

OZAUKEE COUNTY CIRCUIT COURT RULES

(Third Judicial District)

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OZAUKEE COUNTY CIRCUIT COURT RULES (THIRD JUDICIAL DISTRICT) GENERAL COURT PROCEDURE RULES

RULE 100: DEFINITIONS IN THE LOCAL RULES

“CCAP” is the Consolidated Court Automation Programs available at www.wicourts.gov.

“Documents” means a pleading, form, notice, motion, order, affidavit, paper exhibit, brief, judgment, writ of execution, or other filing in an action.

“Mandatory user” means a user who is subject to Wis. Stats. 801.18(3)(a).

“Paper party” means a party who is not subject to 801.18(3)(a).

RULE 101: PUBLICATION AND REVISION OF CIRCUIT COURT RULES

101.1 EFFECTIVE DATE

The effective date of these rules: Date May 7, 2003

101.2 AVAILABILITY OF RULES

These rules shall be available for public review in the office of the clerk of circuit court in the Ozaukee County Courthouse.

101.3 RULE ADOPTION

Rules shall be adopted or revised by written order of a majority of the Ozaukee County circuit court judges, subject to the approval of the chief judge of the district.

101.4 PUBLICATION

Once adopted, court rules shall be filed with the clerk of circuit court, and the clerk of circuit court shall provide copies to the president and the secretary of the Ozaukee County Bar Association and the chief judge.

RULE 102: RULES OF DECORUM

102.1 CODE OF PROFESSIONAL RESPONSIBILITY, COURTESY AND DECORUM

In order to enhance the administration of justice, this rule establishes uniform standards of courtroom decorum, applicable to judges, attorneys, court personnel and the public in Ozaukee County Circuit Courts.

(a) Judges, lawyers, litigants, clerks and staff shall at all times maintain a cordial and respectful demeanor and shall be guided by a fundamental sense of integrity and fair play in all their professional activities.

(b) Judges, lawyers, litigants, 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.

(c) Judges, lawyers, litigants, clerks and staff shall abstain from making disparaging, demeaning or sarcastic remarks or comments about one another, and shall not engage in any conduct that may be characterized as uncivil, abrasive, abusive, hostile or obstructive.

(d) Judges, lawyers and litigants shall be punctual in convening and appearing for all hearings, meetings and conferences and, if delayed, shall notify other participants, if possible.

(e) Judges, lawyers, litigants, clerks and staff shall at all times, while in the courthouse or while participating in legal proceedings, dress in a manner showing proper respect for the court, the proceedings and the law.

(f) Judges, lawyers, litigants, clerks and staff shall advise clients, witnesses, jurors and others appearing in 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.

(g) In scheduling all hearings, meetings and conferences, judges, lawyers, litigants, clerks and staff shall be considerate of the time schedules of the participants and shall grant reasonable extensions of time when such extensions will not adversely affect the court calendar or clients' interests.

(h) Lawyers shall make all reasonable efforts to reach informal agreement on preliminary and procedural matters and shall attempt to expeditiously reconcile differences through negotiation, without needless expense and waste of time.

(i) Lawyers shall not abuse the judicial process by pursuing or opposing discovery arbitrarily or for the purpose of harassment or undue delay.

(j) Lawyers shall never knowingly deceive or mislead another lawyer or the court. Lawyers shall clearly identify for the court and other counsel changes he or she has made in documents submitted by him or her to counsel or the court.

(k) Lawyers practicing before the courts in Ozaukee County shall at all time act in good faith and shall honor promises or commitments to other lawyers and to the court.

(l) All participants in the judicial process, whether judges, lawyers, clerks or staff, shall conduct themselves in a manner which demonstrates sensitivity to the necessity of preserving decorum and the integrity of the judicial process.

(m) Professionalism, as defined in this code and in accordance with other relevant standards of courtesy, good manners and dignity, is the responsibility of the individual judge, lawyer, clerk, staff member and all other personnel of the court who assist the public.

102.2 DEFINITIONS

“Counsel”, “attorney”, “attorneys”, “lawyer”, or “lawyers”, for the purposes of these rules, shall include any party representing himself or herself without the assistance of an attorney licensed to practice in the State of Wisconsin.

102.3 COURT

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

102.4 DEFERENCE TO THE BENCH

Lawyers shall never appear to engage the court in a manner, which would lessen the dignity of the proceedings in the eyes of the jury and public.

102.5 EXAMINATION OF WITNESSES

(a) Witnesses shall be examined from a position at the counsel table except when handling exhibits unless a lectern is provided by the court, in which case the examination shall be either from the position at the counsel table or the lectern. Persons examining witnesses may either stand while examining a witness from the counsel table or remain seated. In no case shall a witness be crowded during examination.

(b) Witnesses shall be examined with courtesy and respect, and their good faith presumed until the contrary appears.

102.6 ADDRESSING THE JURY

When a lawyer is addressing the jury, he or she shall not crowd the jury box.

102.7 VOIR DIRE

During examination of jurors on voir dire, the lawyer conducting the examination shall, insofar as practical, use collective questions, avoid repetition and seek only material information.

102.8 USE OF FIRST NAMES

During trial, no lawyer shall exhibit familiarity with witnesses, jurors or opposing counsel and, unless the court orders otherwise, the use of first names shall be avoided. In jury arguments, no juror shall be addressed individually or by name.

102.9 LIMITING USE OF ELECTRONIC EQUIPMENT AND DEVICES IN THE COURTROOM AND JURY DELIBERATION ROOM

Electronic communication equipment, including, but not limited to cellular telephones, pagers, lap top computers, scanners and recording devices, may not be used by people in the courtroom or jurors in the deliberation room without the specific permission of the judge. Parties before the Court may use a laptop/computer device in the courtroom.

RULE 103: COURT DOCUMENTS

103.1 DOCUMENT PREPARATION

- (a) All documents submitted shall be typed or legibly handwritten.
- (b) All documents shall be filed on 8 1/2" by 11" paper, with the exception of Wills and Codicils.
- (c) All documents filed in an action must include the name, address, electronic mail address and telephone number of the person drafting the papers. If an attorney drafts the documents the attorney's state bar number must also be included.
- (d) Redacted on December 19, 2016

103.2 FILING OF DOCUMENTS

- (a) All documents are to be electronically filed (except those exempt under Wis. Stats. §801.18) with the clerk of circuit court's office at least seventy two (72) hours prior to the hearing for consideration at that hearing unless otherwise permitted by the court.* Seventy two hour time frame does not apply to local rule 502.2 and small claims matters.
- (b)
 - 1. Except for Qualified Domestic Relations Orders (QDRO's), all orders must be submitted in WORD; any proposed orders submitted in any format other than WORD will be rejected.
 - 2. All orders are to be submitted to the court for signature within seven (7) days following the conclusion of the hearing unless otherwise ordered by the court or provided by statute.
- (c) All statutory filing fees and local forms fees must be paid in full prior to the acceptance of any document by the court.
- (d) The party submitting any document to the court for filing is responsible for serving a copy of the document upon all interested parties to the matter or, if there is an attorney of record for any party, to that attorney.
- (e) Repealed December 19, 2016

(f) Absent a specific order to the contrary, trial and hearing exhibits are not to be filed prior to any trial or hearing, and are not to be electronically filed by parties or their attorneys. Exhibits so filed will be rejected by the clerk.

103.3 FACSIMILE TRANSMISSION OF DOCUMENTS TO THE COURT

(a) Facsimile documents transmitted directly to the court shall be accepted for filing if:

(1) The filer is a paper party.

(2) The document does not exceed ten (10) pages in length, excluding cover sheet. Any document exceeding the ten (10) page limit will be refused for filing.

(3) No filing fee is required.

