 months
Small Claims	3 months
Estates, Informal Probate	12 months

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.

7.00 General Rules - All Matters

7.01 All moving documents, briefs, or supporting papers shall be filed within 24/48 hours before any hearing to which such documents relate.

7.02 Unilateral phone calls or letters to the clerk or judge directly to avoid a time fixed for a pretrial, trial, motion, or other proceeding are attempts to secure the consideration of the court without reference to the rights of other parties in interest and their attorneys. Phone messages and letters may be used from time to time when court appearances are required and there exists just cause for a continuation without sufficient time for proper petition and notice. Such emergency messages are provisional only and do not supersede a motion under Section 801.01. In such instances, a failure to inform opposing counsel and the court immediately shall render an attorney liable to sanctions. The court may enter an order sua sponte requiring any offending counsel to appear in court forthwith to justify his actions.

7.03 No one will be allowed in the computer law research center or the book area of the judge's chambers without the consent of the judge(s).

The clerk of court or the judges' judicial assistants will obtain the books for interested persons. Branch I's judicial assistant will arrange use of court's computer research center. They will be allowed no more than two books at a time and they will be studied in a designated room in the courthouse only. Books will not be removed from the courthouse.

7.04 Relief of parties disaccommodated. Defaults in meeting the requirements of rules set forth herein are liable to a motion to dismiss on the merits, imposition or motion costs and/or assessment of terms. Such action may be taken on a motion by an opposing party, without notice if in open court, or on the court's own motion and compliance with the order issued will be made a condition precedent to further action on the case.

7.05 Assessment of costs. When an order for a pretrial conference or status conference or hearing on trial issues has been made and one or more of the parties does not appear as required and fails reasonably to take action appropriate to prevent unwarranted expense to the county or delay in the court's system and calendar, the court will make summary inquiry into the matter or order a hearing to consider assessing costs against the offending parties to reimburse the court for appearance of jurors, cancellation of a venire and other related expenses, including those incidental to hearings required to secure the integrity of orders of the court.

7.06 Submission of documents to opposing counsel. Should there be other counsel in an action, moving counsel shall direct, before submitting to the court, any proposed orders, findings, conclusions of law or judgment, shall be submitted to opposing counsel. A place for notation of the approval of opposing counsel as to form shall be provided at the foot thereof. Alternatively, counsel may mail a copy to opposing counsel with the condition that if no objection is made to the court within five (5) days approval is to be presumed. In the event that such documents have been mailed to opposing counsel and in the event opposing counsel either fails to return such documents to the mailing attorney or refuses to approve the same without communicating to the mailing attorney, such documents or copies thereof may be signed by the court without such approval. The attorney having the right of approval shall notice the drafting attorney, in writing, of any objections they have to the proposed documents, with a copy to the court, and shall then either bring a motion before the court for purpose of setting forth their objections and suggested modifications or provide in writing to both the drafting counsel and the court their

suggested modifications for the approval of such parties under the same five (5) day time limit for approval.

7.07 Scheduling. When hearings are being scheduled with the judge's office, all counsel shall be conferenced in for scheduling. All parties shall work together in getting the matter scheduled as promptly as possible. Should there arise a conflict, prior court appearance scheduled or prior client/court meetings scheduled, the case shall be put on the next intake calendar for a scheduling decision by the assigned judge, if any.

7.08 Jury cancellations. **Civil matters:** Settlement negotiations must be completed no later than three (3) business days prior to trial. Should they not be, the court may exercise its discretion for sanctions pursuant to Sec. 814.51 of the Wisconsin Statutes.

Criminal matters: Settlement negotiations must be completed no later than date of the status hearing. Should they not be, the court may exercise its discretion to impose sanctions in accordance with the Wisconsin Statutes. Settlement negotiations completed after the status conference and after the case is scheduled for trial must be resolved by either a dismissal or a plea to all charges, unless waived by the judge for good cause. If the state intends to dismiss the action or if the defendant intends to enter a plea to all charges in the complaint/information, the parties must notify the court of that fact by noon on the Friday proceeding the trial week.

7.09 Out of county trials: A copy of any order under Sections 971.22 or 971.225 changing the place of trial to another county or requiring the selection of a jury from another county shall be sent by the ordering judge to the chief judge and district court administrator of their judicial administrative district prior to the scheduling of any activities in the other county. The scheduling of any activities in the other county shall be done by the chief judge or district court administrator (DCA) in consultation with the ordering judge, the chief judge, and DCA of the district in which the other county is located (if different) and the clerks of court of both counties. Once determined, the chief judge or DCA shall confirm the chosen dates with the ordering judge, the chief judge, and DCA of the other county and the clerks of court.

