

# Eau Claire County Circuit Court Rules

*(Tenth Judicial District)*

Effective Date: August 16, 2010

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## **Part 1: Tenth Judicial District Rules**

### 101 District Rule adoption and promulgation

101.01 Pursuant to §753.35(2), the Tenth Judicial District Court Rules are incorporated herein by reference.

### 102 Publication and Revision of Circuit Court Rules

102.01 Rules shall be adopted by written order of a majority of the Eau Claire County circuit judges, subject to approval of the chief judge.

102.02 Orders adopting rules shall specify an effective date.

102.03 Once adopted, rules shall be filed in accordance with §753.35, Wis. Stats.

## **Part 2: Court Practice**

### 201 Case Processing Time Guidelines

201.01 The following case processing time guidelines have been adopted by the Tenth Judicial Administrative District. They are designed to provide a guide to the judiciary and bar. Unless otherwise indicated, the guideline represents the time period from filing to final disposition.

Misdemeanor (from initial appearance) 2 months if in custody

6 months if not

Felony (from initial appearance) 6 months

Traffic (from initial appearance) 6 months

Ordinance & Forfeiture 4 months

Personal Injury/Property Damage 18 months

Contract/Money Judgments 12 months

Family 12 months

Estates 12 months  
Small Claims 3 months

201.02 Every case shall be scheduled for a next action or review date at every stage in the life of the case.

## 202 Closure of Proceedings

202.01 Media Coverage. Unless good cause be shown, or otherwise required by statute, a party moving that any judicial proceeding be closed to the public must notify the court and the media coordinator in writing at least 72 hours before 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 why the proceedings should not be public.

## 203 Rules of Decorum

203.01 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.

203.02 Witnesses shall be examined from a position behind the counsel table or lectern except when handling exhibits. Persons examining witnesses may either stand while examining a witness or remain seated. In no case shall a witness be crowded during examination.

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

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

203.05 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.

203.06 Lawyers and court officers shall, while in 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.

203.07 Lawyers shall advise their clients and witnesses of the formalities of court, and seek their full cooperation. It is expected that lawyers will guide clients and witnesses as to appropriate attire.

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

203.09 Attorneys and parties shall be prepared to proceed at the time matters are scheduled. Failure to proceed on time may be grounds for sanctions, including but

not limited to costs, dismissal, judgment, and ruling against the late party on the particular matter before the court.

## 204 Continuances

204.01 Stipulated requests for continuance of trial date require the consent of the parties in writing or on the record and must be for good cause.

204.02 Non-stipulated requests for continuance must be on motion and hearing and for good cause.

204.03 All requests for continuance are subject to approval of the court.

## 205 Telephonic Hearings/Motions

205.01 In cases involving out-of-county attorneys, the use of telephone conferencing for scheduling and for motions not involving evidence is encouraged. The use of telephone conferencing for other matters shall be at the discretion of the judge.

## 206 Court Commissioner

206.01 The court commissioner shall preside at the following:

206.01.01 Probable cause hearings for mental and alcohol commitments and protective placements.

206.01.02 Protective placement reviews.

206.01.03 Non-support and URESA actions brought by the Child Support Agency.

206.01.04 Small claims proceedings, except contested evictions, garnishments and replevins.

206.01.05 Traffic and ordinance initial appearances and pleas.

206.01.06 Juvenile detentions.

206.01.07 Harassment and domestic abuse injunctions.

206.01.08 Paternity proceedings.

206.01.09 Other matters as directed by a judge.

206.02 De Novo Review of Court Commissioner Decisions (Other than in Small Claims Actions)

Any party entitled to seek a de novo review of a decision of the court commissioner by statute shall file a written request for such review within 20 days of the issuance of the court commissioner's oral or written decision. Any request for de novo review of the court commissioner's decision filed more than 20 days

after the issuance of the decision shall be deemed untimely, and denied. Please see Rule 904 regarding de novo review of Court Commissioner Decisions in Small Claims Actions.