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

(c) The court is not responsible for:

(1) Errors or failures in transmission that result in missing or illegible documents.

(2) Periods when a facsimile machine is not operational for any reason.

(d) A judge assigned to a particular matter may authorize in advance the filing of particular documents in that case which do not conform to these rules if good cause is shown and they are in conformance with section 801.16, Wis. Stats.

(e) Copies of documents from court files shall not be transmitted by facsimile machine without the appropriate costs being received in advance

(f) If correspondence or a document is transmitted by facsimile machine, original documents are not to be mailed to the court for filing. Original documents shall be maintained by the signing party or his/her attorney. Originals so filed will be returned at the cost of the proffering filer.

(g) Documents may not be filed by facsimile by a mandatory electronic user.

RULE 104: CLOSED PROCEEDINGS

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 and the court media coordinator in writing at least seventy-two (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.

RULE 105: CONFIDENTIAL RECORDS

105.1 EXPUNGED CRIMINAL RECORDS

Any case in which a criminal record has been expunged shall be closed to access to anyone without a court order authorizing access to the file. The clerk of circuit courts shall take appropriate steps to ensure confidentiality of all expunged criminal records.

105.2 FINANCIAL RECORDS IN DIVORCE CASES

Only parties to the action and attorneys of record will be allowed to view and copy financial declarations and other confidential financial information in divorce actions.

105.3 MEDICAL AND HOSPITAL RECORDS

Filers must file medical and hospital records as confidential documents. Medical and hospital records remain confidential when filed with the court until such time, if any, as they are introduced into evidence at trial. Until then, only parties to the action and attorneys of record may view medical and hospital records. No copies may be made.

105.4 PATERNITY RECORDS

The confidentiality of all appropriate paternity records shall be maintained pursuant to law.

105.5 PRE-SENTENCE INVESTIGATIONS

Pursuant to section 972.15 Wis. Stats., pre-sentence investigations are confidential and may be viewed only by the attorneys of record or pro se defendants

105.6 RECORDS AND REPORTS RELATED TO CUSTODY AND VISITATION STUDIES AND PSYCHOLOGICAL EVALUATIONS

All records and reports related to custody and visitation studies and psychological evaluations (herein after called "reports") and the information they contain are confidential. Attorneys of record, any guardian ad litem, and all parties, whether represented or unrepresented, shall maintain the confidentiality of said report(s) and the information they contain. Said report(s) and information shall not be disclosed to anyone not associated with the pending litigation.

In all cases where report(s) have been ordered by the court a notice that a report has been filed shall be given by the court to the attorneys of record, any guardian ad litem, and any unrepresented parties. Attorneys of record and any guardian ad litem may obtain a copy of the report(s) by submitting a written request for a copy of such report(s) to the court. Attorneys shall not provide a copy to any of the parties. A party may review a copy of the report with his or her attorney, but may not take notes. An unrepresented party may review in the office of the Clerk of Circuit Court, but not receive or make a copy or notes of the report(s). Attorneys of record and any guardian ad litem may

disclose information contained in the report(s) and provide copies of the report(s) to professionals they consult or retain only to further the subject litigation. Said professionals shall maintain the confidentiality of the report(s) and the information they contain. If any unrepresented party desires to disclose the information contained in the report(s) or to provide a copy of a report to any other person, including professionals they wish to consult or retain, they must obtain court permission to do so. Attorneys of record, any guardian ad litem, and represented and unrepresented parties who obtain a copy of the report shall not disclose the report(s) or the information contained in them to any person other than a party to the case or the above mentioned professionals.

In cases where an attorney, a guardian ad litem or an unrepresented party consults with and/or retains any professional(s) not ordered by the court, the report(s) of such professionals shall also be subject to this confidentiality rule.

105.7 OTHER SITUATIONS

In situations not covered by written policy or clear statutory policy, the clerk of circuit courts shall exercise discretion in deciding who has access to confidential records. The circuit court retains the authority to authorize disclosure of otherwise confidential information as well as the authority, where permitted by law, to classify files or parts of files as confidential

RULE 106: OUT OF STATE LAWYERS

106.1 NON-RESIDENTIAL LAWYER PETITION

A non-resident lawyer who wishes to appear in an action must petition the court in writing. The petition shall state the name of the active member of the State Bar who will participate with the non-resident lawyer.

106.2 GRANTING OF PETITION

If the court grants the petition:

(a) The active member of the State Bar shall appear in person at all proceedings held on the record, including those held out of court, such as depositions.

(b) The active member of the State Bar shall review all pleadings, motions and other documents to be filed with the court. Both the non-resident lawyer and the active member of the State Bar shall sign all pleadings and motions.

106.3 DISCIPLINARY AUTHORITY

The non-resident lawyer is subject to the disciplinary authority of this state for conduct that occurs in connection with the action. SCR 20:8.5(2).

RULE 107: COURTROOM EQUIPMENT POLICY:

RESERVATION SCHEDULE

The clerk of circuit court's office shall be responsible for maintaining the reservation schedule for the use of any available equipment. Reservations shall be on a first-come, first-served basis. Litigants shall make reservation requests through the deputy clerk. The deputy clerk shall then finalize the reservations. The deputy clerk will deliver the equipment to the courtroom and return the equipment to the designated storage area.

RULE 108: GUIDELINES FOR POTENTIAL JURORS:

Guideline, as established by the Ozaukee County Circuit Court Judges, for potential jurors requesting to be excused from jury duty.

All requests must be in writing.

1. A juror may request to be moved to another, more convenient month for jury service term. All such requests are granted at least once.
2. A juror may request to be excused for specific dates during their month of service. Said request is limited to five dates and must be submitted timely.
3. High school and college students are excused on a year-to-year basis.
4. Pregnant or nursing women are excused on a year-to-year basis.
5. Requests to be excused due to age, based on special circumstance, will be given special consideration.
6. Requests to be excused due to medical condition(s) must be accompanied by a physician's letter.
7. Conflicts because of business or home obligations are not sufficient grounds to excuse a citizen from service.
8. If a request is denied and the potential juror is still not satisfied, they can request that their application be forwarded to the jury judge.

RULE 109: NOTICE OF NEED FOR INTREPRETER

A party shall notify the court as soon as reasonably possible upon learning that any party, witness, victim, guardian, or other person requires an interpreter to participate in the court process.

RULES OF THE OZAUKEE COUNTY CIRCUIT COURT APPLICABLE TO CIVIL PROCEEDINGS

RULE 201: APPLICATION OF CHAPTER; FILINGS & PLEADINGS

201.1 APPLICATION OF CHAPTER

The rules in this chapter shall apply to all civil proceedings, including large and small claims civil, probate, and family matters, unless otherwise provided in these local rules.

201.2 CASE CAPTIONS

All documents, pleadings, motions, etc. filed in any case must contain the case name, case number, the branch of court in which the matter is to be heard, the WCIS case classification code and a brief description of the type of motion or pleading being filed, as well as a description of the relief sought where appropriate.

Example:

STATE OF WISCONSIN	BRANCH 2 CIRCUIT COURT	OZAUKEE COUNTY
MACROBUTTON NoMacro [Plaintiff/Petitioner name] Plaintiff/Petitioner		MACROBUTTON NoMacro [Document Title]
vs.		
MACROBUTTON NoMacro [Defendant/Respondent name] Defendant/Respondent		Case No. 2016CV000023

201.3 FIVE (5) DAY RULE; RULE ON SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS

When a court has made an oral ruling, the prevailing party shall be responsible for preparing a written order or judgment based on that oral ruling, unless the court directs another party to do so. The party preparing that order or judgment shall follow this procedure unless otherwise ordered by the court:

- (a) The submitting party shall transmit the proposed order or judgment to the court with a letter indicating that a copy of the proposed order or judgment is simultaneously being provided to all other attorneys of record and all unrepresented parties. The letter shall include a list or appropriate notation (i.e., "cc:") indicating the names of the other recipients.