7.10 Individual judges may establish, by a scheduling order, at a scheduling conference, a timetable for the future progress of the case (i.e., discovery motion time limits, dates and subjects of pretrials or status conferences, trial, etc.)

7.11 Briefs on contested matters (not trials)

1. Time for briefing shall be computed under Sec. 801.15, Wis. Stats., unless the court orders a different briefing schedule, i.e., scheduling order. Unless the court otherwise orders, any party presenting or filing a contested motion or exceptions to a referee's report, objections or other contested matter calling for a decision by the court, such parties shall deliver, upon filing of such motion, to the clerk of courts, a brief containing a short statement of his or her reasons in support of his or her position, together with the citations of the authorities upon which he or she relies. The adversary party shall, according to the briefing schedule, file an answering brief containing a short statement of the position upon which they rely to meet the points made in the supporting brief, together with the citations of authorities upon which they rely. No brief, beyond the reply shall be filed, except upon leave granted. No brief beyond the reply shall be filed except upon leave granted. The court may, by order, excuse the filing of supporting, answering, and reply briefs, and may shorten or extend the time fixed by this rule for the filing of briefs. Each party shall serve a copy of their brief upon their adversary and file a proof of such service at the time of filing of their brief.
2. Failure to file any of the briefs provided for by the above rule shall not be deemed to be a waiver of the motion or matter on the part of the supporting party or a withdrawal of opposition by the opposing party, but the court may upon its own motion or on the motion of any party take such action, including the striking of such motion or the granting of such motion, without further briefs or hearing or the entry of an order to file supporting or opposing briefs as it may in its discretion determine.

7.12 Continuances.

Petitions for continuances of conferences, hearings, pretrials or trials shall be made in a timely fashion whenever possible. Notice of the same shall be provided to all counsel and parties of record. Should there be an objection to a continuation then a hearing date shall be established to hear such arguments, should time allow, or a telephone conference call, or personal appearance, shall be scheduled before the court for purposes of hearing counsel's positions and then followed upon for confirmation of such events, with copies to all counsel. Should a written request for confirmation not be able to be provided and such continuation request be made by phone, all parties shall be included in such phone request and a written request shall follow forthwith with copies of the same being provided to all parties by moving counsel.

Should continuation request be for medical purposes a written statement by the attending physician shall be required to be provided to the court prior to the scheduled hearing.

7.13 Unless good cause for a shorter time period has been shown to the judge, a party moving that any judicial proceedings required by law to be public be closed to the news media must notify the court and the media coordinator, in writing if possible, 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.

7.14 Papers that do not require a filing fee may be filed with the clerk of court and/or the judges by a facsimile transmission to a plan-paper facsimile machine at a number designated by the court. There is a 15-page limit for a facsimile transmission, unless an exception is approved by the assigned judge. If the facsimile exceeds 15 pages, the attorney/party shall certify that the assigned judge has approved the facsimile transmission.

1. Facsimile papers are considered filed upon receipt by the clerk of court and are the official record of the court and may not be substituted. No additional copies may be sent. The clerk of circuit court shall discard any duplicate papers subsequently received by the clerk of circuit court, assigned judge, or court commissioner.
2. Papers filed by facsimile transmission completed after regular business hours of the clerk of the circuit court's office are considered filed by the next business day.

8.00 Motions

8.01 Any supporting papers, including records or affidavits upon which a motion is filed, shall be served with the notice of motion. References to documents in the case file or depositions is not permitted. Pertinent parts of documents, depositions, interrogatories or admissions shall be reproduced and attached as part of the appendices. The specific parts sought to be utilized shall be color lined.

8.02 (a) Oral argument on motions shall be heard at the discretion of the court.

(b) Oral argument shall be conducted upon the file and record and no testimony may be taken without permission of the court obtained prior to noticing the matter for hearing.

8.03 Should counsel for any party fail timely to give a notice, deliver supporting papers, or serve a brief, the motion may be decided against his client for such cause, or the motion hearing may be adjourned with costs and attorney fees be awarded to the inconvenienced party. Further, should any motion be brought frivolously, mischievously, or clearly without legal merit, the court will award the inconvenienced party costs and reasonable attorney fees.

8.04 All motions shall be in writing and shall be accompanied by a written affidavit unless this requirement is waived by the court.

8.05 Notice of hearing of a motion shall be served not later than five (5) days before the time specified for the hearing, unless a different period of time is fixed by statute or order of the court.

8.06 The moving party shall schedule the motion hearing date, provide notice of the hearing date, and file the motion and notice of motion with the clerk of court with a courtesy copy to the assigned judge.

