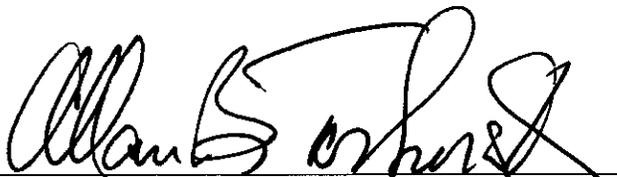


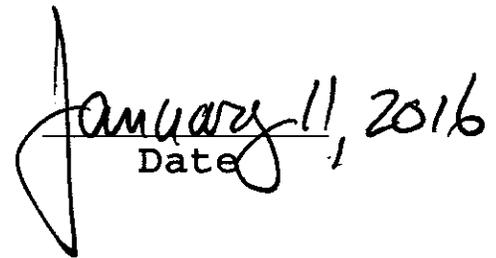
WALWORTH COUNTY

CIRCUIT COURT RULES

Per 753.35(1) Wisconsin Statute, the Walworth County Circuit Court Rules are approved:

By:

  
\_\_\_\_\_  
Honorable Allan P Torhorst  
Chief Judge, District 2

  
Date

  
\_\_\_\_\_  
Honorable Phillip A. Koss, Br. I

  
\_\_\_\_\_  
Honorable James L. Carlson, Br. II

  
\_\_\_\_\_  
Honorable Kristine E. Drettwan, Br. III

  
\_\_\_\_\_  
Honorable David Reddy, Br. IV

Sheila T. Reiff, Clerk of Circuit Court

Revision date: 12/2015

C...L

ADOPTION/AMENDMENT OF COURT RULES

- A. These court rules shall be known as "Walworth County Circuit Court Rules".
- B. These rules are intended to supersede all existing local court rules, written or oral. They are intended to supplement state statutes and Supreme Court Rules, and if in conflict therewith, shall be deemed void. These rules are not intended to be work rules.
- C. These rules take effect on date of publication unless otherwise stated in court orders. They will be published and made available to the bar and public, and shall be binding and enforceable on contempt proceedings.
- D. Amendment to these rules shall be made by consensus of all then sitting Walworth County judges, upon advice of the Walworth County Bar/Bench Committee.

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## GENERAL RULES

### 1. MUNICIPAL APPEALS/TRANSFERS

Traffic and Ordinance appeals/transfers shall be assigned to the misdemeanor court judge. Such appeals/transfers should be governed by statute and uniform procedure approved by the judges. Civil appeals/transfers shall be assigned to the civil court judge.

### 2. CASE PROCESSING GOALS

The Walworth County Circuit Courts adopt the State of Wisconsin guidelines for the processing of all cases:

<u>CASE TYPE</u>	<u>GOAL FOR PERCENT DISPOSED WITHIN DAYS</u>
Felony	85% within 180 days, 95% within 360 days
Misdemeanor	90% within 180 days
Criminal Traffic	90% within 180 days
Contested Traffic	95% within 180 days
Contested Forfeiture	95% within 180 days
CV-PI/PD	90% within 540 days
CV-Contract & RE	95% within 360 days
CV-Other CV	95% within 180 days
FA-Divorce	90% within 360 days
Paternity	90% within 180 days
All Other Family	95% within 360 days
Contested Small Claims	95% within 180 days
Estates (PR & IN)	75% within 420 days, 90% within 540 days
Juvenile Delinquency	95% within 90 days
CHIPS	85% within 90 days
TPR Voluntary	95% within 120 days
Involuntary & UnIdentified	95% within 180 days
Contested JO	95% within 180 days

### 3. CASE ASSIGNMENTS

Assignment upon disqualification or substitution of judge shall be by a tab system among all judges

In the absence or unavailability of the judge assigned to a case, or in the event of calendar congestion, any available Walworth County Circuit Court judge may assist another branch of court.

Judge rotation will take place in August of odd years.

### 4. COURT COMMISSIONERS

#### Appointment

Each judge may appoint no more than two (2) court commissioners who shall serve at the pleasure of the judge who assigned them and the appointments will continue until terminated by either the current judge or the new judge.

#### Powers

On authority delegated by the judges, which may be by a standard order and with the approval of the Chief Judge of the 2nd Judicial Adm. District, a court commissioner appointed under § 757.68 may exercise all powers authorized by § 757.69, as amended.

#### Compensation

Part-time court commissioners shall be paid at a rate determined by the Courts, taking into consideration applicable Supreme Court Rules.

#### Conflict of Interest

Attorneys serving as court commissioners shall not be barred from practicing law in front of the judge who assigned them. However, attorneys so assigned shall forthwith inform, in writing/on the record, their client and the opposing attorney of their role as a commissioner. If there are any objections, the court may enter its disqualification and a new judge shall be assigned.

#### Family Court Commissioner

The Family Court Commissioner shall be appointed by a majority of Walworth

County Judges, with the approval of the Chief Judge of the District. The Family Court Commissioner will be certified annually.

Director of Family Counseling

The Director of Family Counseling shall be appointed annually by a majority ~~of the four(4) judges.~~ of the Walworth County Judges

5. DECORUM - Applies not only to the Courts but also to Family Court Commissioner, Court Commissioners, and Clerk of Court when presiding in Small Claims Court.

A. Court may be formally opened each day upon which court business is transacted, either by the bailiff or clerk, unless the judge directs otherwise.

B. As the judge enters the courtroom, the bailiff or clerk may require all present to rise and stand. When the judge has ascended the bench, the bailiff or clerk may say: "Please be seated" or, in jury trial "Hear Ye! Hear Ye! The Circuit Court for the County of Walworth, Branch \_\_\_ is now open, silence is commanded." There upon all shall be seated and the business ensues.

C. In recessing, the judge may announce: "The court is now in recess. Trial will resume at \_\_\_\_\_ o'clock."

D. The national flag shall be displayed close to the bench on a stand to the right of the judge.

E. Lawyers shall not lean upon the bench nor engage the court in a manner depreciative of the dignity of the proceedings as viewed by the jury and public.

F. Unless otherwise permitted by the court, lawyers shall examine witnesses from a standing or seated position at counsel table except when handling exhibits. If a lectern is provided by the court, examination may be either from said position at counsel table or from the lectern. A lawyer shall not crowd a witness in examination.

G. Lawyers should not, in addressing the jury, crowd the jury box.

H. Lawyers, during trial, shall not exhibit familiarity with witnesses, jurors, or opposing counsel, and generally, use of first names shall be avoided. In jury arguments, no jurors shall be addressed individually or by name.

I. All lawyers and court officers shall wear appropriate attire while in attendance upon the court.

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

K. The administration of oaths to witnesses should be an impressive ceremony and not a mere formality.

L. In jury actions, which are disposed of without a jury verdict, the judge, in dismissing the jury, should briefly explain the procedure and why a verdict was unnecessary in a manner not to prejudice future service as jurors.

M. The judge shall wear a robe while presiding on the bench. Judicial discretion may be exercised otherwise in proper situations.

N. Attorneys shall be punctual for scheduled court appearances.

O. The Walworth County Bar Association Lawyers' Standard of Conduct is approved and adopted (see back cover).

## 6. FILING

A. Papers accepted for filing shall have printing on one side only, 8 1/2" x 11" paper, and a case #.

B. Backers are prohibited.

C. Pleadings commencing an action must include Case Classification/Case Code, attorney's state bar number, mailing address & telephone number. Any other documents, after commencement of action, to include attorney's state bar number, mailing address and telephone number.