- (b) The letter shall include language substantially similar to the following: “This [order/judgment] is proposed under the “Five Day Rule” (Ozaukee County Local Rule 201.3.) If any party believes that the proposed [order/judgment] does not accurately state the court’s ruling, the party must file a written objection to the court, indicating the specific objection(s) and **suggestions for change**, within five business days of receipt. A copy of the written objection must be simultaneously provided to all attorneys of record and all unrepresented parties.”

201.4 DISMISSAL OF ACTIONS

Parties to a case are hereby notified that the assigned judge periodically shall set a dismissal calendar for all actions where no issue has been joined and which are six months old or older. If the action is not dismissed at the call of the calendar, counsel of record and/or parties not represented by counsel of record shall be directed to take certain action within a specified time.

201.5 EFFECT OF BANKRUPTCY

Any party who has knowledge or notice of a bankruptcy proceeding in which the bankruptcy debtor is a party to a pending action or matter shall inform the court of that fact. Except as otherwise provided in the United States Bankruptcy Code, such action or matter shall be dismissed or stayed upon notice to the court that a bankruptcy proceeding has been filed in the United States Bankruptcy Court with the understanding that the case may be reopened or stay lifted upon notification that the bankruptcy proceeding has been terminated or the stay lifted.

RULE 202: DISCOVERY

202.1 FORM OF DISCOVERY RESPONSES

An objection or an answer to an interrogatory shall reproduce the interrogatory to which it refers. A response or an objection to a request for admission shall reproduce the request to which it refers. A response or an objection to a request for production of documents shall reproduce the request to which it refers.

202.2 LIMITATION ON INTERROGATORIES

(a) No party may serve more than a total of fifty (50) interrogatories in any case upon any other party without the prior order of the court. For the purpose of computing the number of interrogatories served:

- (1) Each subpart of an interrogatory shall be construed as one interrogatory;
- (2) Parties represented by the same attorney or law firm shall be regarded as one party;

(b) If a party believes that additional interrogatories are necessary, the party should promptly consult with the party to whom the additional interrogatories would be propounded and attempt to reach a written stipulation as to a reasonable number of additional interrogatories. If a written stipulation is reached, the stipulation and a proposed order permitting the propounding of additional

interrogatories should promptly be served on all other parties and filed with the court. If a stipulation cannot be reached, the party seeking to serve additional interrogatories may move the court pursuant to **Rule 202.3** for permission to serve additional interrogatories. The motion shall state the necessity for the relief requested.

(c) The court will not compel a party to answer any interrogatories served in violation of this rule.

202.3 DISCOVERY MOTIONS

All motions relating to discovery or production of documents pursuant to Chapter 804, Wis. Stats., or any motion to serve additional interrogatories pursuant to Rule 202.2 must be accompanied by an affidavit by the moving party that, after consultation in person or by telephone with the opposing party and sincere attempts to resolve their differences, the parties are unable to reach an accord. The statement shall recite, in addition, the date and place of such consultation and the names of all parties participating therein.

RULE 203: PROCEEDINGS CONDUCTED BY TELEPHONE OR OTHER MEDIA

203.1 NON-EVIDENTIARY PROCEEDINGS

(a) Any conference or hearing may be conducted by telephone or other electronic method with the prior approval of the court.

(b) Any request for telephonic or other electronic method must be made in writing indicating in said request the position of opposing parties seventy-two (72) hours prior to the hearing with an accompanied proposal.

(c) The requesting party shall notify all other parties as to whether or not the request is granted.

(d) If a party intends to be personally present at a hearing scheduled as a telephonic proceeding, such party shall notify the court and all counsel of record and/or parties not represented by counsel of record of such intent at least twenty-four (24) hours prior to the hearing. Such election to appear personally shall not mandate the presence of other counsel of record or parties not represented by counsel of record, who may elect to appear telephonically.

203.2 EVIDENTIARY PROCEEDINGS

If a party wishes to provide for oral testimony to be communicated to the court by telephone or other electronic method:

(a) If the court is equipped to receive oral testimony by telephone or other media, the requesting party shall contact all counsel of record and/or parties not represented by counsel of record to determine if all parties will stipulate to the taking of telephone or other electronic media testimony.

(b) If all parties stipulate in writing to the admission of telephone or other electronic media testimony, the requesting party shall notify the deputy court clerk or calendar clerk of such stipulation at least

- twenty-four (24) hours prior to the scheduled testimony. The court may approve or reject such stipulation. The requesting party shall notify all other parties of the court's determination.
- (c) If all parties do not stipulate to the taking of telephone or other electronic media testimony, any party seeking to admit such testimony shall raise the issue by a written motion, twenty-four (24) prior to said hearing.
 - (d) Witnesses who are to appear by telephone or other electronic media shall be provided with copies of any documents from or about which they will testify in advance of the hearing. Copies of those documents shall be provided to counsel or unrepresented parties at the time of the testimony regarding such document.

203.3 CONDUCT OF TELEPHONE PROCEEDINGS

Initiation of Calls - Unless the court otherwise directs, all telephone conferences and telephone testimony shall be initiated by the party requesting the telephone conference or telephone testimony and any long-distance call must be charged to their personal or business office telephone numbers.

RULE 204: MOTIONS

204.001 COURT ACTION

All requests for court action shall be presented in a motion, petition or order to show cause unless prior permission to present the matter in another fashion has been granted by the court. Any party moving the court for relief must supply with their pleadings a completed filled out standard state form if one exists, if one does not exist, the moving party must send a proposed order consistent with the relief they seek for the court signature. Copies of all pleadings must be given to the opposing side and/or prosecuting agency. Issues raised not in accordance with this rule will not be addressed.

204.01 MOTION DATES

- (a) Written motions shall be filed in the form required by statute and shall include, to the extent known at the time of filing, the relief sought, the legal basis or reasoning for the trial court to grant the relief, and an allegation of the facts which support the relief sought. Written motions shall include an estimate as to the length of time required for the matter to be heard. The moving party shall file its motion along with a Notice of Motion. Prior to filing any motion, order to show cause or petition that requires a hearing; the filing party shall obtain a date from the clerk of the judicial officer who will preside at the hearing, after consulting with all parties. The moving party is responsible for serving the Notice of Motion on the non-moving party. The date shall be clearly indicated on the notice of motion, order to show cause or petition.
- (b) In traffic and non traffic forfeitures cases, a party requesting a case to be reopened shall use the mandated circuit court forms: TR-310 (Motion to Reopen), TR-311 (Order to Reopen) and Local Form Motion to Reopen Affidavit of Service and if the basis to reopen is due to identity theft and/or mistaken identity, GF-185 (Certification by Prosecuting Agency Verifying Identity Theft or Mistaken Identity).

- (c) Failure to serve the prosecuting attorney's office (incomplete or lack of Motion to Reopen Affidavit) will result in an immediate denial to reopen.
- (d) Failure to follow procedure in 204.001(a) and 204.01(a), (b) and (c) will result in an immediate denial.

204.1 EX PARTE REQUESTS FOR TEMPORARY RESTRAINING ORDERS

Except for petitions filed under sections 813.12, 813.122, 813.123, and 813.125, Wis. Stats., any party seeking to obtain an ex-parte temporary restraining order or temporary injunction shall include a written statement documenting a good faith effort to contact the party sought to be restrained or counsel for the party, if known, prior to the request and inform the party or counsel, if known, of the time such request will be made and the judge or court commissioner which will be hearing such request. The requirement of notification pursuant to this rule may be waived by the court for cause submitted in writing.