8.07 If a moving party desires to file a brief, affidavit, or other document in support of a motion, other than one for summary judgment or dismissal, such motion and supporting materials shall be received by all counsel of record and/or parties not represented by counsel of record and the assigned judge. These documents shall be filed with the clerk of court no later than five (5) working days before the time specified for the hearing.

9.00 Pretrials and Status Conferences

9.01 Attorneys appearing at the pretrial conference shall have full authority to enter into a stipulation.

9.02 Pretrial conferences shall be held in all contested civil actions. At least one attorney planning to take part in the trial shall appear for each of the parties to the action, if more than one, and shall participate in the pretrial conferences.

9.03 Counsel shall prepare in writing, time allowing, in advance of pretrial conferences and for presentation at the pretrial conference, a concise factual statement of the claim and/or defense of their client, including specification and documentation of all damages claimed. Counsel shall prepare and

furnish at the pretrial conference a written statement of the stipulations to which opposing parties can reasonably be expected to enter.

9.04 If, without just excuse or because of a failure to give reasonable attention to the matter, no appearance is made on behalf of a party at the pretrial conference, or if any attorney is grossly unprepared to participate in the conference, the court may, in its sound discretion:

1. Reschedule a conference and order the payment by the delinquent attorney or, when just, by the party, by attorney represents, the reasonable expenses, including reasonable attorney fees, to the disaccommodated party;
2. Conduct the conference and enter the pretrial order without participation by the delinquent attorney;
3. Order striking of pleadings, dismissal or entry of a default judgment.

9.05 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 client shall be required.

9.06 A defendant may waive the pretrial with the district attorney's office. The waiver must be made at or before the initial appearance before the court. If a defendant waives the pretrial, a status conference shall be scheduled after which the case will be forwarded as soon as reasonably possible to the assigned judge for scheduling.

9.07 Personal attendance of the prosecutor, defense attorney, and defendant at criminal status conferences are mandatory.. Failure to appear may result in costs assessed and sanctions, and a warrant for the defendant's arrest. Status conferences may be adjourned only with permission of the assigned judge. While personal appearance is preferred at the pretrial conferences, pretrial conferences may be accomplished by the scheduled date by e-mail, mail, and telephone conferences

10.00 Civil Cases

10.01 Within 90 days of filing, all civil cases will be reviewed for service and answer. 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. Should the court elect to proceed, the court may contact the parties and/or their counsel and inquire as to the status of the case and set a hearing date on the same convenient date and time to all parties.

10.02 Should there be a scheduling order entered on a particular case and a deadline therein not be able to complied with by either party, said party shall provide to the court written notice of this fact and set forth their reasons for such failure to comply and the amount of additional time required.

10.03 In all actions where personal service was obtained upon the defendant, no notice to defendant is required prior to entry of judgment (EXCEPT as to mortgage foreclosure).

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 shall be entered.

10.04 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.

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

11.00 Small Claims

11.01 Except in eviction and replevin actions, a defendant in a small claims action may file a written answer in any action specified in Sec. 799.01 Stats. Such written answer must be received by the small claims office not later than 20 days after the "date of summons" or by the return date set in the summons, whichever is earlier. A copy of the written answer must be mailed to plaintiff's lawyer, if any, or to the plaintiff.

If a written answer is filed pursuant to this rule, neither plaintiff nor defendant are required to appear on the return date contained in the summons. Sec. 799.22(4) and 799.05(3) Stats.

11.02 Monroe County authorizes the service of summons in all small claims actions, except evictions and replevin actions, by mail in lieu of personal or substituted service. Evictions and replevin actions must be served by the Monroe County Sheriff.

11.03 Both parties must make an appearance on the return date. Plaintiff may have their appearance noted on record, without a personal appearance, on the return date should they so request, in writing, at the time of the filing of the action. Should defendant appear, then a trial date will be scheduled and both parties notified of the time.

Defendant may make his appearance in writing by the return date by filing an answer with the court prior to the scheduled date and time of the initial hearing and providing copy of such answer to the plaintiff or plaintiff's counsel. A trial date will then be scheduled and notice to both parties provided.

12.00 Criminal and Traffic Matters

12.01 After imposing the sentence in a juvenile drinking or possession of alcohol sentence, the court has the authority, 48.344(2)(g)(a), with the agreement of the child, to stay or modify the order, if the child submits to an alcohol or other drug abuse assessment; participates in an out-patient AODA program; or participates in a court approved AODA education program.