**Rule 206.02 Dated: August 1, 2005**

207 Judicial Assignments

207.01 Intake

Each judge presides over intake court for three weeks at a time in chronological branch order: Branch 1, 2, 3, 4, 5. Schedules are posted in the office of the clerk of courts and in the office of each judge's scheduling clerk.

207.02 Assignment of Cases

207.02.1 Intake Assignment: The following cases shall be assigned to intake court and, except as noted later, shall remain in intake court unless transferred:

1. Criminal
2. Traffic and ordinance
3. DNR
4. Guardianships and conservatorships
5. Mental and alcohol commitments
6. Protective placements
7. Warrants
8. Petitions for occupational drivers' licenses
9. Juvenile delinquency and CHIPS
10. Adoptions and TPR's
11. Small claims
12. Child Abuse Restraining Orders
- 13.

207.02.2 Transfer From Intake To Assigned Judge ? Jury trials, evidentiary hearings: misdemeanors, traffic, ordinance, DNR. When a jury trial is requested or when an evidentiary motion hearing is requested (e.g., motion to suppress, refusal hearing), the case shall be heard by the judge assigned to the case. Until the defendant has entered a plea, non-evidentiary hearings shall be heard by the intake judge. The appearance may be in person, or, if allowed by statute and the court, in writing or by counsel.

207.02.3 Misdemeanors: Misdemeanors are assigned to the judge on intake at the time of the initial appearance, which is the defendant's first appearance after the complaint or citation has been filed.

207.02.4 Felonies: Bindovers shall be to the branch selected by random computer assignment at the time of the filing of the complaint.

207.02.5 Co-defendants: When two or more defendants are charged in the same complaint, the first judge assigned to the first felony defendant shall be assigned all co-defendants. If there is no felony charge, the judge on intake at the first initial appearance shall be assigned all co-defendants.

207.02.6 Disposition of Multiple Cases Resulting in Felony Conviction: When a defendant has multiple cases subject to a plea agreement resulting in a felony conviction, and those cases are assigned to more than one branch of Court then all of the defendant's cases subject to the plea agreement will be transferred to the branch first assigned a felony case by random computer assignment, regardless of whether dismissal is contemplated in that case.

207.02.7 Small claims: A demand for trial following a court commissioner decision shall be referred to the judge on intake at the time of the court commissioner trial.

207.02.8 Mental and alcohol commitments and protective placements: When a jury trial is requested, the case shall be retained by the judge on intake at the time the probable cause hearing was held or waived.

207.02.9 Juvenile:

207.02.10 Equal Random Computer Assignment: The following shall be assigned on an equal basis among the branches:

1. Jury. When a jury trial is requested, the case shall be heard by the judge who presided at the initial appearance.
2. Disposition. The judge making a finding of delinquency, JIPS or CHIPS shall retain the case for disposition.
3. Subsequent cases. The judge at disposition shall be assigned all subsequent petitions involving the same juvenile.
4. Substitutions. Once a substitution of a judge is granted on any petition regarding a specific child, that judge is disqualified from presiding over any subsequent juvenile court proceedings regarding that child with the exception of petitions for revision, extension, and change of placement over which that judge had previously established and maintained jurisdiction.

Subsequent petitions related to the child shall be assigned to the judge assigned as a result of the substitution procedure outlined above. For example, if petition 1 is assigned to Judge A and petition 2 is assigned to Judge A but upon substitution reassigned to Judge 8, petition 3 would be assigned to Judge 8.

Further, according to §48.29(1g), if Judge 8 enters a dispositional order, the juvenile would then be prevented from filing a substitution request on any new petitions filed within one year after entry of the dispositional order.

1. Civil actions under Chapter 801
2. Criminal felonies subsequent to bindover
3. Actions affecting the family under Chapter 767
4. Writs
5. Administrative appeals
6. Minor settlements (except a settlement arising out of a previously filed case shall be heard by the judge assigned to that case)
7. Injunctions for harassment, domestic abuse and child abuse

8. Contested probate, based on date of filing objections or other motions
  9. John Doe hearings
- 207.03 Modification or Enforcement Of Final Orders: Motions for modification or enforcement of a final order or judgment shall be assigned to the same judge who granted the order or judgment.