## 7. GUARDIANS AD LITEM

Guardians' ad litem are appointed annually by a majority of the four judges. They shall conduct their work in a manner specified by state law, Supreme Court Rules, and local court rules, and contract. They shall be required to complete three (3) Continuing Legal Education credits specifically addressing GAL work within the first year of appointment and are encouraged to take other related classes.

**8. DECISIONS OF CIRCUIT COURT COMMISSIONER UNDER §757.69(8) and 767.17 Wis. Stats.**

Any party who was present at the hearing may file a motion for review of the Circuit Court Commissioner's decision under Sec. 757.69(8) and 767.17, Stats. *The findings and orders entered by a court commissioner upon stipulation or default are not subject to De Novo review.* De Novo appeals must be filed no later than 15 days from the date the decision was made orally in open court on the record, or the date the written decision was filed with the clerk of court, whichever occurs first.

Notices requesting a hearing de novo will not stay the order unless the judge specifically grants a stay of the order. Should a party request a hearing de novo, the court will not proceed with any enforcement actions requested by the same party before that hearing e.g. the court will not grant a bench warrant and a commitment order requested by the petitioner, if the petitioner requests a bench warrant based upon the failure of the respondent to comply with the order upon which the petitioner has requested a de novo hearing. However, if in the court's discretion, fairness requires an enforcement hearing; the court will set a combined de novo and order to show cause as promptly as possible.

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

**9. SETTLEMENT**

Stipulations and orders for dismissal shall be filed within 30 days of the notice of settlement, or the action will be set for dismissal and notice given.

**10. MOTION PRACTICE**

Notice of Motion/Notice of Hearing and motion papers shall be filed with the proper calendar clerk before the date for hearing is scheduled unless otherwise ordered by the court.

When filing a notice of motion in Walworth County, motions are to be filed in blank for the date and time and are to include one copy of the notice of motion and a self-addressed stamped envelope. Once received and filed, the calendar clerk will call to schedule a date and time convenient for the attorney/party filing the motion. The calendar clerk will then

conform the copy of the notice of motion and mail it back to the attorney/party in the envelope provided. The conformed copy may then be used to notice others of the hearing date and time.

#### **11. ADJOURNMENTS**

A party who has a conflict with a court date must contact the other party with their position on the request before requesting an adjournment from the Court. If the other party agrees to the adjournment, the Court must still approve the request. If the other party objects to the request, a motion must be filed. Any such motion shall contain certification relating to contacting the other party regarding their position on the adjournment request.

#### **12. UNIFIED BUDGET**

There shall be one unified budget for all of the courts for Walworth County under Clerk of Courts Administration.

There shall be a clerk designated to each judge who will clerk all matters heard by the judge.

The Clerk of Circuit Court shall be the department head of all branches of Circuit Court as to personnel, budget and related matters.

#### **13. VICTIMS/WITNESSES**

The Walworth County judges and staff recognize that all parties and participants, including victims and witnesses, have rights in controversies pending before the courts. The judges shall be vigilant to protect the rights of all parties and participants in the legal process.

#### **14. FACSIMILE and EMAILS**

A. Facsimile documents transmitted directly to the courts shall be accepted for filing only if:

1. The circuit court has a facsimile machine capable of reproducing documents that meet Supreme Court Rule 72.01 concerning retention of filed documents. Only plain paper facsimile machines currently comply with this requirement.

2. The circuit court has a facsimile machine physically located within the offices of the circuit court or the Register in Probate.

3. No filing fee is required. In the case of a petition for a temporary restraining order that alleges stalking, intentional harm or threat, the filing fee may be waived after review by the Judge/Circuit Court Commissioner. When submitting these types of documents for filing by fax, the completed Request for Waiver of Fees should be included. All documents will then be reviewed by the Judge/Circuit Court Commissioner who will determine whether 1) the filing fee should be waived; 2) the clerk should accept the fax for filing; and 3) the temporary order is granted or denied.

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

5. The facsimile transmission is no longer than 15 pages. There is a fee of \$2 for each additional page unless there is court approval.

6. If the facsimile transmission exceeds 15 pages, the party or attorney shall certify that the assigned Judge/Circuit Court Commissioner has approved the facsimile transmission in advance.

7. Email attachments should not be more than 15 pages.

- B. Facsimile documents and emails transmitted to a non-court agency, party, or company for the receipt, transmittal and delivery to the clerk of circuit court, shall be accepted for filing only if: Same 6 conditions from "A" above apply here.
- C. The party transmitting the facsimile document is solely responsible for ensuring the timely and complete receipt.
- D. The circuit court, judge or clerk is not responsible for:
1. Errors or failures in transmission that result in missing or illegible documents.
  2. Periods when a circuit court facsimile machine is not operational for any reason.
- E. A judge assigned to a particular matter may authorize in advance the filing of particular documents in that case that do not conform to these rules if good cause is shown and they are in conformance with § 801.16, Wis. Stats.
- F. Documents that are not to be filed but are to be used by the court for reference or other purpose may be transmitted by facsimile

transmission at the discretion of the judge or clerk.

- G. Documents are considered filed when received except that documents received by facsimile transmission after regular business hours of the clerk of circuit court's office are considered filed the next business day. § 801.16 (2)(f), Wi. Stats.
- H. Facsimile papers are considered filed upon receipt by the clerk of circuit court and are the official record of the court and may not be substituted. No additional copies may be sent. If additional copies are sent, the court will impose a \$1.25 per page sanction for violating the court rule by the offending party.

## 15. COURT MEDIA RELATIONS

The courts acknowledge the right of the press to free access to court proceedings as limited by statute and Court Rules (see SCR 61.01 et seq). In the case of proceedings/files closed to the public, access shall be limited to that provided by statute. In such cases, the court may require media representatives to produce credentials and to sign a form acknowledging responsibility for use of information gained from closed files/proceedings as provided by statute.

## 16. JURY SERVICE

For the purpose of jury service, the Clerk of Courts or designee may excuse/exclude jurors from service in accordance with Section 756.001(5)

**FAILURE TO RETURN QUESTIONNAIRE.** If an individual fails to respond after being sent ~~three (3)~~ two (2) jury questionnaires, the individual will be summoned before the court on an Order to Show Cause to show why that individual should not be found in contempt and sanctioned up to \$500 per violation, pursuant to Sec. 756.30, Wis. Stats. Continued failure to respond may result in a warrant for the individual's arrest to be brought before the court. ~~an order will be prepared for the Judge's signature imposing \$500 sanction.~~

**FAILURE TO REPORT FOR JURY SERVICE.** If a juror fails to report for jury service, the clerk will send a letter informing the juror of their failure to report for service. If this letter is ignored by the juror, a second letter will be sent giving a deadline date to respond. If this is also ignored, the juror will be summoned before the court on an Order to Show Cause as to why that juror should not be found in contempt and sanctioned up to \$500 per violation, pursuant to Sec. 756.30, Wis. Stats. Continued failure to respond may result in a warrant for the individual's arrest to

*be brought before the court.*

**17. WEAPONS IN THE JUDICIAL CENTER**

No person may bring into the Judicial Center a dangerous weapon defined as a gun, edged weapon, sharp object, oc spray, mace, electronic weapon, glass bottle, tool or any object deemed inappropriate for its intended or possible use as a weapon, except for law enforcement officers who are present as a witness, or in some official law enforcement capacity such as security. If the officer is a party to the action, is present in support of a party, or off duty, the officer may not be armed.