12.02 Fine Payment Plan: Effective immediately, all parties under a fine payment plan will:

1. Request a pay plan when the defendant enters his/her plea of no contest/guilty.
2. The minimum monthly payment will be \$50.00.
3. Sign a wage assignment, if employed.
4. Failure to make payments on a regular monthly basis will result in a commitment order.
5. Should a defendant require an extension of time in order to pay their fine, they shall contact the appropriate judge's judicial assistant. There shall be no more than two (2) extensions provided.

12.03 A mandatory appearance will be required for those traffic offenders who are accused of first offense OMVWI and OAR.

This rule is being established because when the arresting officer checks no mandatory appearance necessary on the citation, offenders do not realize that they have to appear in some fashion or another. We are then issuing warrants for their arrest which surprises them. This should alleviate this misunderstanding.

12.04 Plea Negotiations. Plea negotiations will be completed, finalized and accepted at or before the status conference.

There shall be no exceptions

After that date, the defendant will plead guilty to pending charges or will go to trial, and there will be no adjournments.

Responsibility for plea negotiations is not one-sided. The state and the defense have the responsibility to act in good faith to resolve matters in a timely fashion.

12.05 Bench Trials. Scheduling of bench trials:

1. A defendant who has a scheduled bench trial may change his or her plea to "guilty" or "no contest" subject to the following conditions:
 1. Notification of the change of plea must be made no later than 48 hours prior to the scheduled trial.
 2. Notification of the change **must be in writing.**
 3. Failure to comply will result in costs being imposed.Upon receipt of the written notification, the district attorney will cancel the appearance(s) of its witness(es).
2. The district attorney's office must notify the court no later than three (3) days before a scheduled bench trial of its request for a postponement. Absent an emergency, failure to comply will result in dismissal of the case.

12.06 Release from Custody Rules.

Release from custody rules for misdemeanor arrests under 968.075:

1. Release from custody on signature bond if:
 1. In-state resident.
 2. No violations of existing domestic abuse injunctions against the same person.
 3. Suitable alternative living arrangements until court appearance.
 4. No earlier failure to appear in court when requested.
 5. Execution of conditional release and contact prohibition from.
 6. Direct all those released to appear in court the following Monday morning at 10:00 a.m.
 2. Felony arrests under 968.075 hold for appearance before judge.
 3. If subject does not meet the above criteria, subject must post a cash bond for the specific charge arrested for and also must fill out an execution of conditional release and contact prohibition form.
- 12.07 Bond Policy

Section I Traffic

A. In-state residents. Request bond or driver's license. If defendant cannot post either, release; except for those defendants who have failed to appear in the past.

B. Out-of-state residents. Require bond.

Section II Traffic

All defendants charged with Section II traffic offenses shall first be booked into the Monroe County Jail.

A. County residents can be released without bond.

B. In-state residents. Release without bond.

C. Out-of-state residents. Require bond.

Misdemeanors

A. State residents may be released without bond at the discretion of the arresting police agency.

B. Out-of-state residents require a bond.

Felony

A. State residents may be released without bond at the discretion of the arresting police agency.

B. Out-of-state residents require bond. But release only at the discretion of the arresting police agency.

12.08 Probation and Restitution Rights [973.09 - (1m)]

Under the authority of 973.09(1m) Wis. Stats., it is hereby ordered:

That the amount of victim restitution in all crimes, both adult and juvenile, shall be documented as to nature and amount by the law enforcement agency involved in the investigation or the Victim-Witness Coordinator's Office with the cooperation of the district attorney's office prior to sentencing.

Disputes as to amounts of restitution shall be resolved by the court upon application of any interested parties.

12.09 Domestic Abuse.

Release from custody rules for domestic abuse arrests.

A. Release from custody on signature bonds:

1. There will be no contact with the victim until the bond hearing date. (This is in place of the 24-hour no-contact rule as described in the statutes.)
2. If drinking is involved, there will be no drinking and no going into taverns until the scheduled bond hearing date.

12.10 Pleas to amended charges will not be taken until an amended complaint or information has been filed with the court setting forth the new charges.

12.11 The judge will, if practical, set a sentencing date at the same time a presentence report is ordered and that date will be noted on the minute sheet. The clerk's office will then forward the sentencing date along with other presentence information to Probation and Parole, DHSS. The sentencing date should be approximately 45 days from the date the presentence is ordered. Probation and Parole will file the presentence report no later than one (1) week prior to sentencing if possible, or shall contact the court and advise of the approximate date and time the same will be arriving and the reason for any delay. The agent writing the report will attend the sentencing unless excused prior to the hearing by the judge after the agent first contacts the prosecutor and the defense attorney.

12.12 Periods of confinement in jail, either by sentence or as a condition of probation, shall have set forth in the record whether the same is to be with huber or without huber.