204.2 SUMMARY JUDGMENT AND DISMISSAL MOTIONS

- (a) A motion for summary judgment under section 802.08, Wis. Stats., or a motion for dismissal under section 802.06, Wis. Stats., shall be filed with the clerk of circuit court, together with any brief, affidavits, or other supporting documents. If the moving party does not desire to file a brief, affidavits, or other supporting documents, the moving party shall file a statement waiving the right to file such brief, affidavits, or other supporting documents. Prior to service and filing, the moving party shall obtain from the clerk a hearing date set not less than 40 days from the service and filing of the motion, brief, affidavits, other support documents, or waivers thereof upon all counsel of record and/or parties not appearing by counsel of record with notice of the hearing date. If a moving party files a motion without a brief, affidavits, other supporting documents, or waiver thereof, or without obtaining in advance an appropriate hearing date, the clerk shall return such written documents with a copy of this rule.
- (b) A respondent shall have 20 days from the service of the moving party's motion within which to serve and file a brief, affidavits, or other supporting documents, or waive in writing the right to do so. If the respondent fails to file any brief, affidavits, or other supporting documents, or a waiver of the same within the 20 day period, it shall be presumed that respondent has waived the right to do so.
- (c) A moving party shall have 10 days from the service of the respondent's answering brief, affidavits, or other supporting documents to serve and file a brief limited to matters in reply. The failure to timely file a reply brief shall be a waiver of the right to do so.
- (d) A court order may prescribe a procedure different from this rule.

204.3 BRIEFING OF OTHER MOTIONS

If a moving party desires to file a brief, affidavit, or other documents in support of a motion other than one for summary judgment or dismissal, such motion and supporting materials shall be served upon all counsel of record and/or parties not represented by counsel of record and filed with the clerk of circuit court no later than ten business days before the time specified for the hearing.

Response briefs, affidavits, or other supporting documents in opposition to such motions must be received by the moving party and filed with the clerk of circuit court no later than five business days prior to the hearing of the motion.

204.4 LIMITATION ON LENGTH OF BRIEFS; CITATION OF NON-WISCONSIN JURISDICTIONS

(a) Without obtaining prior leave of the court, briefs may not exceed the following page limitations, exclusive of pages containing a statement of facts, exhibits, and affidavits;

(1) Moving party's principal brief – twenty five (25) pages;

(2) Briefs in opposition – twenty five (25) pages;

(3) Moving party's reply brief – ten (10) pages.

(b) Briefs in excess of the permitted length may be disregarded by the court.

(c) Copies of non-Wisconsin authorities shall be filed with the court and provided to all other attorneys and unrepresented parties at the same time as the brief, and shall not be included in the page limitations set forth in subsections (a) and (b).

204.5 UNTIMELY SERVICE AND/OR FILING

Any motion, brief, affidavit, or other supporting documents served and/or filed in an untimely fashion may be disregarded by the court.

204.6 ADJOURNMENTS FOR HEARINGS OTHER THAN TRIAL

The moving party for any hearing is the only party who can adjourn that hearing without a motion or written stipulation filed, but said request must be submitted in writing. Exceptions to this rule may be made for guardian ad litem who have calendar conflicts and who were not consulted on date selection; or who legitimately need more time to investigate and make recommendations to the party and the court.

If a responding party refuses to grant an adjournment request, the party shall request in writing for a court ruling on the adjournment request. It is the obligation of the requesting party to schedule a mutually convenient date for the adjournment request hearing by conference call with the appropriate court clerk and all other attorneys and unrepresented parties. Otherwise, the adjournment request will be heard on the date of the originally scheduled hearing, and the court will immediately rule as to whether the adjournment should be granted or whether the hearing will proceed as scheduled. Costs may be assessed against parties or attorneys who unreasonably refuse adjournment requests.

RULE 205: TRIAL RULES

205.1 PAYMENT OF JURY FEE AND JURY COST ASSESSMENTS

Pursuant to sections 805.01(2) and 814.61(4), Wis. Stats., jury demand must be made prior to or at the scheduling conference. Jury fees are due on the date of the scheduling conference or as otherwise provided by the court. Untimely payment shall constitute a waiver of jury trial.

When a civil jury trial is settled within two business days prior to the trial date, the court may assess jury costs. Costs may include clerk's time spent in preparation of jury trial.

205.2 ADJOURNMENTS

Written requests for adjournment of trial are required. All requests shall set forth specific reasons for the request. All requests are to be made by simultaneous notice to all parties. Matters scheduled for trial may be adjourned only with the permission of the court.

RULE 206: GUARDIAN AD LITEM IN ADOPTION CASES

Guardian ad litem and advocate counsel will be appointed by the court. In adoption cases, a deposit of \$250 shall be made into the trust account of the attorney appointed prior to the commencement of work. Indigent parties who seek payment by Ozaukee County of guardian ad litem fees shall file the paperwork required by Rule 304.4(3).

RULE 207: SMALL CLAIMS MATTERS

207.1 INFORMATION FROM THE CLERK OF COURT

An informational packet relating to small claims procedures is available from the clerk of court for a nominal fee.

207.2 FORMS; FILING SUMMONS/COMPLAINT

Forms may be obtained from the clerk of court or from www.wicourts.gov. The plaintiff must select an initial return date and enter that date on the summons and complaint before filing. The plaintiff must provide the original and at least one copy of the summons and complaint at the time of filing the action, unless plaintiff is a mandated electronic filer.

207.3 SERVICE OF SUMMONS

The summons and complaint must be served on each named defendant by personal service or substituted service; service by mail is not allowed.

207.4 APPEARANCE ON INITIAL RETURN DATE

Except for eviction actions, a plaintiff need not appear on the initial return date if the plaintiff has filed a letter of appearance and affidavit of non-military service in a timely fashion such that it is received by the clerk of court no later than 12:00 noon on the last business day prior to the initial return date.

Except for eviction actions, a defendant need not appear on the initial return date if the defendant has filed a written answer with the court, with a copy to plaintiff(s), in a timely fashion such that the answer is received by the clerk of court and the plaintiff(s) no later than 12:00 noon on the last business day prior to the initial hearing.

207.5 EVICTION ACTIONS APPEARANCE ON INITIAL RETURN DATE

Plaintiff(s) and defendant(s) must appear on the initial return date if the action includes a request for eviction.

207.6 PRETRIAL CONFERENCE

A pretrial conference will be scheduled in every small claims action. The parties will be encouraged to engage in mediation to resolve the dispute. Attorneys or legal representatives appearing for parties to the action must have full settlement authority.

Parties must bring the following items to the pretrial conference:

- (a) The original and three (3) copies of each item of physical evidence which they intend to present at trial.
- (b) The three (3) copies of a list of witnesses whom they intend to call at trial. The list must include each witness' full name, address, telephone number, and a very brief summary of that person's expected testimony.
- (c) Telephone appearances are not allowed.

207.7 REQUEST FOR ADJOURNMENT OF PRETRIAL

Requests for an adjournment of a pretrial conference must be made in writing to the clerk of court, with a copy sent to the opposing party. The request must be received by the clerk of court not less than ten days prior to the scheduled date. Cases will not be adjourned unless good cause is determined by the court. The small claims clerk will notify the parties in writing of the new pre-trial date if an adjournment request is granted.

207.8 DE NOVO EXHIBITS

Parties must bring to all exhibits to the De Novo hearing. Previously admitted exhibits will be rejected for use at the De Novo hearing.

RULE 208: MINOR SETTLEMENTS

208.1 FILING

All petitions for minor settlements under section 807.10, Wis. Stats., shall be filed with a notice of hearing with the clerk of circuit court.