## CIVIL

1. Scheduling
2. Foreclosure Mediation
3. Pretrial & Motion Proceedings
  - A. Pretrial
  - B. Civil Motions
  - C. Evidentiary Motions
  - D. Default Mortgage Foreclosure  
and Confirmation of Sheriff Sale
  - E. Motion for Default Judgment
  - F. *Standard Summary Judgment Procedure*
  - G. Dismissal/Default/Settlement Calendar
4. Return of Verdict
5. Orders, Findings of Fact, Conclusions of Law  
& Judgment
6. Administrative Reviews/Certiorari

## CIVIL

### 1. SCHEDULING

Scheduling questionnaires will be sent out or the clerk will schedule a scheduling conference approximately 120 days after the action is filed.

### ~~2. FORECLOSURE MEDIATION~~

~~Pursuant to Section 802.12 Wis. Stats., Alternative Dispute Resolution (hereinafter, ADR) is available to parties in civil actions including those seeking foreclosure.~~

~~In foreclosure actions, the Court will require plaintiff to inform the defendant in writing at the time of service that ADR procedures (Sec. 802.12 Wis. Stats.) may be requested by either party. This rule shall only apply to homestead property that is owner occupied.~~

~~Upon request for ADR by either party, the Court will determine whether the case is appropriate for the use of a settlement and the Judge may order the parties to seek a settlement alternative.~~

~~The request and use of the ADR procedure will not extend the time of filing a respective pleading until the applicability of a settlement alternative is determined. Upon request of either party, the Court will begin the scheduling process to set trial dates, discovery guidelines and dates and other necessary dates.~~

### 3. PRETRIAL AND MOTION PROCEEDINGS

A. Pretrial. In all pretrial proceedings, attorneys must have the authority to negotiate in the absence of their client. If authority is not granted, immediate telephonic access to the client shall be required. Pre-trials are considered working sessions to effectuate settlement whenever possible. Attorneys shall therefore be prepared with all data necessary to enter into meaningful settlement discussions.

B. Civil Motions. Unless otherwise ordered by the court, all civil motions, including motion for summary judgment, shall be accompanied by supporting papers and a memorandum of authority upon filing. A responding party shall have served and filed with the court a memorandum of authority and all supporting papers, at least five (5) business days, as defined by 801.15(1)(b) Stats., prior to scheduled hearing; if not so served or on

file, the court shall have absolute discretion to not consider same. If respondent fails to do so, it shall be presumed that respondent has waived this right and the court shall accept no further supporting documents or briefs. A decision shall be based upon the record as timely filed and oral arguments, if permitted.

C. Evidentiary Motions. When permitted by law and upon application to the court, the court may order that an evidentiary hearing be held on a motion or petition. Notice to the opposing parties shall clearly indicate that evidence will be presented at the hearing, the nature of the evidence and the witnesses to be called. Without such order and notice, the hearing on any motion shall be limited to the record, affidavits and papers served or made available pursuant to § 802.01 Wi. Stats.

D. Default Mortgage Foreclosure and Confirmation of Sheriff Sale. Motions for default on mortgage foreclosures and for confirmation of sheriff's sales in Walworth County are done by Notice of Motion and Motion with supporting affidavit(s).

Default foreclosures will be heard if appropriate paperwork including affidavits have been filed with the Court pursuant to statute and proofs of notice to all parties have been filed as required by statute.

If no timely written objection has been filed at least five (5) business days before the assigned date, the Court will decide the motion based on the affidavits. But if a timely written objection is filed, the Court will either hear and decide it at the scheduled hearing or will send notice assigning a new hearing date.

Confirmation of sheriff's sales will be heard if appropriate paperwork has been filed with the Court pursuant to statute and proofs of notice to all parties have been filed as required by statute.

The sale must be at least 75% of the fair market value according to the Walworth County Tax Parcel Information, unless an affidavit showing special circumstances justifying a lesser bid accompanies the moving papers.

If the above has been satisfied and no timely written objection has been filed at least five (5) business days before the assigned date, the Court will decide the motion based on the affidavits. If a timely written objection is filed, the Court will either hear and decide it at the scheduled hearing or will send notice assigning a new hearing date.

\* Movants' attorneys need not be personally present unless advised by the

Court otherwise. However, attorneys are not to call in to the Court at the time of the hearing unless instructed to do so by the Court. An attorney familiar with the case must be available by phone should the Court need to call during the scheduled hearing time and that attorney must notify the Court's clerk in advance of the hearing with the name and telephone number of the contact attorney.

\*Writs of Assistance and Assignments of Bid must each be accompanied by a \$5.00 fee.

E. Motion for Default Judgment.

In addition to the requirements of Wi. Stats., § 806.02(3)(a), the court may require that notice be served on defendant(s). See \*Midwest Developers v. Goma Corp., 121 Wis. 2d. 632, 651 (1984).

F. Standard Summary Judgment Procedure (replaces F below)

1. Parties shall refer to Wis. Stat. § 802.08(2).

2. Briefs in support of or in opposition to such motions shall not exceed 25 pages in length and reply briefs shall not exceed 10 pages in length, exclusive of affidavits and exhibits. Briefs in excess of the permitted length may be disregarded by the Court. The Court may modify these limitations upon a showing of good cause.

3. Briefs in support shall state plainly and succinctly the material undisputed facts which support judgment, together with specific references to the record. Failure to comply with this rule may result in granting of the motion.

4. Briefs in opposition shall plainly and succinctly state, together with specific references to the record, which facts stated in the brief in support, if any, are disputed. Failure to comply with this rule may result in granting of the motion.

5. Parties must specify what relief they are seeking.

7. The court may modify these deadlines upon a showing of good cause, or by a court order, including the Scheduling Order.

~~F. Standard Summary Judgment Procedure~~

~~1. Each party seeking summary judgment shall serve and file with the motion for summary judgment a:~~

~~a. Statement of Proposed Undisputed Facts~~

- ~~b. Statement of Proposed Conclusion of Law~~
- ~~c. Brief in support of the motion.~~

~~2. A Statement of Proposed Undisputed Facts and a Statement of Proposed Conclusion of Law may be submitted as a combined document but the brief in support of the motion for summary judgment must be submitted as a separate document.~~

- ~~a. Factual propositions shall be set forth in numbered paragraphs, and to the extent practicable, each paragraph shall state only one factual proposition.~~
- ~~b. After each paragraph, there must be a reference to the evidentiary basis per § 802.08(3) Wis. Stats., such as deposition, discovery, pleading or affidavit with the specific reference to the page(s) and line(s) that prove the fact asserted.~~

~~3. Proposed Conclusions of law shall be in numbered paragraphs, shall accurately characterize the law on the issue in question and shall be supported with a legal citation. (Must cite to specific page(s). Just citing a case without references to specific page(s) that support the conclusion of law will be ignored.)~~

~~4. Any party opposing a pending summary judgment motion shall serve and file the following five (5) days prior to the hearing:~~

- ~~a. A response to the moving party's Proposed Undisputed Facts and~~
- ~~b. A response to the moving party's Proposed Conclusion of Law, and~~
- ~~c. A brief in opposition to the motion for summary judgment, and~~
- ~~d. Any supporting papers, pursuant to § 802.08(3), Wis. Stats. that the party chooses to submit.~~

~~5. The responses to the moving party's Proposed Undisputed Facts and Proposed Conclusions of Law may be submitted as a combined document but the Brief in opposition to the motion for summary judgment must be submitted as a separate document.~~

- ~~a. The response to the moving party's Proposed Undisputed Facts shall state whether there is a genuine issue of fact as to the whole or part of the factual proposition.~~
- ~~b. Any response asserting the existence of a genuine issue of fact shall cite to depositions, discovery responses,~~

~~pleadings, or affidavits, that comply with § 802.08(3), Wis. Stats with the specific reference to the page(s) and line(s) that prove the fact asserted that opposes the movant's asserted fact.~~

~~c. Unless the responding party places a factual proposition of the moving party in dispute, the court will conclude that there is no genuine issue of fact as to the finding initially proposed by the moving party.~~

~~6. Response to Proposed Conclusion of Law shall respond to each legal conclusion stated by the moving party in the same manner as 3. above. If the responding party believes the motion must fail because of conclusions of law not stated by the moving party, the respondent may state such other conclusions of law again as in 3. above.~~

~~7. 5 days after service of the brief in opposition to the motion for summary judgment, the moving party may submit a reply brief.~~

G. Dismissal/Default/Settlement Calendar. Service of process. All civil cases will be reviewed for service and answer 90 days after filing. If at that time it is found that a case has not reached issue, a dismissal order or default proceeding shall be initiated by the court.