12.13 One set of court costs will be imposed for each file. One set of victim witness fees and jail fees will be imposed for each count. It shall be stated to the defendant at the time of sentencing that should they fail to make their fine payments as ordered, or make arrangements for the payment of the same, that they may be sentenced to one (1) day in jail for every \$25.00 still outstanding at the time the full amount is to have been paid.

12.14 Sentencings after revocation of probation in criminal cases.

Sentencing hearings arising under this heading will be assigned to the particular judge that placed the defendant in question on probation.

12.15 When a request to reopen a case comes in, it shall be assigned to the judge who dismissed (with the right to reopen) the same. Should counsel desire that a new judge hear the same, a motion for substitution of judge will be filed accordingly.

12.16 Where a motion is made or an action is started to vacate a judgment and reopen a case, that motion or case will be assigned to the judge who entered the judgment under attack. If the judgment is vacated or reopened, the judge so ordering will hear the case unless there has been filed a request for a substitution of judge filed by counsel.

12.17 Preliminary Hearing. If time limits for having a preliminary hearing are not waived, the court must find good cause to reschedule. Good cause would not include belatedly waiving time limits so a pretrial conference can be held.

13.00 Family Matters

13.01 A preliminary financial disclosure statement must be filed by both parties with the family court commissioner before or at the time of the hearing on the temporary order or prior to the entry of any temporary order based upon a written stipulation.

Failure by either party to complete, present, and file this form as required will authorize the family court commissioner to accept the statement of the other party as the basis of its decision.

Every motion or order to show cause scheduled to be held before the family court commissioner, prior to a final hearing by the court, to set or modify support, family support or maintenance, shall contain language which requires both parties to submit to the court at the scheduled hearing completed financial disclosure statements and verification of income, if required.

Failure to comply with the rule may result in the dismissal of the matter, a continuance and/or costs being assessed.

An updated final financial disclosure statement shall be filed at the time of the final hearing. Failure by either party to timely file a complete disclosure with the court as required shall authorize the judge to accept the statement of the other party as accurate.

13.02 Any temporary order, judgment or post judgment order which contains a provision for maintenance, child support, or family support payments shall include language consistent with Wisconsin Statutes 767.265(1) which allows the family court commissioner the discretion to process an assignment of income in an amount sufficient to meet the current amount due and to defray arrears of record due. Where child support and/or maintenance is ordered by the court at trial, the payer shall execute a wage assignment

before leaving the courthouse. Such wage assignment shall be placed into the file of the payee to be put into effect immediately should payer become delinquent in the ordered payments. Counsel for payee and payer shall attempt all efforts to make a good and reasonable effort to determine the cause for such delinquency and if the same is justified. With the approval of their clients, counsel may make arrangements for the payment for the arrearage, without the assignment being placed into effect. Such arrangement shall be put into writing and executed by all parties. Should such agreement fail to be adhered to, counsel for the payee shall be allowed to put the wage assignment into effect immediately providing notice to the opposing counsel of such action being taken. Such assignment shall not apply should payer have previously submitted a wage assignment to counsel and the same is in counsel's file.

Any assignment of income placed into effect may be allowed to make arrangement for payment of the ordered support/maintenance, plus an additional amount to eliminate the arrears of record within a reasonable amount of time. However, the amount of the assignment may not exceed 150 percent of the current support amount. Once all arrears have been paid off, the assignment shall decrease to the amount of the current support payment.

13.03 Unless otherwise provided by the judge, all arrearage in temporary maintenance and support ordered before the granting of the judgment shall be carried forward as an arrearage in the judgment. Unless the parties agree otherwise, or it is shown by credible evidence that the records of the clerk of courts are not accurate, the amount of such arrearage shall be shown by said records.

13.04 A copy of all pleadings shall be served on the family court commissioner for Monroe County. A copy shall be served upon the Monroe County child support agency and corporation counsel should a party be receiving AFDC or W-2, has received during the pendency of the action or has applied for Aid to Families with Dependent Children, (AFDC) or W-2. They shall further be notified of the scheduled final hearing date so that they may attend should they so desire. In addition, they shall be provided a copy of the findings and judgment once the same has been signed by all concerned parties. Should there be an arrearage due in the child support, they may be required to approve the findings and judgment should provisions be made therein for the payment of such arrearage.

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

- A. The address of both parties.
- B. The name and address of the employers of the parties.
- C. The name and birthdates of any minor children.
- D. The language required by Wisconsin Statute 767.23 and 767.29(1).
- E. The commencement date for the support payments.

13.06 Once a matter has been scheduled for a hearing, there may be no adjournment unless both counsel agree to the same or the requesting counsel submit a motion which is scheduled for a hearing for the same with service being made on the opposing counsel in a timely fashion.