208.2 CONTENTS OF PETITION

A petition for approval of a minor settlement shall include, at a minimum, a concise statement of the following:

- (a) age of the minor;
- (b) nature and extent of the injury giving rise to the claim;
- (c) permanent or temporary character of injuries;
- (d) facts, events and circumstances out of which the claim arises, including time, place and persons involved;
- (e) amount of and manner of determination of attorney fees and guardian ad litem fees;
- (f) and proposed distribution of funds.

208.3 HEARING

Upon hearing the petition for approval of the settlement, the minor, his/her attorney and at least one of his/her parents shall be in attendance. The court may, at its discretion, dispense with such personal appearances. The court may require production of other evidence relating to the claim and injury.

RULE 209: REPEALED DECEMBER 2016

RULE 210: REAL ESTATE FORECLOSURES

210.1 DEFAULT JUDGMENT

An attorney for a mortgagee in a foreclosure action need not personally appear at a hearing on a motion for default judgment and may appear by affidavit if the attorney is available to the court by telephone or by live audio-visual equipment at the time of the hearing and if:

- (a) The case is in default with no responsive pleading on file.
- (b) Proof of service and a copy of the Lis Pendens are on file.
- (c) A hearing date is obtained and notice is given to all defendants, which notice shall indicate that judgment will be granted on that date unless anyone appears to object.
- (d) An affidavit of a representative of the mortgagee based on personal knowledge setting forth all information necessary to allow the court to grant judgment is filed, including the following:

1. The date of filing of the summons and complaint and any amended summons and complaint.
 2. The date and specific manner of service on each of the defendants named. If service on any defendant is by publication, an affidavit as to reasonable efforts to serve the defendant personally or by substituted service shall be provided.
 3. The length of the redemption period requested (with reference to the section of Chapter 846, Stats. authorizing the requested redemption period) as well as specific factual information based on personal knowledge supporting the requested redemption period and whether a deficiency judgment is being sought or waived. Proposed Findings and Orders should highlight in bold print the length of the redemption period and waiver or non-waiver of deficiency language.
 4. The amount due and owing as of the date of the affidavit or hearing date together with the amount of attorney's fees requested, a listing of disbursements being added to the judgment, and the total thereof.
 5. The date of recording of the Lis Pendens in the office of the Register of Deeds.
 6. Whether the plaintiff is the original mortgagee and, if not, information establishing how the plaintiff became the current holder of the mortgage with assignments incorporated into the affidavit establishing the plaintiff's standing.
- (e) An affidavit to establish reasonableness of attorney's fees is filed.
- (f) All required affidavits, findings and judgment papers are filed at least three days prior to the motion hearing date.

210.2 CONFIRMATION OF SHERIFF'S SALE

An attorney for a mortgagee in a foreclosure action need not personally appear at a hearing on a motion to confirm a Sheriff's sale and may appear by affidavit if the attorney is available to the court by telephone or by live audio-visual equipment at the time of the hearing and if:

- (a) A motion is filed setting forth the requested relief in addition to confirmation of the sale, which is supported by an affidavit or affidavits which specifically and without reference to any document previously filed set forth all information necessary to confirm the sale, including the following:
1. The date and location of the Sheriff's sale.
 2. The name of the successful bidder and the amount of the bid.
 3. Information from which the court can conclude that the successful bid represents fair value, such as an appraisal, a broker's price opinion, or tax bill valuations.
 4. The date of filing of any amended summons and complaint.
 5. The names of any additional defendants added since granting of the foreclosure judgment.
 6. The date and specific manner of service on any additional defendants.
 7. Information as to the potential claim of any added defendant and facts from which the court can conclude that the interest of any such defendant is subsequent and junior to that of plaintiff.
 8. The nature of any specific amounts being requested to be added to the judgment.
 9. Whether a writ of assistance is being requested.

- (b) All required affidavits and proposed orders are filed at least three days prior to the hearing date.

If any party appears to object, the matter may be adjourned for further hearing. In that event, costs may be awarded against plaintiff if plaintiff's attorney did not appear at the confirmation hearing and the court finds the objection to be valid.

FAMILY COURT DIVISION RULES

RULE 301: HEARINGS

301.1 MATTERS BEFORE CIRCUIT COURT JUDGES

The following matters will be heard by the circuit court judges:

- (a) Pre-judgment, divorce and paternity matters.
 - 1. Appeal (De Novo hearings) from all orders/decisions of court commissioner.
 - 2. Orders for A.D.R
 - 3. Discovery Motions
- (b) Judgments.
 - 1. Contested divorce trial.
 - 2. Contested paternity determination (adjudication).
 - 3. Discovery Motions.
- (c) Post-judgment.
 - 1. Appeal (De Novo hearings) from all orders/decisions of court commissioner.
 - 2. Discovery Motions.
 - 3. Contempt hearings to enforce property division judgments.
- (d) Temporary restraining orders for domestic abuse, harassment, child abuse, and individuals at risk (if court commissioner not available).
- (e) Injunction hearings, domestic/child abuse, harassment.

301.2 MATTERS BEFORE COURT COMMISSIONER

The following matters will be heard by the court commissioner:

- (a) Pre-judgment, divorce and paternity matters.
 - 1. Temporary hearings in divorce.
 - 2. First appearance and pre-trials in paternity matters.
 - 3. Re-hearings and modifications of temporary hearings.
 - 4. Contempt hearings on temporary orders.
 - 5. Pre-judgment discovery motions where the motion in chief is scheduled to be heard by the FCC.
 - 6. Mediation orders.
 - 7. Appointment of guardian ad litem.
 - 8. A.D.R. recommendations to the court.
- (b) Judgments.
 - 1. Default divorce judgment (grant of divorce based on full written agreement of the parties).
 - 2. Adjudication of paternity in uncontested cases.
 - 3. Determination of child custody, placement, support and related matters in paternity matters, following adjudication of paternity by either court commissioner or judge.
- (c) Post-judgment.

1. Contempt hearings to enforce all final judgments not involving property division.
 2. Modifications of paternity judgments.
 3. Appointment of guardian ad litem in paternity and family matters.
 4. Post-judgment discovery motions where the motion in chief is scheduled to be heard by the Court Commissioner.
 5. Mediation orders.
 6. Modifications of divorce judgments. The matter may be certified to the Circuit Court at the instance of the Family Court Commissioner and at the discretion of the Trial Court.
- (d) Temporary restraining orders for domestic abuse, harassment, child abuse (may also be presented to the judge).

RULE 302: INSTRUCTIONS

Instructions and forms for certain matters commonly addressed as part of family court actions are available from the clerk of court without charge. See Rule 103.2(b) regarding Orders.

RULE 303: FINAL HEARING REQUIREMENTS

303.1 REQUIREMENTS FOR OBTAINING FINAL HEARING DATE

In any such action in which the parties have minor children, the parties shall each attend an educational program addressing the effects of divorce or separation on children and co-parenting skills, unless the court specifically waives the requirement as to any party. No final hearing for divorce or legal separation will be scheduled until proof of each party's attendance, or waiver thereof, is filed with the court.

303.2 REQUIREMENTS FOR OBTAINING AN UNCONTESTED (DEFAULT) DIVORCE HEARING DATE BEFORE THE COURT COMMISSIONER

A signed marital settlement agreement must be submitted to the Clerk of Courts.

If both parties are appearing without an attorney, one party must submit the following to the Clerk of Courts before a date will be assigned:

- (a) Findings of fact, conclusions of law and judgment of divorce (original and three (3) copies, with marital settlement agreement attached).
- (b) Financial statements of each party (signed and notarized).