207.04 Notice Of Assignment: For purposes of a request for substitution of judge, this local rule constitutes notice of the judicial assignment for a case originally assigned to intake court.

207.05 No limitation of Jurisdiction: This rule is intended to equalize and rotate caseloads and not to limit the jurisdiction of any branch over any matter. Nothing in this rule shall limit jurisdiction of any branch over any matter brought before it.

207.06 Assignment Of Previously Dismissed Cases: Cases previously dismissed shall upon refile be administratively assigned to the branch of court granting the dismissal in the prior case.

**Dated January 31, 2002**

#### 208 Facsimile/E-mail Transmission of Documents to the Court Filing

208.01 The following governs filings of papers by facsimile transmission with the Clerk of Court:

208.01.1 Papers may be filed with the Clerk of Circuit Court in accordance with the procedures established in §801.16(2)(a), Wis. Stats., at 715-839-4817.

208.01.2 No papers may be filed with the Clerk of Circuit Court at any facsimile number other than 715-839-4817. Correspondence intended for the judge or the judge's administrative staff shall not be sent to 715-839-4817. The Clerk's office will not send the judge or the judge's administrative staff "courtesy copies" of any transmissions received at 715-839-4817.

208.01.3 No filings shall exceed 15 pages in length. A "filing" means the fax cover sheet and all subsequent pages thereafter.

208.01.4 Notwithstanding the preceding paragraphs, no briefs or memoranda of law will be accepted by facsimile for filing.

208.01.5 accordance with §801.16(2)(c), any deviation from this local rule will be only permitted upon receipt of express consent of the judge assigned to the case and only upon good cause shown. It is incumbent on the faxing party to demonstrate to the Clerk that a judge has granted express consent.

208.01.6 Filing of papers by facsimile with the Clerk of Circuit Court is further governed by the requirements and limitations of §801.16(2)(d), (e) and (f).

208.02 The following governs facsimile transmissions to an individual judge or the court commissioner:

208.02.1 Facsimile transmissions to the judiciary shall be by express permission only.

208.02.2 Fax transmissions to the judiciary shall be directed to the particular judicial official's fax number. The Clerk of Circuit Court will not accept faxes directed to the judiciary.

208.02.3 The judiciary will not accept or forward to the Clerk's office, any filings intended for the Clerk of Circuit Court.

208.02.4 Facsimile transmissions to the judiciary shall not exceed six pages, including the fax cover sheet unless the individual judge permits otherwise.

208.02.5 Any deviation from this rule will only be permitted upon receipt of express consent of the judge and only upon good cause shown.

### **Part 3: Civil Practice**

301 All civil cases will be reviewed for service and answer 105 days after filing. If a case has not reached issue in the time prescribed by statute, a dismissal order or default proceeding may be initiated by the court.

#### 302 Pretrial

302.01 In all pretrial matters, attorneys must have authority to negotiate in the absence of their clients or, if authority is not granted, immediate telephone access to clients.

303 When testimony is taken by telephone, the party calling the witness is responsible for any long distance charges.

304 In a personal injury action involving a minor, neither the minor's attorney nor a member of the attorney's firm may be appointed guardian ad litem for the minor.

### **Part 4: Criminal Practice**

401 Arraignments shall ordinarily be conducted immediately upon completion of the preliminary hearing. At the request of either party, the arraignment may be scheduled later.

402 A no contest plea is subject to approval of the court. §971.06(1)(c), Stats. A defendant must explain the reason for requesting to plead no contest, rather than guilty. The judge will decide whether the reason is adequate.

#### 403 Motions

403.01 All motions must state the grounds "with particularity." §971.30, Stats. Failure to comply with this requirement shall be grounds for dismissal of the motion.