Stipulation and Order for Dismissal shall be filed within 30 days of the notice of settlement, or the action will be set for dismissal and notice given.

#### 4. RETURN OF VERDICT

If an attorney desires to be present upon a return of verdict or upon a request for further instructions, a telephone number must be left with the court where counsel can be reached.

#### 5. ORDERS, FINDINGS OF FACT, CONCLUSIONS OF LAW & JUDGMENT

Unless otherwise ordered by the court, within 30 days of a court decision or jury verdict, the prevailing party shall file the appropriate order; findings of fact, conclusions of law and judgment. A copy of same shall be served on all other parties.

Written objection to proposed order; findings of fact, conclusions of law and/or judgment shall be filed and served within five (5) business days of service or be deemed waived.

A clerk shall not sign a judgment unless:

Findings of fact, conclusions of law and/or order for judgment have been signed by the judge.

A fee of \$5 has been tendered, pursuant to § 814.61(5)(b)

**6. ADMINISTRATIVE REVIEWS/CERTIORARI**

In all cases where the complaint/petition seeks administrative review/certiorari, the complaint/petition shall be accompanied by an order/writ requiring the custodian of the record being reviewed to submit a certified copy of such record as required by law. Such record shall be numerically paginated and contain a copy of the applicable statutes/ordinances.

CRIMINAL

1. General
2. Bail
3. Pretrial/Status Date
4. Guilty/No Contest Plea
5. Indigency
6. Evidentiary Motion
7. Pre-sentence Investigation Report or  
Background Information Form (BIF)
8. Restitution Hearing
9. Sentence Credit
10. Post-Conviction Rights
11. Jury Trial

## CRIMINAL

### 1. GENERAL

Defendant shall appear at all scheduled proceedings in their case(s). This includes proceedings at which appearance of the defendant is not required by statute. Exceptions of this rule, in misdemeanor cases, shall be by specific order of the judge only.

### 2. BAIL

Bail modification motion must be in written form, with the date of the hearing obtained from the calendar clerk. The motion to modify must be served on the district attorney and any other interested party and filed with the court 24 hours prior to the scheduled hearing unless the provision of this rule is waived by the parties or the judge approves the hearing upon good cause shown.

If surety is to be considered for bond, the surety holder must furnish proof of ownership, title and equity, together with proof of any outstanding mortgages or liens prior to the surety being considered. If the surety is accepted, a lien will be recorded in the Register of Deeds office and will not be released until the case has been completed. No application for removal of the lien will be heard without the surety producing the defendant at the hearing.

### 3. PRE-TRIAL/STATUS DATE

All cases set for trial shall have a pre-trial conference or status date. If your case is scheduled for status date, the defendant and his/her attorney must appear in person.

### 4. GUILTY/NO CONTEST PLEA

Guilty/No Contest Plea Questionnaire is to be completed and filed with the court upon a plea of guilty or no contest.

Defense counsel must provide clerk with terms of plea agreement 24 hours before the plea hearing on the court approved form.

### 5. INDIGENCY

Whenever the public defender refuses to represent or finds that defendant is not indigent, an indigency review shall be based on written motion

filed with the court and scheduled by the clerk.

#### **6. EVIDENTIARY MOTION**

Evidentiary motion must comply with the term "with particularity" § 971.30 WI. Stats. A statement of facts, which may be on information or belief and a citation to authorities, must be included in the moving papers of the party bringing on the motion.

Motions addressing the admissibility of evidence such as motions suppressing identification, confessions, voluntariness and searches are critical and time consuming. It is suggested that they should be calendared, heard and decided well before the trial.

#### **7. PRE-SENTENCE INVESTIGATION/BACKGROUND INFORMATION FORM (BIF)**

At least two weeks prior to a scheduled sentencing, the Department of Probation and Parole shall file its report with the Clerk of Circuit Court. The Clerk of Circuit court shall provide a copy to the district attorney and defendant or his/her attorney. The district attorney and the defendant's attorney may keep their copy. An unrepresented defendant may view the report but may not keep a copy. Anyone receiving or viewing the report shall keep the information in the report confidential. The district attorney, defendant and attorney for defendant shall have reviewed the report in full prior to the sentencing.

The BIF (background information form) is to be completed and applies to misdemeanor cases that the District Attorney and/or defendant would have ordinarily requested a pre-sentence investigation report on, however, due to a change in the law are unable to request a pre-sentence investigation. The form can be obtained at the Clerk of Courts office.

#### **8. RESTITUTION HEARING**

Challenges to restitution are subject to the written uniform procedure, which is available in the office of the Clerk of Circuit Court. See Exhibit B.

#### **9. SENTENCE CREDIT**

Sentence credit for time served shall be determined by the time of sentencing by the district attorney and the defense counsel subject to approval of court. Specific dates and the total number of days shall be stated on the record. Upon request and at the discretion of the court, the order establishing the amount of sentence credit ordered may be

delayed up to 14 days from the date of sentencing, but no longer. Defense counsel is not relieved from responsibility in a case until sentence credit is determined.

#### 10. POST-CONVICTION RIGHTS

After sentencing, in every criminal case, a Post-Conviction Rights form shall be submitted, signed by the defendant and his/her attorney when applicable.

#### 11. JURY TRIAL

##### 48-HOUR RULE:

The attorneys are required to confirm the status of any trial with the calendar clerk 48 hours prior to trial. The rule also applies to pro se parties.

FAMILY/DIVORCE

1. General Rules
2. Initial Hearings
3. Temporary order hearings
4. Scheduling Conferences
5. Pre-trial Conferences
6. Service upon the State
7. Pre and Post Judgment Motions

## FAMILY/DIVORCE

### 1. General Rules

#### A. Duties of Family Court Commissioner:

##### 1. Generally:

- a. Pre-judgment actions affecting the family, including: initial status hearings, temporary order hearings, scheduling conferences, and uncontested final hearings such as default divorce hearings;
- b. Motions to modify in actions affecting the family, including post-judgment evidentiary hearings;
- c. Domestic abuse injunction hearings.

2. All hearings before FCC shall be electronically recorded. Contact the FCC clerk for procedures and fees to obtain a transcript.

#### B. Matters to be scheduled before the Family Court Judge:

1. Contested trial matters;
2. Orders to Show Cause for Contempt;
3. Petitions to Enforce Prior Court Orders.

- C. All parties filing actions affecting the family, involving the custody and/or placement of minor children, shall be ordered to Parenting After Separation classes, pursuant to Sec. 767.401, Stats.

- D. Mediation shall be ordered by the court, pursuant to Sec. 767.405, Stats., in family actions involving custody and/or placement of minor children, unless good cause or undue hardship is shown. *Mediated agreements signed by the parties and subscribed by attorneys (for parties who have attorneys) shall become a final order of the court, even if other issues remain unresolved.*

- E. Financial Mediation may be ordered by the court if the parties are not able to reach an agreement regarding financial issues. Attorneys must attend financial mediation with their clients. Financial mediation requires an advance fee, unless other provisions are approved by the court. *Parties attending mediation shall submit a position paper to the mediator in advance.*

F. A Guardian ad Litem (GAL) for the minor children shall be appointed by the court pursuant to Sec. 767.407, Stats. Generally, the court will order the parties into mediation before appointing a GAL. Whenever a GAL is appointed, an advance fee must be tendered, as well as \$50 per month thereafter, unless waived by the court or other provisions are approved by the court.