303.3 MATERIALS FOR FINAL HEARING

The following must be brought to the final hearing:

- (a) Vital statistics worksheet

The following documents must be filed prior to the final hearing:

- (a) Sworn financial statements of both parties.
- (b) Marital settlement agreement.

RULE 304: CUSTODY AND PLACEMENT DISPUTES; MEDIATION; GUARDIAN AD LITEM

304.1 FORMS, INSTRUCTIONS AND PROCEDURES

Requests for mediation, legal custody or physical placement studies, or appointment of a guardian ad litem must be made on the appropriate CCAP forms. To the extent possible, requests for mediation or appointment of a guardian ad litem shall be made far enough in advance of a hearing scheduled to address custody or placement issues such that the mediation may be accomplished or the guardian ad litem appointed prior to any such hearing. Except as otherwise ordered by the court, in an original action where custody or physical placement of a child or children is an issue the parties shall be equally responsible for the payment of any fees for mediation, custody or physical placement studies or guardian ad litem fees due in advance and will be presumed to be equally responsible for the total fees. Deposit waiver or apportionment requests may be addressed to the court commissioner by telephone conference so long as all parties or their attorneys are included on said telephone conference. Unless a party is willing to make the entire deposit, he or she must file a sworn financial disclosure statement or affidavit of indigency with the request for waiver or apportionment, or immediately upon receiving notice that the other party is requesting waiver or apportionment. A party requesting waiver or apportionment of the deposit must provide notice to the other party.

304.2 MEDIATION

When there is custody or placement dispute, mediation is required prior to appointment of a guardian ad litem unless waived by the court. The request for mediation must be accompanied by the appropriate deposit, currently \$200.00, or a request for waiver, deferral, reduction or apportionment of the deposit.

304.3 GUARDIAN AD LITEM

A request for appointment of a guardian ad litem shall be accompanied by the deposit directed by the court, currently \$2000.00, or a request for waiver or apportionment of the deposit. Upon determining that the charges for services rendered are approximately equal to the deposit, the GAL shall petition the court for an order requiring the parties to deposit additional funds with the Clerk of Courts in an amount to be determined by the court.

304.4 PETITION FOR PAYMENT OF GUARDIAN AD LITEM FEES

Payment of guardian ad litem (GAL) fees will be made only upon petition by the guardian ad litem as approved by the court.

As part of the petition the guardian ad litem must:

- (a) State the amount of the requested fees, and attach an itemization.
- (b) State whether a deposit has been made to cover fees.
- (c) If no deposit, or if the deposit is not sufficient to cover fees, state the financial circumstances of parties, if known, or request that parties complete and submit financial disclosure statements if a party believes that he or she does not have the ability to pay GAL fees currently.
- (d) Request payment of the GAL fees, including the following options:
 - (1.) By a party or parties, or
 - (2.) By release of the deposit, if sufficient funds on deposit, or
 - (3.) By advancement by Ozaukee County, on a finding of:
 - (A.) Inability of parties to pay; and
 - (B.) Right of county to seek reimbursement in the future from party/ies determined unable to pay currently.
- (e) Submit a proposed order incorporating the required findings and proposed order. If the GAL's services are completed, he or she should also request to be discharged as part of the order. The GAL must send a copy of the proposed order on fees to all interested parties, giving any party a right to object within ten (10) days of receipt of the proposed order. If the parties are unrepresented, clearly explain that they must object in writing to the court. The objection to the court must contain a statement that the objector is sending a copy of the objection to all other parties, whose names must be listed.

304.5 DISCHARGE OF GUARDIAN AD LITEM

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

RULE 305: PROCEDURES AFTER FILING: TEMPORARY ORDERS; NON-MARITAL CHILDREN

305.1 TEMPORARY ORDERS

Temporary orders may be entered by the Court on written stipulation (agreement) of the parties. Stipulations and proposed orders must be in general conformance with the state approved forms. If financial matters are addressed, the findings must indicate each party's gross and net incomes, either on the stipulation or order or by reference to specified financial disclosure statements on file. If a stipulation provides for payment of support through the Wisconsin Support Collection Trust Fund, the child support agency shall be provided with the parties' names, addresses, social security numbers, and the name and address of the support payer's employer.

An order may provide for rehearing on ten (10) day notice. A party requesting a rehearing on ten (10) day notice shall send a notice to all other parties and the court at least ten (10) days prior to the scheduled hearing date. The notice shall describe the issues to be raised by the party at that hearing.

Any attorney of record and, if possible, any party not represented by an attorney shall be consulted as to availability at the time a date is selected.

305.2 NON-MARITAL CHILDREN

Unless otherwise ordered by a judge, no judgment of divorce will be granted until after the paternity of an alleged non-marital child is determined.

RULE 306: ALTERNATIVE DISPUTE RESOLUTION PROCEDURES AND FEES

306.1 MOTION

The assigned judge may determine on it's own motion, or on motion of a party, that the action is appropriate for settlement alternatives.

306.2 RECOMMENDATION

The assigned judge may seek the recommendation of the court commissioner, in the court's discretion.

306.3 HEARING

The assigned judge may schedule a hearing on motion of party or its own motion.

306.4 INITIAL ADR REFERRAL ORDER

The assigned judge may enter an order finding that the action either is or is not an appropriate one in which to order an Alternative Dispute Resolution (ADR) and may specify the form of ADR and any other order necessary to effectuate the same.

306.5 RELIEF FROM INITIAL REFERRAL ORDER

A party aggrieved by an initial ADR referral order may request a hearing on an order to show cause why the order should be vacated or modified.

RULE 307: MOTION HEARINGS

307.1 OBTAINING MOTION DATES

All motions practices must follow Civil Rule 201.01 and 204.001

307.2 REVIEW OF DECISIONS OF A COURT COMMISSIONER

Any determination, order, or ruling by a court commissioner may be certified to the branch of court to which the case has been assigned, upon a motion by any party. Any party who was present at the hearing has the right to have the assigned judge hold a new hearing;

- a. If all parties are mandatory users: by filing a written request, within 18 days of filing of the written decision but no later than 20 days from the oral ruling.
- b. If all parties are paper filers: by filing a written request, with a copy sent immediately to the opposing party, within 18 days of filing of the written decision but no later than 20 days from the oral ruling.
- c. If parties are both, mandatory users must provide copy to paper filers by traditional methods.

Findings and orders entered by a court commissioner by stipulation or entered by default are not subject to de novo review.

A motion for a de novo hearing will not stay the order(s) unless the assigned judge specifically grants a stay of said order(s).

307.3 FINANCIAL DISCLOSURE STATEMENTS

A motion or order to show cause seeking to establish or modify child support, family support and/or maintenance shall contain language requiring both parties to submit to the court at the scheduled hearing a completed financial disclosure statement and verification of income for three (3) months prior to the hearing date. Failure to comply with the disclosure requirements may result in dismissal of the matter, continuance and/or assessment of costs.

RULE 308: FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT OF DIVORCE OR PATERNITY

308.1 FINAL PAPERS

The findings of fact, conclusions of law and judgment of divorce or paternity shall be drafted by the petitioner or petitioner's attorney, unless otherwise directed by the court. If any other party is represented by an attorney, the findings of fact, conclusions of law and judgment of divorce or paternity shall be submitted to that attorney for signature/review. If a party is not represented by an attorney, the findings of fact, conclusions of law and judgment of divorce or paternity shall be submitted to any such party for approval under the five (5) day rule unless the party or the court waives such requirement. All Findings of Fact, Conclusions of Law and Judgments shall contain language complying with the statutory requirements so long as such language does not contradict an agreement of the parties approved by the court and shall not contain additional provisions not required by statute or contrary to an agreement of the parties approved by the court except as specifically directed by the court, all such impermissible provisions per this Rule shall be null and void. After the parties sign and attorneys review them, but no later than thirty (30) days following the granting of the judgment, the findings of fact, conclusions of law and judgment of divorce or paternity

shall be filed. Final marital settlement agreements or stipulations shall be appended to the judgment and shall be incorporated by reference therein.