403.02 A party filing a motion shall be responsible for securing a hearing date. Failure to secure a date shall constitute waiver of the motion.

403.03 A written motion, any supporting papers, and notice shall be served not later than five days before the date for the hearing, unless a different period is fixed by statute or by order of the court. Time shall be computed as set forth in §801.15, Stats.

404 No court will proceed to sentencing or disposition on a charge for which there is an applicable felony sentencing guideline, including experimental sentencing guidelines, unless a completed sentencing guideline form is on file.

## **Part 5: Family Law Practice**

### **501 Mediation**

501.01 In any action affecting the family in which it appears legal custody or physical placement are contested (including, but not limited to, divorce, post-divorce, paternity and child support actions) the parties, and other interested persons as ordered by the court, shall attend at least one session of mediation with a mediator, and parent education classes. See §767.11(8), Stats.

#### **Rule 501.01 Effective date: January 1, 2003**

501.02 Requests for mediation may be made by any party, or others pursuant to §767.11(5)(c), Stats., or upon referral from the Court without motion, and the parties and/or others shall be referred to mediation by the family court or judge at the earliest date available. See §767.11(5), Stats. Once a party has received an order for mediation, they must complete mediation and parent education classes before they may pursue other action before the Court other than for support or contempt.

#### **Rule 501.02 Effective date: January 1, 2003**

501.03 Mediation shall take place with a representative of Try Mediation, Inc., the Circuit Court's designated provider of mediation, unless the parties agree to the use of a private mediator and meet the filing/notice requirements as outlined in §767.11(7), Stats. All mediators shall meet the statutory requirements of a mediator in terms of neutrality (§802.12, Stats.) and confidentiality (§904.085, Stats.) in which any oral or written communication relating to a dispute in mediation is inadmissible in evidence and any judicial proceeding with certain exceptions.

501.04 The parties and others involved in mediation shall complete and file with the court, with a copy to the mediator, a Mediation Information Worksheet, a sample of which is attached.



501.05 Mediation may not be waived under any circumstances other than those set forth in §767.11(8)(b), Wis. Stats. Waivers of mediation may only be made by a Circuit Court Judge on the record, specifically considering the factors enumerated §767.11(8)(b), Stats.

501.06 There shall be no deferrals of mediation. Prior mediation shall not satisfy the mediation requirement if the mediation took place before the current filing before the court.

501.07 If the mediation is successful, the mediator shall assist in preparation of a Mediation Agreement, which shall be reviewed, approved and filed by the parties, counsel and the court as directed in §767.11(12), Stats. If mediation is unsuccessful, the mediator shall provide the court with a brief statement indicating the mediation was unsuccessful and providing any confidential information the mediator deems appropriate and necessary.

501.08 Any fees for mediation are payable directly to TRY Mediation, Inc.

## 502 Guardian ad Litem

502.01 A guardian ad litem may be appointed by stipulation or following a motion hearing. No guardian ad litem shall be appointed upon ex parte application of a party, unless cause is shown.

502.02 The court shall consider appointment of a guardian ad litem in any action affecting the family under the conditions set forth in §767.045, Wis. Stats. The court shall strongly consider appointment of a guardian ad litem if legal custody and/or periods of physical placement are in dispute between the parties and shall state on the record or provide in writing its rationale if no guardian ad litem is appointed under those circumstances.

Any guardian ad litem ordered appointed by the court shall be paid a retainer fee of \$1,000.00 unless other orders are issued by the court. Each party shall be responsible for one-half of the retainer fee of the guardian ad litem, to be paid prior to the completion of any guardian ad litem services. The guardian ad litem shall establish their hourly rate with the parties and their counsel, and each party shall be equally responsible for all fees incurred for the guardian ad litem's services unless otherwise ordered by the court

### **Rule 502.02 Dated: July 9, 2002**

502.03 There shall be no payment by the County for a guardian ad litem unless neither party is capable of paying. Specific findings in a written order, or on the record, about the financial indigency of both parties, must be made before a waiver of guardian ad litem fees can be effectuated and the county is ordered to pay any fees for a guardian ad litem. If one party is indigent, and the other is not, the non-indigent party shall be responsible for all costs associated with the guardian ad litem, with review and reassessment of the guardian ad litem fees at the conclusion of the case.