13.07 The findings of fact, conclusions of law and judgment shall include the last known address and the earnings of each party, if known. When real estate is involved, the legal description shall be required, if known. Before submission to the court for approval and filing, they shall be submitted to the opposing counsel, if any, The original and three (3) copies must be submitted to the court within 30 days of the final hearing for filing. If a stipulation is incorporated into the judgment, a copy of said stipulation must be attached to the original and all copies. Copies shall be provided to all appropriate parties, i.e. family court commissioner, attorneys of record, corporation counsel, and child support agency, if involved.

In the event the findings and conclusions and judgment are not filed within the 30 days required under Sec. 767.37(1)(a), the judge will initiate an order to show cause for contempt against the attorney/party responsible for preparing and filing said documents and the judge will impose appropriate sanctions.

After the findings and judgment have been signed by the appropriate judge, the original findings and judgment shall be time-stamped in the main office.

The clerk of court will send out copies of the judgment to the parties. Again, such proposed findings and judgment must be submitted to the opposing counsel, if any, for their approval prior to being submitted to the court.

13.08 A 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 State of Wisconsin an annual receiving and disbursing fee of \$35.00. Only one fee shall be imposed on any individual payer for each case file. Each

annual fee payment shall be made at the time of, and in addition to, the first payment to the State in each year for which payments are ordered.

Every party ordered to make payments of an annual receiving and disbursing fee 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.

Any stipulation between parties under which a party is to make maintenance payments, child support, or family support payments shall include the requirement to make the annual receiving and disbursing fee.

If a party required to make an annual receiving and disbursing fee does not do so, the State of Wisconsin may:

A. Bring a motion before the court for an order of contempt under Chapter 785, Wis. Stats.

B. Apply to the court or court commissioner for an assignment relating to the annual fee according to 767.265, Wis. Stats.

In all actions affecting the family in which the court has previously ordered an annual receiving and disbursing fee to be paid, beginning January 1, 1992, the amount of the fee shall be the amount established by this rule. The State of Wisconsin shall notify by mail those payers affected by this rule prior to the date on which the fee must be paid.

13.09 Temporary restraining orders or injunctions shall be signed by the court if Section 767.23(am) and Section 813 of the Wisconsin Statutes have been complied with to the satisfaction of the court as shown by an affidavit or verified petition. When a temporary restraining order, pursuant to Section 813.025(2), Wis. Stats., is sought, all papers shall first be submitted to the court for approval. Before noting approval, the court shall have the right to examine the applicant to determine whether the facts stated in the petition or motion for such relief conform to the requirements of the statute.

13.10 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.

13.11 A waiver of mandatory mediation may be granted by a judge or a family court commissioner upon examination of an affidavit if the affidavit presents sufficient evidence to support the waiver. If a party objects to the waiver, an evidentiary hearing will be conducted by the family court commissioner, judge if a post-judgment matter. Waiver of the mandatory mediation session does not excuse attendance at the orientation session; it modified only the requirement for both spouses to be present at the same session.

13.12 All domestic abuse cases filed with the clerk of courts for Monroe County pursuant to Chapter 813, Wis. Stats., shall be considered civil cases but shall be assigned to be heard by the intake judge, if available. Either judge may sign the order for hearing. Such hearings shall be heard approximately fourteen (14) days hence.

In domestic abuse cases, the court may reissue its temporary restraining order where service has not been obtained on the first temporary restraining order, without the requirement that a new action be filed or a new filing fee be paid, but possibly with the requirement that the petitioner restate, under oath, the facts previously alleged in the petition and/or allege new additional facts in support of the petition. Such re-issuance shall again be scheduled approximately fourteen (14) days hence.

13.13 Should child support be an issue to be decided by the court and should there be an outstanding arrearage, counsel shall provide to the court an affidavit attesting to the status of the child support and/or maintenance account. Said affidavit shall be summary and not detailed. A printout, if available, shall be obtained from the clerk of court.

13.14 Enforcement or modification of judgment shall be obtained pursuant to Section 767.02(1)9i), Wis. Stats., or by motion. Such motions shall be scheduled before the judge who presided over the final hearing of such divorce proceeding.

If such matters are brought by motion, the notice of motion shall recite the time, date, judge, and place of the hearing. Proper time and notification of the proper parties shall be made with proof of the same provided to the court.

13.15 Mediation

Monroe County will pay the first \$90.00 for mediation in newly filed family cases; however, there must be a referral form or order filed with the Monroe County Clerk of Circuit Court signed by either judge or the family court commissioner.