The GAL shall, at a minimum:

1. Contact the attorneys/parties pro se soon after appointment. Contact the child(ren) soon after appointment, where age appropriate.
2. Contact the Department of Human Services child protective agency soon after appointment, as applicable.
3. Interview the parties and children (where age appropriate.)
4. Attend all hearings.
5. Items #1-4 shall generally be concluded prior to the date/time of the hearing.
6. Shall comply with all GAL Continuing Legal Education requirements.

The Guardian ad Litem is an advocate for the best interests of the child(ren) in court proceedings and functions in the same manner as attorneys for parties to the action. As such, a GAL is not subject to being called as witnesses in evidentiary hearings or trials.

G. Custody Studies shall be ordered by the court pursuant to Sec. 767.405(14). Generally, the court will order the parties into mediation before ordering a custody study. The court will order a study be conducted by the evaluator under contract with the county; an advance fee must be tendered for the study, unless waived by the court or other provisions are approved by the court. If the parties wish to retain another evaluator for the primary study, they shall do so at their own cost and shall promptly notify the court.

All Custody Studies shall be filed with the court and kept "Confidential." Attorneys shall be provided a copy which may be shared with their client, but no third parties, and attorneys must maintain their allotted copy of the study in their file and are strictly prohibited from copying or releasing a copy of the study to their clients or to any third parties without an express order from the court permitting such a release. **ATTORNEYS VIOLATING THIS RULE SHALL NOT BE AFFORDED A COPY IN THE FUTURE.**

Parties shall not disclose the contents of the custody study with the child(ren). Parties shall not receive a copy of the report, but may review it at the Clerk of Court's office. Parties shall not copy the study and are strictly prohibited from allowing anyone else to view the study.

H. Phone procedures: to request to appear by telephone, a party must make the request in writing, and must advise the court of the position of the opposing party.

I. For the court to consider a continuance of a hearing, a party must make the request in writing, and must advise the court of the position of the opposing party. Hearings will be continued only with approval of the court and may require a motion.

## **2. Initial Hearings**

A. Upon the filing an action affecting the family, an initial hearing will be scheduled as promptly as possible. This hearing may be utilized to:

1. Provide direction to pro se litigants;
2. Generate temporary orders (if all parties waive requirements of Sec. 767.225(2), Stats.);
3. Order services such as mediation;
4. Set further hearings such as a scheduling or pre-trial conference, or a default divorce.

B. If financial issues such as child support, property, or maintenance are involved, parties must be prepared to file a financial disclosure statement at this hearing.

## **3. Temporary Order Hearings**

Pursuant to Sec. 767.225, Stats.

- A. For pre-divorce matters, and for all motions involving child support and maintenance or other financial issues, parties must be prepared to provide financial information.
- B. Hearings will be conducted upon offers of proof made at the hearings. No testimony will be taken.
- C. If parties wish to remove a temporary order hearing from the court's calendar, they must file their stipulation prior to the hearing, appear in court to recite the agreement for the record, or agree that if they do not file a stipulation, they must file a new motion for temporary order.

D. All financial arrearages of the temporary order shall be carried forward in the final judgment unless otherwise agreed to in writing by the parties

#### 4. Scheduling Conferences

A. These shall generally be held before the FCC for pre-judgment matters where the parties have not stipulated to all issues and require trial for resolution.

B. Generally, these conferences should be held no later than 150 days after the filing of a joint petition for divorce, service of petition and summons in a divorce, or service of motion for other family matters.

C. The court will prepare a scheduling order with the parties. This order shall set pre-trial and trial dates before the Family Court Judge, briefly list stipulations and remaining issues, ensure exchange of all information to be used at trial, and establish deadlines.

#### 5. Pretrial Conferences

Held before the Family Court Judge, the purpose of the pretrial conference is to ensure that the matter is ready to proceed to trial. Strict compliance with the Scheduling Order is expected and noncompliance may result in sanctions.

#### 6. Service upon the State

Where service upon the state is required by Sec. 767.217, Stats., such service shall be made to the Walworth County Child Support Enforcement Agency, Walworth County Judicial Center, P.O. Box 1001, Elkhorn, WI 53121. Proof of service shall be filed with the court.

#### 7. Pre and Post Judgment Motions

All motions for modification hearings shall be heard by the FCC, with these exceptions: matters already scheduled for trial before the judge, contempt, and enforcement motions.

#### 8. Preparation of Findings and Orders

*The findings and orders of the court will be drafted by the prevailing party unless otherwise directed by the court (refer to Local Court Rules Civil Section).*

9. Ex Parte Orders

- a. All requests for ex parte orders, whether prejudgment or post-judgment shall be submitted to the Family Court Commissioner, or if the Family Court Commissioner is unavailable, to the assigned Circuit Court Judge.
- b. Motions for ex parte orders must be accompanied by:
  - i. One or more affidavits of parties or lay witnesses alleging facts of which the affiant has personal knowledge and which, if true, constitute an emergency or other urgent circumstance justifying the issuance of the proposed order; or:
  - ii. One or more affidavits of competent expert witnesses based on facts of record or alleged in proper affidavits, constituting an emergency or other urgent circumstance justifying the issuance of the proposed order.
- c. All requests for an ex parte order shall contain a return date before the Family Court Commissioner within seven (7) days of filing and shall contain language which (a) extends the ex parte order only until the date and time of the hearing and (b) specifically permits modification or revision by the Family Court Commissioner or Circuit Court Judge.
- d. If service is not obtained by the date of the hearing, a separate application for a new ex parte order must be obtained from the Family Court Commissioner or assigned Circuit Court Judge.
- e. It is the responsibility of the person or attorney who has obtained the ex parte order to notify all counsel of record, including any guardian ad litem, and pro se parties of the ex parte order and the date and the time of the hearing. The party obtaining an ex parte order shall provide copies of the pleadings and ex parte order to all counsel of record, including any guardian ad litem, and pro se parties at least 48 hours prior to the scheduled hearing.

JUVENILE

1. Walworth County Juvenile Court Intake Policy Guidelines, S.48.06(1)(a)2 and 938.06(2)(a)2
2. Adoption/Termination of Parental Rights
3. CHIPS/JIPS/Delinquencies
4. Child Abuse and Juvenile Harassment Injunctions

## JUVENILE

### 1. Walworth County Juvenile Court Intake Policy Guidelines. Sections 48.06(1)(a)2 and 938.06(2)(a)2.

The Director of the Dept. of Human Services shall appoint an appropriate number of emergency intake workers for 24 hours a day, seven days a week, coverage. S. 48.06(2)(a), County Board Resolution #162-1981, s. 48.069(3) and 938.069(3); s. 48.067(1) and 938.067(1).

Walworth County children in need of temporary physical secure custody will be placed in a licensed secure detention facility for children.

Walworth County intake workers will follow general policies and procedure outlined in the Model Judicial Policies for Juvenile Court Intake, in the day-to-day operation of intake. All protective service workers, police officers, dispositional workers, and intake workers will use the guidelines in making temporary physical custody decisions, based on a child's need for protection or determining the public's need for protection from the child.