502.04 If a party or parties are determined to be indigent and the County makes any payment on behalf of a party for a guardian ad litem, the final court order shall contain a provision setting forth the requirement for the parties to reimburse the County for that expense, and to establish a payment plan.

### 503 Custody/Placement Studies

503.01 Whenever legal custody or physical placement of a minor child is contested, mediation is not used or does not result in an agreement between the parties, the guardian ad litem recommendations are not accepted by the parties, or at other times as the court deems appropriate, the court may order a legal custody and/or physical placement study pursuant to §767.11(14), Wis. Stats. The evaluator shall be agreed upon by the parties and if there is no agreement, it shall be appointed by the court, with input from the guardian ad litem.

503.02 If a custody/physical placement study and evaluation is ordered, the parties shall immediately be referred for a custody/physical placement study and evaluation orientation through Try Mediation, Inc. (hereafter "orientation") and shall complete that orientation prior to undergoing an evaluation.

503.03 Try Mediation, Inc. shall contact the guardian ad litem upon completion of the orientation and the guardian ad litem shall contact the evaluator to arrange for the study. If there is no guardian ad litem appointed, the parties or their attorneys shall make arrangements for the evaluation upon completion of the orientation. The following information shall be provided to the evaluator:

503.03.1 Whether any of the parties to the study, or their significant others, have had contact with the evaluator.

503.03.2 The names, addresses, and phone numbers of the parties and other interested persons; the names and birth dates of the children involved; and, the names and phone numbers of counsel for the parties;

503.03.3 The date of any court hearing and/or date established for custody study completion;

503.03.4 The court ordered arrangement or agreement of the parties as to cost and payment arrangements.

503.04 Absent other agreement, if a petition for a custody/physical placement study and evaluation comes from one of the parties, the petitioner shall pay for the study before it is commenced and the court shall review and reassess costs as appropriate at the case conclusion. If the petition for a custody/physical placement study and evaluation comes from the guardian ad litem or the court, the parties shall share equally in the cost of the custody/physical placement study and evaluation, with the court reviewing and reassessing costs as appropriate at the case conclusion. All payments are to be made directly to the provider by the parties.

503.05 All costs and fees incurred for the custody/physical placement study and evaluation shall be paid up front, before the custody/physical placement study and

evaluation is completed and the report is distributed. There shall be no payment by the County for a custody/physical placement study and evaluation unless neither party is capable of paying. Specific findings in a written order, or on the record, about the financial indigency of both parties, must be made before a waiver of custody/physical placement study fees can be effectuated and the county is ordered to pay any fees for a custody evaluation. If one party is indigent, and the other is not, the non-indigent party shall be responsible for all costs associated with the custody study, with review and reassessment of the custody evaluation and expense at the conclusion of the case.

503.06 If a party or parties are determined to be indigent and the County makes any payment on behalf of a party for a custody study, the final court order shall contain a provision setting forth the requirement for the parties to reimburse the County for that expense, and to establish a payment plan.

503.07 The original custody evaluation, home study and/or psychiatric reports shall be filed with the Court and sealed within the court file. Copies of the reports shall be released to attorneys. Copies of the reports shall not be distributed directly to the parties but attorneys may share the reports by allowing their clients to read the reports in the attorney's office or some other supervised place of their designation. If the parties do not have counsel, they may make arrangements to review the reports under supervision with TRY Mediation, Inc.

504 The family court commissioner may hear stipulated default divorces and actions for enforcement or revision of judgments. A judge may also hear these matters, or may require that all such cases in that judge's branch be heard by the commissioner.

505 The family court commissioner shall preside over all stages of paternity cases authorized by statute. This includes everything but the trial of the paternity issue.