308.2 REQUIRED PROVISIONS

In addition to provisions required by statute to be included in any findings of fact, conclusions of law and judgment of divorce or paternity, if child support, family support, or maintenance is held open to any party, provision must be made for the payment of any such sums through the Wisconsin Support Collection Trust Fund if such amounts are ordered in the future. The following statutory notices must also be included: notice of payment of receiving and disbursing fees by a payer of child or family support or maintenance; notice of address change, change of employer, and substantial change of income (and the effect of such notification); and if child support is held open, notification of interest on arrearages.

In the event that a party to a divorce action has any interest in real estate at the time the judgment of divorce is granted, the full and complete legal description of any such real estate must be included in the judgment of divorce.

RULE 309: NOTICE OF RETAINER

A notice of retainer shall be filed by a party's attorney

RULE 310: NOTICE OF NEED FOR INTERPRETER

A party shall notify the court as soon as reasonably possible upon learning that any party, witness, victim, guardian, or other person requires an interpreter to participate in the court process.

RULES OF THE OZAUKEE COUNTY CIRCUIT COURT PROBATE COURT DIVISION

RULE 401: JURISDICTION OF THE PROBATE COURT

- (a) Probate actions under Wis. Stat. Chapters 851 through 879;
- (b) Guardianship and protective placement actions under Chapters 880 and 55;
- (c) Trust actions under Chapter 701;
- (d) Involuntary mental, drug and alcohol commitments (civil commitments) under Chapter 51;
- (e) Elder abuse restraining orders under Chapter 813.123.

RULE 402: GUARDIAN AD LITEM AND ADVOCATE COUNSEL

Guardian ad litem and Advocate Counsel will be appointed by the court. In guardianship cases, a deposit of \$300 shall be made into the trust account of the attorney appointed prior to the commencement of work. Indigent parties who seek payment by Ozaukee County of guardian ad litem fees shall file the paperwork required by Rule 304.3 and 304.4. All GALs must submit petitions for payments for fees based on section 304.4.

RULE 403: ESTATE MATTERS

403.1 WILLS

- (a) Only original wills will be accepted for filing with the court without a hearing. Wills of a decedent which will not be subject to any probate proceedings may be filed and shall be accompanied by an affidavit of inactive will.
- (b) Wills of living persons filed for safekeeping shall be accompanied by the statutory fee and such other information as the register in probate may require.

403.2 SUMMARY SETTLEMENTS AND SUMMARY ASSIGNMENTS

Proof of heirship must be filed with all opening documents for summary settlement and summary assignment.

403.3 SELECTION OF PERSONAL REPRESENTATIVE

Only Wisconsin residents may be appointed as personal representative of an estate, with the following exceptions: non-residents may be appointed at the discretion of the court, if the nominated non-resident has a Wisconsin resident appointed as co-personal representative; has retained a Wisconsin attorney; or posts bond in an amount determined by the court. The court reserves the right to require bond in any case. All non-resident personal representatives are required to have a resident agent.

403.4 HEARING OR WAIVER OF HEARING

Other than hearings offering a will for probate and on final account in formal probates, and final hearings on summary assignment and summary settlement proceedings, a court hearing is not required when waivers are filed by interested parties. Parties shall submit proposed orders with the waivers when no hearing is sought.

403.5 CLOSING ESTATES.

- (a) Documentation that the residual beneficiaries or heirs have been advised as to the amount of the personal representative and attorney fees must be filed with the court.
- (b) In a formal probate proceeding, proof of the recording of the transfer of any real estate to beneficiaries or heirs must be filed with the court.

403.6 TAX CLEARANCES

- (a) A Wisconsin closing certificate for fiduciaries must be filed with the court prior to the closing of any estate.
- (b) A federal estate tax closing letter must be filed with the court prior to the closing of any estate required to file a federal estate tax return.
- (c) A Wisconsin certificate determining estate tax must be filed with the court prior to the closing of any estate required to file a Wisconsin estate tax return.

403.7 EXTENSIONS OF TIME FOR CLOSING ESTATES

- (a) When an estate cannot be closed within the statutory time limits, a verified petition setting forth the reasons for the request of an extension of time to close the estate must be filed with the court. A proposed order shall be submitted, and the court will review each request individually to determine whether or not a hearing on notice is required.
- (b) The following reasons ordinarily will qualify for a single six (6) month extension of time to close the estate, upon the filing of the required petition:
 - (1.) The federal estate tax return has been timely filed and the estate tax audit has not been completed (copy of the return must be filed with the court);
 - (2.) The final federal and state income tax returns have been timely filed but the closing certificate for fiduciaries has not been received from the Wisconsin Department of Revenue (copy of the final return must be filed with the court); or
 - (3.) The estate is involved in pending litigation (case information must be provided).
- (c) All other grounds for extension of time to close the estate will be reviewed by the court for extension of time. The register in probate shall notify the court if any duty is more than thirty (30) days late in being performed.

RULE 404: TRUST MATTERS REPEALED BY STATUTE JULY 1, 2014

RULE 405: GUARDIANSHIP, CONSERVATORSHIP AND PROTECTIVE PLACEMENT MATTERS

405.1 CONSERVATORSHIP

- (a) A hearing is required for the appointment of a conservator, and the petitioner will be present so the court may determine whether the action is voluntary.
- (b) A hearing is required to terminate a conservatorship.

405.2 GUARDIANSHIP AND PROTECTIVE PLACEMENT

- (a) Guardian ad litem. The court will appoint a guardian ad litem for the proposed ward, who will file a guardian ad litem report with the court prior to the hearing.
- (b) Examining expert. Parties shall provide their own examining expert to prepare a competency report on the proposed ward.
- (c) Protective placement petition. If a protective placement petition is part of a guardianship petition, the moving party shall at the time of filing the petition request the Ozaukee County Department of Health and Human Services to complete a comprehensive evaluation of the proposed ward and file it with the court prior to the hearing.
- (d) Access to File.
 - (1.) After the guardianship has been ordered, access to the guardianship file is limited to the guardian, the guardian's attorney (notice of retainer must be on file), the ward, the ward's attorney, the currently appointed guardian ad litem or advocate counsel or the currently assigned social worker.
 - (2.) Title insurance and abstract companies, by their duly licensed agents and representatives, may have limited access to information contained in guardianship files. Access is limited to records showing the appointment or discharge of a guardian, inventories, annual accounts and proceedings regarding the sale, lease, exchange or encumbrance of real estate belonging to the ward.
 - (3.) Bonding- companies, by their duly licensed agents and representatives may have limited access to information contained in guardianship files. Access is limited to records showing the appointment or discharge of a guardian, inventories, and annual accounts.
 - (4.) Others may obtain access, subject to necessary limitations, by court approval only.
 - (5.) In all cases, information shall be requested on a proper letterhead or with proper identification, and in no case shall information be provided over the phone.
- (g) Termination of a Guardianship
 - (1.) Guardian of the person - deceased ward: Upon the filing of the death certificate of the ward, the judge ordinarily will issue an order of discharge of the guardian of the person.
 - (2.) Guardian of the estate - deceased ward: Upon the filing of:
 - (A.) The death certificate of the ward;
 - (B.) The final account as approved by the court; and
 - (C.) A proper receipt and release signed by the appropriate recipient having authority over the ward's estate (with attached proof of that authority); the judge ordinarily will issue an order of discharge of the guardian of the estate.