For Monroe County to pay for mediation in post-judgment cases, there must be a referral form or order filed with the Monroe County Clerk of Circuit Court signed by either judge or the family court commissioner and a pending motion and two (2) years has elapsed since the entry of the final order.

13.16 Divorce cases involving minor children:

A. All parties filing for divorce who have minor children born of the marriage are ordered to complete the "Children in the Middle" program, an educational program dealing with the effects of divorce on children.

B. The litigants in any case heard before the family court commissioner for a temporary hearing will be required to attend the next available class. The parties failure to complete the "Children in the Middle" program may be considered by the family court commissioner in responding to request to modify the temporary order.

C. No divorce shall be granted until the "Children in the Middle" program is completed.

D. The "Children in the Middle" program shall be completed within 120 days of the filing of the divorce. Failure to complete the program may lead to court sanctions including contempt.

E. Each party shall pay for the cost of the program. The parties shall pay their fees directly to the agency conducting the program prior to the commencement of the class attended.

F. Post divorce litigants may be required to attend the "Children in the Middle" program if they have not previously attended.

G. This rule shall be effective for marital actions filed on or after October 1, 1997.

14.00 Juvenile Cases

14.01 The first time a juvenile enters the court system for delinquency and/or chips proceeding (when delinquency/CHIPS petition is filed), the judge who hears initial appearance shall be the judge assigned that juvenile for disposition hearing on all future actions. Initial appearance is defined as when juvenile denies or admits allegations.

Either judge can hear an initial appearance, status, motion, etc., subsequent actions; however, the action MUST REVERT to initially assigned judge for dispositional hearings.

14.02 Waiver hearings shall not be heard before the initially assigned judge so that upon admission or denial of the waiver, the case can then return to the initially assigned judge for disposition.

15.00 Probate Court

15.01 All papers filed in any probate action shall bear in the caption the case number assigned by the register in probate when the file is commenced. It shall further provide, if any, the case classification and case code number.

15.02 Any persons required to file any paper in probate court is responsible for the preparation of the paper. All papers shall be legibly written on substantial paper and shall state the title of the proceeding in which they are filed and the character of the paper. Uniform forms shall be used if suitable and available. If papers are not so written or if uniform forms are not used when suitable and available, the register in probate office may refuse to receive and file them. The register in probate office shall show on all papers the date of their filing.

15.03 The register in probate shall exercise the duties and powers allowed them unless a motion by interested parties is filed to bring the matter to the attention of the court.

15.04 Hearings shall be held on the first, third and fifth Mondays of every month, commencing at 2:00 p.m.

15.05 Probate court matters shall include all probate and guardianship actions under Chapter 851 and 880, trust actions under Chapter 701. All documents pertaining to these matters shall be filed in the office

of the register in probate. All matters pertaining to involuntary civil mental and alcoholic commitments, adoption cases, and juvenile cases shall be filed with the juvenile clerk.

15.06 Attorneys and personal representatives shall be prepared to exhibit cancelled checks or other evidence of payment for all disbursements on the final account.

All final accounts shall have attached a detailed schedule O in addition to all other schedules.

A final distribution schedule shall be submitted reconciling the balance per the final account with receipts from the distributees.

Receipts or other evidence of transfer shall be filed within 120 days after entry of final judgment pursuant to Wisconsin Statutes.

16.00 Guardianships

16.01 The following procedures are adopted in the circuit courts of the 7th judicial district. Any deviation from these rules shall require prior approval from the court.

A. Guardian of the Estate:

1. Training. All new guardians shall be encouraged to acquaint themselves with the resources available to assist guardians including, but not limited to, manuals, publications, and formal training sessions.
2. No loans shall be made to the guardian, any family member or anyone else.
3. No gifts. This is an inappropriate use of funds that should be retained for the ward's needs. Contributions may not be made on behalf of the ward.
4. Expenses. Reimbursable expenses are reviewable by the court.
5. Bonds. Any estate with a value over \$5,000.00 requires a surety bond.
6. Inventory. All guardians of the estate must file an initial inventory within 30 days after appointment.
7. Annual account. All guardians of the estate must file an annual account yearly. No request for fees will be granted until the filing of the annual account is approved by the court. The register in probate of the circuit court is ordered to review these annual accounts.
8. Guardians are not allowed to use the ward's money to purchase personal items for themselves.
9. Guardians shall establish a burial, casket and vault trust if sufficient funds are available.
10. Prior approval from the court is required for any expenditure over \$500. This requirement does not apply to monthly nursing home fees or rent.
11. Absent extraordinary circumstances (as determined by the court), the guardian of the estate shall contact the ward monthly and visit the ward at least on a quarterly basis.
12. There shall be a monthly limit for rates charged in corporate guardianships. An expense statement must be submitted semi-annually detailing these charges.