506 If a party fails to file a financial declaration within the time required by statute, that party may be prohibited from introducing any evidence regarding finances at the time of trial.

507 A Certificate of Divorce and Annulment shall be filed with a summons and petition.

508 On or after January 4, 1999, the Clerks of Circuit Court shall direct all child support, family support and maintenance paid, pursuant to preexisting or new court orders, to the Department of Workforce Development or its designee.

#### 509 Parenting Program

In any action affecting the family in which a minor child is involved or during the pendency of an action to determine paternity, in which the Court will issue a decision or affirm a stipulation regarding legal custody or physical placement of a child, the Court shall order the parties to attend a Parenting Program through TRY Mediation, Inc., entitled "Families in Transition: Children in the Middle" concerning the effects on a child of a dissolution of a marriage and/or training in parenting or co-parenting skills.

Attendance at said program shall be completed within 120 days of the issuance of said Order. A certificate of attendance at said program shall be filed by the parties with the Clerk of Court Office upon completion of the program.

This local rule applies to all actions and motions filed after January 1, 2009.

## **Part 6: Foreclosure Practice**

601 Requests for a jury trial shall be filed in writing along with payment of the jury fee with the clerk of court, no later than ten calendar days after the pretrial conference.

(602 Vacated)

## **Part 7: Juvenile Practice**

701 Refer to Rule 207.02 B.7. regarding assignment of cases.

## **Part 8: Probate Practice**

801 Jurisdiction of the Probate Court

801.01 Probate actions under Wis. Stat. Chapters 851 through 879.

801.02 Guardianship and protective placements under Wis. Stat. Chapters 54 and 55.

801.03 Trust actions under Wis. Stat Chapter 701.

801.04 Civil commitments under Wis. Stat. Chapter 51.

802 Responsibility within the Probate Court

802.01 Responsibility of Register in Probate/Probate Registrar

802.01.1 The Register in Probate office is responsible for the opening, reviewing, filing, maintenance and closing of all files and papers dealing with civil commitment, probate, trust, protective placement, guardianships (both adult and minor), as well as administrative matters dealing with probate court.

802.01.2 The Probate Registrar handles uncontested informal probate hearings.

802.02 Responsibility of Court Commissioners

802.02.1 The Probate Court Commissioner handles uncontested hearings on formal probates and trusts matters.

802.02.2 The Circuit Court Commissioner handles civil commitment probable cause hearings, emergency protective placement hearings, summary hearings on Watts and temporary guardianship hearings.

## 803 Filing of Documents

803.01 All documents relating to probate court subject matter are to be filed in the Register in Probate office. Documents required shall be filed prior to the hearing.

### 803.02 Facsimile Transmission of Documents to the Court

803.02.1 Documents requiring original signatures may be faxed only for the purpose of showing the court the document is complete; the original must be filed with the court.

803.02.2 The Judge or Court Commissioner may authorize in advance the filing of a particular document that does not conform to these rules if good cause is shown and they are in conformance with the statutes.

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

## 804 Scheduling

804.01 The Register in Probate office schedules informal probate hearings and uncontested formal hearings on Tuesday mornings from 9 -11 a.m. Attorneys need to appear for these hearings unless the attorney is certain no one is going to appear or object. Attorneys may appear telephonically but need to schedule through the Register in Probate office.

804.02 Routine formal probate matters to be heard by a judge are scheduled through intake court. If the matter scheduled is lengthy in nature, inform the judicial assistant at the time you are scheduling the matter.

804.03 Any contested probate and trust matters will be assigned according to the properties of the probate draw. Once assigned, all interested parties will be notified of the assignment by the Register in Probate. Once a judge hears the contested matter in the case, all further contested matters in the case will be assigned to the same judge.

804.04 Final hearings for mental commitments are scheduled through intake court.

804.05 Guardianship and conservatorship hearings are scheduled through intake court.

804.06 Temporary guardianship hearings are scheduled through the Court Commissioner.

804.07 Post guardianship/conservatorship matters are scheduled with the judge who issued the letters.

804.08 For any related case in the circuit court, notify the Register in Probate so the same judge may be assigned to both matters.