### 2. Adoption/Termination of Parental Rights

Forms are available at [www.wicourts.gov/forms](http://www.wicourts.gov/forms). With all terminations, except those originated through Corporation Counsel, there is a \$500.00 guardian ad litem retainer; this shall be paid with the filing of the termination papers. It is the responsibility of the parties involved to notify the Child Support Unit, if applicable.

On stepparent adoptions, the termination/adoption hearing will be held jointly, within 30 days of the filing, unless a waiver is filed.

Adoption search: Wisconsin's Adoption Record Search law is set in sections 48.432 and 48.433, Wisconsin Statutes. The primary purpose of this law is to help persons who have been adopted or whose birth parents have terminated their parental rights, to obtain information about themselves and their birth relatives. Parties can contact the Adoption Records Search Program at P.O. Box 8916, Madison, WI 53708 and call 608-266-7163.

If adoption/termination occurred in Walworth County, a letter requesting the release of information must be addressed in a written correspondence to the Family/Juvenile Judge.

### 3. CHIPS/JIPS/Delinquencies

Dispositional reports, pursuant to Sections 48.33 and 983.33, shall be filed with the court 48 hours prior to the hearing, including non-court days. The Department shall furnish copies for all parties involved. Copies will not be provided to the parents however, they may review the reports at the Clerk of Courts Office.

Psychological evaluations, pursuant to Sections 48.295 and 938.295 shall be filed with the court 48 hours prior to the hearing, including non-court days. The clerk will provide copies to the District Attorney, Corporation Counsel, guardian ad litem and child's attorney. Copies will not be provided to the parents.

Dispositional Reports and Psychological Evaluations shall be returned to the court on the day of the hearing. Corporation Counsel and the District Attorney may retain a copy for their files. These documents are not to be copied nor its contents disclosed to any person other than the juvenile and his or her parents without the expressed permission of the court.

#### **4. Child Abuse and Juvenile Harassment Injunctions**

##### **Child Abuse:**

The purpose of this form is to petition the juvenile court for an order to restrain somebody from committing child abuse where the respondent is a child; or there is a pending CHIPS (Child in Need of Protection or Services) action in the juvenile court involving the child victim. There are two sets of forms for child abuse injunctions—a juvenile court set (JC-1690 to JC-1692) and civil court set (CV-412 to 414). The civil court set, with the documents filed with the clerk of courts, are used in all cases unless one of the following two exceptions exist: 1. The respondent is a child; or 2. There is a pending CHIPS action in the juvenile court involving the child victim.

If the action is brought in civil court, there is a filing fee; if the action is brought in juvenile court using the juvenile court forms; there is no filing fee.

##### **Harassment:**

This form is to be used for harassment case in civil court. It is to be used when an adult files against another adult, or when a parent, attorney, or other adult files on behalf of a child victim, and the respondent is an adult. Form JC-1693 is used in juvenile court. Orders can now remain in effect for four years.

The order can only enjoin conduct, or substantially similar conduct, which forms the finding of harassment. Bachowski v. Salamone, 139 Wis.2d 397, 414 (1987).

PROBATE

1. Claims
2. Inventory
3. Final judgment
4. Guidelines-Acknowledgement form

## PROBATE

1. **CLAIMS.** If a claim is filed after the last date for filing claims, the following procedures shall apply.

- a. If a judgment on claims has already been filed, the claimant shall file a written motion for consideration of the claims.
- b. If the judgment on claims has not been filed, the estate shall have the burden of filing a written objection and the claim will then be set for pre-trial.

### 2. **INVENTORY**

Unless otherwise ordered by the court, the inventory shall be filed within three months from the date letters are issued. If not so filed, the court will send notice to the personal representative/guardian/conservator that the inventory is due. If the inventory is not then filed, the court will issue an order to show cause.

### 3. **FINAL JUDGMENT**

When an estate is not closed within 12 months, the personal representative shall be required to explain why the estate has not been closed. If the estate is not closed within 18 months, or not by order of extending, the attorney and personal representative shall be required to show cause before the court why the estate has not been closed.

Insolvent Estates. Pursuant to s. 851.21(1)(e), when the estate appears insolvent and the county is a claimant, the personal representative shall forthwith notify the corporation counsel for the purpose of completing the estate so as not to unduly deplete the assets.

### 4. **GUIDELINES - ACKNOWLEDGEMENT FORM**

Prior to the court signing an Order Appointing a Conservator, Guardian, Trustee or Successor, the court shall be provided a form whereby the conservator, guardian, trustee or successor acknowledges receipt of the applicable court approved guidelines for service in such capacity along with an agreement to abide by the guidelines.

## SMALL CLAIMS

1. General Information
2. Forms and Filing of Summons & Complaint
3. Venue
4. Service
5. Eviction Actions
6. Affidavit of Non-Military Service
7. First Appearance
8. Continuances
9. Answer & Counterclaim
10. Stipulated Dismissal
11. Return Date Proceedings/  
Proceedings before Court Commissioner
12. Reimbursement of Costs
13. Financial Disclosure by Judgment Debtors
14. Docketing the Judgment

## SMALL CLAIMS

### 1. GENERAL INFORMATION

The laws relating to Small Claims are set forth in Chapter 799 of the Wisconsin Statutes. The types of claims which may be filed are: Eviction actions (regardless of the amount claimed), Replevin actions (repossession of property) if the value of the property does not exceed \$10,000, or if the property is consumer goods leased or purchased on credit from a dealer. Additional claims that may be filed are: Actions for the return of earnest money; (regardless of amount claimed), Actions for the confirmation, modification or correction of an arbitration award and other civil actions where the amount claimed is \$10,000 or less.

### 2. FORMS AND FILING OF SUMMONS AND COMPLAINT

Forms may be obtained from the Clerk of Courts without charge. In addition, forms may be accessed on-line at [www.wicourts.gov](http://www.wicourts.gov), under "Forms". The Summons and Complaint is to be filed with the Clerk of Courts along with the proper filing fees.

### 3. VENUE

The proper county to file your lawsuit is: 1) where the claim arose, 2) where the property is located (which is the subject of the claim) or 3) where the defendant resides or does substantial business. If your claim arises out of a consumer transaction, the lawsuit may be filed: 1) where the consumer resides, 2) where the consumer made the purchase or 3) where the collateral is located.

### 4. SERVICE

After filing the Summons & Complaint, it is the plaintiff's responsibility to arrange for personal service, pay the service fees, and file the Proof of Service prior to, or on the court date. The fee for the Walworth County Sheriff is \$80.00. This fee is per person, per paper, and covers all attempts at service, actual service, and mileage costs. Plaintiff may also employ the services of a private process server; costs vary.

All Summons & Complaints must be personally served on each named defendant. Personal service must be completed at least eight (8) days prior to the return date, excluding weekends and holidays. Eviction actions must be served at least five (5) days prior to the return date. If after reasonable diligence, the defendant cannot be served by personal

service or substitute service, then service may be completed by mailing and publication (see 801.11(c) and 985.02(1)). A legal publication shall be published for one insertion, where the defendant resides or is likely to see the publication.

#### 5. EVICTION ACTIONS

The Summons & Complaint shall identify the parties, the real property (which is the subject of the action), state the facts, ~~and provide proof of proper notice to vacate at the time of filing~~. In Eviction cases, however, if after reasonable diligence, the defendant cannot be served by personal service or substitute service, then service may be made by posting and mailing. (see 799.16(3)(a)). A copy of the summons and complaint may be affixed to some part of the premises where it may conveniently be read, at least seven (7) days prior to the return date, with an additional copy being mailed to the defendant at the last-known address, at least five (5) days prior to the return date. An affidavit of mailing for same should also be filed.

#### 6. AFFIDAVIT OF NON-MILITARY SERVICE

Required to be filed as to all actions.