B. Guardian of the Person

1. Annual report. All guardians of the person must file an annual report.
2. The guardian of the person is expected to contact the ward monthly and visit the ward on a quarterly basis.
3. The guardian of the person is responsible for seeing that the ward is properly cared for in terms of food, shelter, clothing, and entertainment.
4. The guardian of the person is responsible for making informed medical decisions for the ward.
5. Corporate guardianships are allowed when other arrangements are either inappropriate or unavailable.

17.00 Media Coordinator

All reporters who plan to bring electronic recording devices and still cameras into the courtroom must make their requests through the media coordinator. If possible, the trial judge shall be given notice, at least three (3) days in advance, of the intention of the media to bring cameras or record equipment into the courtroom. In the discretion of the trial judge, this notice rule may be waived if cause for the waiver is demonstrated. See SCR 61 for further information on rules governing coverage of judicial proceedings by electronic media and still photography.

18.00 Child Support

18.01 A person arrested on child support warrants who posts the appropriate bond shall be instructed to return to the court the following Tuesday at 1:30 p.m.

19.00 Removal of "No Contact" Conditions

19.01 Removal of "No Contact" bond conditions

1. A request to remove a "no contact" condition from a bond can only be made by a party to the action; i.e., the district attorney or the defendant.
2. The court will not schedule a hearing on any request to remove a "no contact" until a criminal complaint has been filed.
3. Requests to remove a "no contact" condition will be heard at the time of the initial appearance on the criminal complaint.
4. Requests made after the initial appearance must be submitted in the form of a written motion. When the "no contact" condition pertains to a victim, the victim must appear in person and will be questioned by the court.
5. Victims or witnesses who contact the district attorney, another attorney or law enforcement agencies about the removal of "no contact" conditions should not be referred to the judge or clerk of court.

Explanation of Rule:

A person who has been arrested as a result of a domestic abuse incident may be (1) released outright;¹ (2) Conditionally released;² (3) released after posting a cash bond;³ or (4) held pending an initial appearance before a judge or court commissioner to set conditions of release.⁴ The arresting officer makes the initial decision as to which alternative best fits the facts at hand.

Outright or conditional release may be inappropriate if it appears that the arrestee poses a risk of causing further harm to the victim; and many arrestees lack sufficient funds to post a cash bail. Arrests frequently occur at night or on weekends and the arrestee then faces the prospect of remaining in jail, pending an appearance before a judge or court commissioner.

To avoid the needless pretrial detention of persons who law enforcement officers feel can be released on a recognizance bond with conditions, the court adopted the following policy when Sec. 968.075 (Domestic abuse incidents, arrest and prosecution) was enacted:

Domestic abuse incident arrestees may be released on a recognizance bond with a "no contact" condition as to named victims and witnesses. These bonds set forth a future date and time for the arrestee to return to court for an initial appearance on such charges as the district attorney decides to file after reviewing the report(s) of the arresting officer(s).

In other cases, some of which do and some of which do not involve a domestic abuse incident, arrestees are brought before the court for a bail-bond hearing before a criminal complaint has been filed and bonds are authorized which include a (no contact) condition as to victims and witnesses.

Initial appearances in all cases where an arrestee has been released on bond before charges have been filed are usually scheduled for the next regular criminal calendar. There have been frequent direct requests by victims and witnesses to lift "no contact" conditions in the interim.

Such direct requests are inappropriate. A victim or witness is not a party to a criminal case and has no legal standing. If the court entertains a direct request by a victim or witness to drop a "no contact" condition, it thereby perpetuates the false belief that the victims and witnesses rather than the district attorney make the charging and prosecution decisions in criminal cases.

Furthermore, in some cases the interests of the public and the long term best interests of a victim or witness require that the court continue a "no contact" condition even against the wishes of the victim or witness. The court cannot make an informed decision as to whether a "no contact" condition should continue until the district attorney has made a charging decision and a criminal complaint has been filed.

20.00 Videoconferencing

Videoconferencing for court hearings can be arranged by contacting the judicial assistant's office. The judicial assistant will complete a Videoconferencing Request form that will provide necessary information

to the security bailiff for making the equipment arrangements. The request should be submitted at least four working days prior to the hearing.

Dated at Sparta, Wisconsin, this 6th day of April, 2006.

1 Sec. 968.08; See also, Preamble to Forfeiture and Misdemeanor Bail Schedules.

2 Sec. 968.075(6).

3 See Uniform Misdemeanor Bail Scheduled.

4 Sec. 969.01