## 805 Estates

805.01 Wills: Only original wills will be accepted for filing with the court.

805.01.1 Wills of a decedent which will not be subject to probate proceeding shall be filed and shall be accompanied by an affidavit.

805.01.2 Wills of living persons filed for safekeeping shall be accompanied by the statutory filing fee and other information as the Register in Probate may require.

805.01.3 Objection for admission of the will or appointment of the personal representative shall be in writing accompanied by the statutory filing fee.

805.02 Summary Settlement, Summary Assignment and Special Administration: Proof of heirship must be filed with all opening papers for Summary Settlement, Summary Assignment and Special Administration petitions.

805.03 Selection of Personal Representative: Only Wisconsin residents may be appointed as Personal Representative of an estate, unless, at the discretion of the court, the nominated non-resident is then required to have a resident agent and post a bond with the probate court in an amount determined by the probate court. If the decedent died intestate, an automatic surety bond will be required.

805.04 Hearing or Waiver of Hearing: A hearing is not required when waivers are filed by interested parties. Hearings will be held if notice is required or upon request of the attorney for the estate, the personal representative, or the probate court.

805.05 Objections to Claims Filed: An objection to a claim must be in writing and filed with the probate court. When the objection is filed, the probate court shall assign the case according to the properties of the probate draw. The personal representative or attorney for the estate shall send notice of the objection to all interested parties. A notice of hearing will be sent to all interested parties from the court.

805.06 Inventory: The general inventory is due no later than six months after the appointment of the personal representative, unless the court has by order extended or shortened the time. A statutory filing fee shall accompany the inventory.

805.07 Final Account: Filing of a final account in an informal is preferred. A statement of attorney fees shall be filed when the final account is not filed in the probate office.

805.08 Tax Clearances: A Wisconsin closing certificate for fiduciaries shall be filed and a federal estate tax closing letter (if the estate met the standard to file a

federal estate tax return) shall be filed with the court prior to the closing of any estate.

805.09 Closing Estates: Signed receipts from heirs or beneficiaries and 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.

805.10 Extensions of Time to Closing Estates: When an estate cannot be closed within the required time limits, a 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 also be submitted. The court will review each request individually. See section 805.09 and section 809.

805.11 10th Judicial District Timelines to Close Estates: Estate actions shall be disposed of within twelve (12) months from the date of the filing of the petition or application to open estate.

## 806 Trusts

### 806.01 Inventory

806.01.1 The trust inventory shall be filed before the estate will be closed. If the inventory is not timely filed, the Register in Probate shall notify the trustee that the trust inventory is past due.

### 806.02 Closing

806.02.1 At the time of the termination of the trust, all annual accountings for prior years and the final account must be on file with the court.

806.02.2 The trustee shall petition the court to terminate the trust.

806.02.3 A Wisconsin closing certificate for fiduciaries must be filed with the court before a trust may be closed and the trustee discharged.

## 807 Guardianships

### 807.01 Temporary Guardianships

807.01.1 A hearing shall be held on all temporary guardianship petitions.

807.01.2 A Petition to Extend Temporary Guardianship and Order on Petition to Extend Temporary Guardianship shall be filed if an extension of the temporary guardianship is requested.

807.01.3 A guardian ad litem shall be appointed in all temporary guardianship matters.

### 807.02 Guardianships

807.02.1 The Court shall appoint a guardian ad litem for the proposed ward if the petition is filed by a pro se individual, otherwise counsel will retain the GAL; the guardian ad litem shall file a report with the court prior to the hearing.

807.02.2 The guardianship inventory shall be filed within 60 days of the appointment of a guardian of the estate.

807.02.3 Unless previously ordered by the court, the guardian must sign and date a Guardian's Fee and Payment contract for reimbursement of expenses and/or guardian fees.