#### 7. FIRST APPEARANCE

Plaintiff is required to appear on the return date, pursuant to Section 799.22(1).

Wisconsin Resident - A defendant who resides in the State of Wisconsin is required to appear in person on the return date if they wish to contest the claim.

Non-resident - A defendant who is a nonresident of the State of Wisconsin must either appear on the scheduled return date or file and serve a written answer at least 72 hours prior to the court date and time pursuant to Section 799.22(4). If an answer is properly filed and a request to adjourn said hearing is made by the defendant, the initial appearance will be scheduled for a future date. A written answer, however, is not in lieu of an appearance.

On the return date, a pretrial will be held on all contested matters. During pre-trials, parties must have the authority to negotiate. Matters that cannot be resolved will be set for trial, and the court commissioner will issue a Pretrial Order.

## 8. CONTINUANCES

A party who appears on the return date may be granted a continuance of one week EXCEPT IN EVICTION ACTIONS, which may be continued upon agreement of the parties. NO other continuances shall be allowed except by the Court and upon good cause.

## 9. ANSWER & COUNTERCLAIM

If an answer and counterclaim are filed by the defendant, and the dollar amount exceeds the small claims limit, the party filing same shall pay the fee prescribed in § 814.62(3)(b) Wi Stats., and the case will be transferred to a civil case.

## 10. STIPULATED DISMISSAL

Some defendants are more likely to abide by the Court's decision if the plaintiff agrees not to have the judgment entered. If the parties agree that the defendant will pay the amount due the plaintiff by a certain date (or installment payments), they can ask the Court for a Stipulated (agreed) Dismissal form [§ 799.24(3)]. If the defendant fails to comply with the conditions of the Stipulated Dismissal, the plaintiff can file a "sworn affidavit" to that effect. The Stipulated Dismissal is then withdrawn, without notice to the defendant, and judgment is entered against the defendant for the outstanding balance.

## 11. RETURN DATE PROCEEDINGS/PROCEEDINGS BEFORE COURT COMMISSIONER

If the defendant appears and denies the claim, the case will be referred for a pre-trial immediately following the initial appearance. At the conclusion of the pre-trial conference, the Court Commissioner may dismiss the claim if it is determined that it is without legal basis (e.g. the wrong person has been sued) or that the plaintiff is unable or unwilling to obtain the necessary evidence to prove the claim. The Court Commissioner may also enter judgment in favor of the plaintiff if the defendant admits liability.

If an agreement cannot be reached, the case will be scheduled for a evidentiary hearing before a Court Commissioner. If time permits, and additional witnesses or evidence are not required, this may be done the same day. In most cases, time will be set-aside on a later date. Parties should be prepared to present their case and have witnesses appear at that time. The Court Commissioner will consider all relevant information and the proceedings will be governed by the rules of evidence. After the conclusion of the evidence, the Court Commissioner will render an oral

decision or will take the matter under advisement and render a written decision. The oral decision of the Court Commissioner shall become a judgment after 11 days and a written decision after 16 days. There is an absolute right to have the matter heard before a Circuit Court judge. Either party may do so by filing a "Demand for Trial" within 10 days of the oral decision and within 15 days after a written decision.

If one party demands a trial by court or jury, the party will be required to complete a Demand for Trial form for the purpose of defining this issues and estimating the time required to hear the trial. If a jury trial is demanded, the following fees are to be paid: a Jury Request fee of \$53.00

[§ 814.62(3)(e)] plus \$36.00 for a 6-person jury fee.

## 12. REIMBURSEMENT OF COSTS

If you win your case, the judgment will include court costs and fees allowed by law; such as, filing fee, service fee, subpoena fees for witnesses, statutory attorney fees based on the amount of damages awarded, publication fees, and interest (to be computed by the requesting party).

## 13. FINANCIAL DISCLOSURE BY JUDGMENT DEBTORS

Even though the Court decides in your favor, the losing party may not pay you the money due or return the property as ordered by the judgment. In order to execute the judgment, you need to know how much money or property the defendant earns or has. For this reason, the Court will order the judgment debtor to send you a statement disclosing his/her name, address, employers and their addresses, real property he/she owns, financial institutions where he/she has funds on deposit and other information required. The Financial Disclosure Statement is mailed along with the judgment.

The Financial Disclosure Statement is to be completed and returned to the successful party within 15 days after judgment is entered. The Financial Disclosure Statement need not be returned if judgment has been paid or property returned within that 15-day period. If judgment is not paid or the Financial Disclosure Statement is not returned within that 15-day period, the successful party may start proceedings to have the defendant(s) found in contempt of Court. This form can be obtained from this office, as well as, one-line.

## 14. DOCKETING THE JUDGMENT

For a fee of \$5.00, the Clerk of Circuit Court will docket the judgment on

an official list, alphabetical by last name and open for public inspection. After a judgment is docketed, it becomes a lien against any real estate owned by the defendant/debtor in that county for 10 years.

TRAFFIC

1. Traffic Court Letter
2. First appearance
3. Pretrial/Settlement Conference
4. Sentence - OVWI/IBAC

## TRAFFIC

### 1. TRAFFIC COURT LETTER

All Walworth County traffic officers shall provide a Traffic Court Information slip to all motorists along with the citation. See Exhibit A

### 2. FIRST APPEARANCE

Citation. In cases where the defendant fails to appear on the date provided on the citation, the court may enter a default judgment. A court commissioner may enter default judgment in accordance with uniform bond schedule.

Traffic Crimes. Defendants shall appear personally at the initial appearance or a warrant will issue. Further appearances shall be governed by Criminal Court Rules.

### 3. PRETRIAL/SETTLEMENT CONFERENCE

There will be a pre-trial/settlement conference for forfeiture traffic violations, Walworth County Sheriff, State Patrol, and Dept. of Natural Resource traffic violations, and ordinance violations.

### 4. SENTENCE - OVWI/IBAC

The judges have adopted the 2nd Judicial Administrative District OVWI/IBAC Sentencing Guidelines. When sentencing outside the guidelines, the judge will state the reasons for so doing.

TRAFFIC COURT INFORMATION

Name	Citation #	Court Date	Bond Deposit \$
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The appearance date on your citation is for a plea or pre-trial only. The arresting officer will NOT be present. This will not be your trial date. All initial appearances are held in Room 2055, 2<sup>nd</sup> floor of the Walworth County Judicial Center, 1800 County Road NN, Elkhorn, Wisconsin.

**CONTINUANCES:**

If the citation states "mandatory appearance", you must appear in court on the date shown on the citation.

If you are unable to appear on the date/time stated on your citation, you must contact the police department that issued the citation and request a continuance. If the State Patrol issued the citation, you may contact **262-741-7142** or email [walworthcourtofficer.statepatrol@dot.wi.gov](mailto:walworthcourtofficer.statepatrol@dot.wi.gov). If the County issued the citation, you may contact **262-741-7149**. If you have additional questions, you may call **262-741-7018** or email [wcsotco@co.walworth.wi.us](mailto:wcsotco@co.walworth.wi.us).

If an appearance is not required and you do not wish to contest the citation, complete the information listed above and mail this form along with the bond deposit to: Clerk of Circuit Court, P.O. Box 1001, Elkhorn, WI 53121.

Personal checks accepted. Mastercard or Visa are accepted by appearing in person at the Clerk of Courts Office.

Failure to appear in court will result in a finding of "guilty", forfeiture of the bond deposit and a report of the conviction forwarded to the Wisconsin Department of Transportation. If you are a non-resident, the conviction will be reported to your home state.

If the bond has not been posted by the court date, a default judgment will be entered and the bond will be due in *thirty (30)* days.