- (3.) Guardian of the estate - minor: Upon the filing of proof of the ward reaching the age of eighteen, final account and receipt and release signed by the ward, the court ordinarily will issue an order of discharge of the guardian of the estate.
- (4.) Ward now competent: A court hearing is required where an incompetent has gained competency. A petition for discharge of a guardian and an order and notice for hearing will be filed to initiate the action. A competency report must be submitted, or requested to substantiate the petition for termination. The court may require the appointment of a guardian ad litem and an examining expert.

RULE 406: NOTICE OF NEED FOR INTERPRETER

A party shall notify the court as soon as reasonably possible upon learning that any party, witness, victim, guardian, or other person requires an interpreter to participate in the court process.

RULES OF THE OZAUKEE COUNTY CIRCUIT COURT CRIMINAL/TRAFFIC COURT DIVISION

RULE 501: CRIMINAL/TRAFFIC MOTIONS

501.1 MOTIONS BEFORE TRIAL

Written motions shall be filed in the form required by statute and shall include, to the extent known at the time of filing, the relief sought, the legal basis or reasoning for the trial court to grant the relief, and an allegation of the facts which support the relief sought. Written motions shall include an estimate as to the length of time required for the matter to be heard.

The moving party shall file its motion along with a Notice of Motion. Prior to filing any motion or petition that requires a hearing; the filing party shall obtain a date from the clerk of the judicial officer who will preside at the hearing, after consulting with all parties. The moving party is responsible for serving the Notice of Motion on the non-moving party. The date shall be clearly indicated on the notice of motion.

501.2 ORDERS ON MOTIONS

Local Rule 201.3 (the “Five-Day Rule”) is hereby adopted by reference for use in any case where the court’s ruling on a motion is to be entered in the form of a written order.

RULE 502: TRAFFIC AND NON-TRAFFIC FORFEITURE CASES

502.1 DEFENDANT TO APPEAR AT ALL SCHEDULED PROCEEDINGS

All persons cited or charged with any kind of operating under the influence, or operating while impaired offense are required to personally appear at the intake date set on the citation, even if the defendant has retained counsel and an authorization to appear is on file. The defendant’s failure to appear even if counsel is appearing can result in a default judgment and/or an arrest warrant. The Court may enter a default judgment against, or issue a warrant for the arrest of, a defendant who fails to appear in person or by counsel at any scheduled proceeding. The defendant shall forfeit any money deposited with the clerk upon entry of a default judgment.

502.2 INITIAL APPEARANCE / PLEA

- (a) A defendant in a traffic and/or non-traffic forfeiture action shall enter a plea at the initial appearance; there will be an opportunity to pre-try the case with a prosecutor. If the matter is not resolved by guilty plea or stipulation at the initial appearance, the defendant shall be notified of the name of the assigned judge and receive a trial date.
- (b) If the defendant is entering a guilty/no contest plea to a first OWI (Operating While Influence), the defendant must appear in person for the disposition unless written prior approval from the court is granted.

Motions to reopen traffic or non-traffic forfeitures see §204.01(b) and (c).

502.3 NOTICE OF ENHANCED PENALTY

In every case involving a plea of guilty or no contest to a charge of operating a motor vehicle under the influence of an intoxicant or operating a motor vehicle with a prohibited alcohol concentration, the defendant shall personally execute a form notifying the defendant of enhanced penalties for subsequent convictions.

RULE 503: ADJOURNMENTS AND CONTINUANCES

503.1 OUT-OF-COURT RESCHEDULING

Any party wishing to reschedule a court date out-of-court shall follow this procedure:

- (a) The rescheduling party shall contact the court's deputy clerk to determine available dates for rescheduling;
- (b) The rescheduling party shall contact the opposing party to determine whether it objects to the rescheduling and, if there is no objection, agree upon a date;
- (c) The rescheduling party shall again contact the court's deputy clerk to advise whether the opposing party objects. If there is no objection, the rescheduling party shall advise as to the agreed upon new date. If there is an objection, the rescheduling party shall submit a formal motion for rescheduling which shall be heard by the court.

503.2 IN-COURT ADJOURNMENT

Any party intending to ask the court on the record to adjourn proceedings to a new date shall consult his/her calendar and tentatively schedule the new date with the court's deputy clerk at the time of checking in, prior to the court taking the bench. The new date must still be approved by the court on the record.

RULE 504: CONSOLIDATION OR JOINDER OF CASES

504.1 INTRA-COUNTY CONSOLIDATION OF PENDING CASES

A defendant may request consolidation of pending cases amongst the various branches into the single branch assigned to one of the defendant's cases. Consolidation requires the consent of all parties and judges assigned to the cases being consolidated. Consolidation can be made only for purposes of plea/disposition and not for trial.

504.2 CONSOLIDATION IN ADVANCE OF DISPOSITION

Consolidation of cases shall not occur until the consolidated cases are scheduled for final disposition. If a consolidation is filed and a disposition does not occur, the files will be separated and rescheduled

into the previously assigned courts. Once a finding of guilt has been made, that case may not be consolidated into another court.

RULE 505: REQUIRED ATTENDANCE BY DEFENDANT AND AUTHORIZATIONS TO APPEAR

In addition to the requirements of section 971.04, Wis. Stats., defendants are required to appear as follows:

- (a) A defendant shall appear for each scheduled court date, unless a written authorization for defense counsel to appear has been filed with and permitted by the court.
- (b) Notwithstanding the provisions of paragraph (a), a defendant shall appear at any OWI intake dates, all trial dates, evidentiary hearings, dispositions in misdemeanor and felony cases, and jury trial status dates, unless excused by the court..

RULE 506: CORRESPONDENCE

All parties sending correspondence to the court shall send a copy to the opposing party or parties or, if a party is represented by an attorney, to that party's attorney.

RULE 507: VICTIM IMPACT PANEL

The Court shall order each defendant convicted of third or greater offenses of OWI/PAC or of causing injury or death to another while OWI/PAC to attend a victim impact panel.

RULE 508: SUBSTITUTION AND WITHDRAWAL OF ATTORNEYS

An attorney of record shall appear at each scheduled court date, unless and until the Court grants the attorney's motion to withdraw or approves a stipulation for substitution of counsel.

RULE 509: NOTICE OF NEED FOR INTERPRETER

A party shall notify the court as soon as reasonably possible upon learning that any party, witness, victim, guardian, or other person requires an interpreter to participate in the court process.

RULE 510: TIME TO RESPOND

In any criminal matter where the defendant is representing his/herself and/or defense attorney is withdrawn from further representation, any correspondence by the defendant to the court requesting court action must be responded to by the DA's office within 10 days of electronic notification of said correspondence. If no response is filed, it will be presumed the DA's office is not objecting to said request.

THIRD JUDICIAL DISTRICT OWI/PAC SENTENCING GUIDELINES

[RULES OF THIRD JUDICIAL DISTRICT OWI/PAC SENTENCING GUIDELINES](#)

CHANGE TABLE

Date	Editor	Change
April 13, 2018	Mary Lou Mueller, Clerk of Circuit Court	Added change table and increased the amount of GAL deposit from \$1,500.00 to \$2000.00 in §304.3
May 14, 2018	Mary Lou Mueller, Clerk of Circuit Court	Added §204.001 and modified §307.01 to include §204.001
August 1, 2018	Mary Lou Mueller, Clerk of Circuit Court	Modified §§204.001, 204.01, and 502.2
March 18, 2019	Mary Lou Mueller, Clerk of Circuit Court	Spelling corrections in §204.001
September 20, 2019	Mary Lou Mueller, Clerk of Circuit Court	Added §103.2(b), 103.2(f) and §510. Revised §§ 502.1 and 505(b)