### 807.03 Conservatorships

807.03.1 The conservatorship inventory shall be filed within 60 days of the appointment of a conservator.

807.03.2 A hearing is required to terminate a conservatorship.

### 807.04 Protective Placements

807.04.1 A petition for protective placement may be filed with or anytime after the guardianship petition is filed.

807.04.2 A comprehensive evaluation must be completed and filed with the court on all protective placement petitions.

### 807.05 Protective Placement Reviews (Watts)

807.05.1 Summary hearings on Watts reviews will be held in front of the court commissioner.

807.05.2 Summary hearings are held on the first Friday of each month.

807.05.3 If an objection to the protective placement is received, the matter will be held in front of the court commissioner.

### 807.06 Termination of Guardianships

807.06.1 Guardianship of the person – deceased ward: upon notification to the probate court that the ward died, the court will issue an order of discharge of the guardian of the person.

807.06.2 Guardianship of the estate – deceased ward: upon notification to the probate that the ward died and filing of: the final account as approved by the court; a proper receipt from the person/entity receiving the remaining assets in the ward's estate; the court will issue an order of discharge of the guardian of the estate.

807.06.3 Guardian of the estate for a minor: upon filing proof of the ward reaching the age of eighteen, filing the final account and receipt signed by



the ward; the court will issue an order of discharge of the guardian of the estate.

## 808 Civil Commitments

808.01 Commencement: all civil commitment matters under Chapter 51 originate with the county corporation counsel office.

808.02 Probable Cause hearing will be heard by the Court Commissioner.

808.03 Final Hearings are scheduled with the intake judge.

## 809 District Probate Timelines

809.01 The judges of the 10th Judicial District have set the case processing benchmark for closing estates at twelve (12) months from the date of filing the petition or application.

809.02 See Rule 805.09 regarding extensions for time to close the estate.

## 810 Forms ? District and State

810.01 Standard statewide forms are required for filing.

810.02 Case management forms/guidelines/checklists created by the 10th Judicial District Registers in Probate shall be used when appropriate.

810.03 District forms shall not take the place of standard, statewide forms created pursuant to §758.18, Wis. Stats.

## **Part 9: Small Claims Practice**

901 The service of the summons, except in eviction actions, may be by mail.

902 All contested small claims actions shall undergo mediation before being scheduled for trial. A mediation representative will be available in the courtroom at the time of the return date. Attorneys appearing without clients shall have authority to mediate a settlement.

903 If mediation is not successful, a trial will be scheduled with the court commissioner, except that evictions, garnishments and replevins will be scheduled with a judge.

904 De Novo Review of Court Commissioner Decisions in Small Claims Cases: Wis. Stats. §799.207(2) requires that a demand for trial de novo must be made within 10 days from the date of an oral decision or 15 days from the date of mailing of a written decision to prevent the entry of the court commissioner's judgment.

## **Part 10: Traffic/Forfeiture Practice**

1001 Initial appearances for traffic and/or ordinance citations are held before the Court Commissioner.

1002 Individuals issued OWI or .BAC citations must appear in person at the initial appearance for Traffic Court.

1003 All other individuals receiving traffic or ordinance citations may appear at the initial appearance or may enter a not guilty plea by mail to the Clerk of Court office prior to the initial appearance date.

#### 1004 Pretrial Conference

1004.01 Any individual who enters a not guilty plea, either in person at the initial appearance or by mail, will be assigned a pretrial conference with the attorney who represents the agency which issued the citation.

1004.02 If a pretrial conference is awarded to an individual and if that individual fails to appear at the pretrial conference, a default judgment will be entered against the individual on the citations.

1004.03 A request for a jury trial must be made within 10 days after the pretrial conference.

1005 If an individual fails to appear at the initial appearance and fails to enter a not guilty plea by mail prior to the initial appearance, a default judgment will be entered on the traffic or ordinance citations.

1006 If an individual appears at the initial appearance and enters either a guilty or no contest plea to a citation, a fine will be assessed; points on the individual's license may be affected; and the individual's driving privilege may be affected.