**YOUR RIGHT TO PLEAD "NOT GUILTY":**

If you wish to plead "not guilty", you or your attorney must appear at the initial appearance for a pre-trial conference. If no agreement is reached at the pre-trial conference, you will be asked if you are requesting a court trial or jury trial. The trial will be heard at a later date, and notice will be sent to you or your attorney. Failure to appear at the initial appearance for a pre-trial conference will result in default judgment.

If a jury trial is requested, a **nonrefundable** \$36.00 fee must be paid within 10 days upon entry of the plea. Failure to post the jury fee in a timely manner will result in a trial before the court.

If the citation does proceed to either a court trial or jury trial, additional costs may be assessed, if found guilty, due to officers/witnesses being subpoenaed to testify, etc.

**GENERAL INFORMATION:**

- A mandatory suspension/revocation will result, upon conviction, of the following:
- . Speeding (25 mph or more over the established 55 or 65 mph speed zone)
  - . Operating while under the influence of an intoxicant.
  - . Operating after revocation/operating while suspended (if OWI related)

Any person who holds a probationary license (or whom such license would have been issued had proper application been made) **shall have the demerit points doubled** on the second and all subsequent convictions, unless the conviction is for a violation of Chapter 347 WI Stats.

The State of Wisconsin does **not** have court supervision. The State of Wisconsin has a demerit point system where upon accumulation of twelve (12) points within any consecutive twelve month period will result in the loss of driving privileges for 2-6 months.

If you are convicted of operating while intoxicated, in addition to the forfeiture and mandatory **revocation**, you will be ordered to complete an alcohol assessment and perform community service work for a non-profit organization.

**FAILURE TO PAY FINE/FORFEITURE MAY RESULT IN: SUSPENSION OF YOUR DRIVING PRIVILEGES, CIVIL JUDGEMENT AGAINST YOU, REFERRAL TO A COLLECTION AGENCY, INTERCEPTION OF YOUR TAX REFUND OR ARREST AND COMMITMENT TO THE COUNTY JAIL.**

04/2013 (EXHIBIT A)

**EXHIBIT B**  
**GUIDELINES FOR OBTAINING A RESTITUTION HEARING**

**I. CRIMINAL CASES**

A. Within 30 days from the date that the final restitution figures are entered on the judgment, the party wishing to have a restitution hearing must do the following:

1. File a Notice of Motion and Motion for Restitution Hearing with the Clerk of Courts including a statement, with particularity, of the grounds for the motion identifying those victims whose claims are being disputed and why they are being disputed. Blanks should be included in the Notice of Motion for scheduling date, time and place of hearing. Extra copies to be provided as needed.
2. Calendar Clerk for Family Court Commissioner will contact attorney or defendant to schedule the hearing. Attorney's copies of Notice of Motion and Motion will be placed in the attorney's bins. Defendant's copies will be placed with counter staff for pickup.
3. Provide Notice of Motion and Motion of hearing to the victim(s).
  - a. Service on the District Attorney's Office is not sufficient notice for the victim(s) as the District Attorney's Office may or may not attend the hearing.
  - b. Notice to the victim(s) must include a statement advising victim(s) that failure to attend the hearing may result in the court disallowing their claim.
  - c. Written notice must be given to any and all insurance companies named by each victim. Named insurance company shall mean any insurer who has filed a timely restitution request with the court or District Attorney or has provided notice to the defendant or the defendant's attorney.
  - d. The Walworth County District Attorney's Office must also receive notice.

**B. Notice Requirement**

1. All parties are to receive written notice of the restitution hearing, which will give the party(ies) adequate time to prepare and make arrangements to be present.
2. A notice shall include a caption setting forth the name of the court, the venue, the title of the action, the file number, and a brief description of the type of order or relief sought, in conformance with section 971.30(1) Wisconsin Statutes.
3. All notices and motion papers must be filed with the Clerk of Courts Office and must contain the full name, address and telephone number of the defendant, if not represented by counsel and **prior** to scheduling a hearing before *the Court Commissioner assigned to the restitution hearing, their backup, or a judge due to conflicts.*

4. If the defendant is incarcerated, the defendant may participate by telephone pursuant to Section 807.13 Wis. Statutes unless the court issues a writ or subpoena compelling the defendant to appear in person. If a defendant wishes to appear by telephone, the defendant or his/her attorney shall make the arrangements for this telephonic appearance. Collect calls will not be accepted.

## II. JUVENILE RESTITUTION HEARINGS

- A. All restitution hearings in juvenile delinquency cases are to be heard by the juvenile court.
- B. The juvenile wishing to have a restitution hearing must follow the same notice and motion requirements as set forth above for adult criminal cases.

APPROVED BY THE COURT this \_\_\_\_ day of January 2016.

\_\_\_\_\_  
Hon. Phillip A. Koss, Br. I

\_\_\_\_\_  
Hon. James L. Carlson, Br. II

\_\_\_\_\_  
Hon. Kristine E. Drettwan, Br. III

\_\_\_\_\_  
Hon. David M. Reddy, Br. IV

*See cover  
page for  
approval  
signatures*

12/28/2015

EXHIBIT C  
ORDINANCE COURT INFORMATION

Name	Citation #	Court Date	Bond Deposit \$
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The initial appearance date on your citation is for a plea or pre-trial only. The arresting officer will NOT be present. This will not be your trial date. All initial appearances are held in Room 2055, 2<sup>nd</sup> floor of the Walworth County Judicial Center, 1800 County Road NN, Elkhorn, Wisconsin.

**CONTINUANCES:**

If the citation states "mandatory appearance", you must appear in court on the date shown on the citation. If you are unable to appear on the date/time stated on your citation, you must contact the department or municipality that issued the citation and request a continuance. If the County issued the citation, you may contact 262-741-7149, If you have additional questions, you may call 262-741-7044.

If an appearance is not required and you do not wish to contest the citation, complete the information listed above and mail this form along with the bond deposit to: Clerk of Circuit Court, P. O. Box 1001, Elkhorn, WI 53121. Personal checks payable to Clerk or Courts are accepted. Mastercard or Visa are accepted by appearing in person at the Clerk of Courts Office. A 3% surcharge will be assessed. Payment may also be made online by Mastercard at <http://wcca.wicourts.gov/courtFeeIndex.xsl>.

Failure to appear in court will result in a finding of "guilty" and forfeiture of the bond. Certain ordinance violations, such as underage alcohol violations, may also include a driver's license suspension as penalty. If the bond has not been posted by the court date, a default judgment will be entered and the bond will be due in thirty (30) days.

**YOUR RIGHT TO PLEAD "NOT GUILTY"**

If you wish to plead "not guilty", you or your attorney must appear at the initial appearance for the pre-trial conference. If no agreement is reached at the pre-trial conference, you will be asked if you are requesting a court trial or jury trial. The trial will be heard at a later date, and notice will be sent to you or your attorney. Failure to appear at the initial appearance for a pre-trial conference will result in default judgment.

If a jury trial is requested, a nonrefundable \$36.00 fee must be paid within 10 days upon entry of the plea. Failure to post the jury fee in a timely manner will result in a trial before the court. If the citation does not proceed to either a court trial or jury trial, additional costs may be assessed, if found guilty, due to officers/witnesses being subpoenaed to testify, etc.

**GENERAL INFORMATION:**

A record of the charges and disposition will remain on the State of Wisconsin web site for a period of 5 years.

**FAILURE TO PAY FINE/FORFEITURE MAY RESULT IN: INTERCEPTION OF YOUR TAX REFUND, REFERRAL TO A COLLECTION AGENCY, OR A CIVIL JUDGMENT MAY BE ENTERED AGAINST YOU.**

WALWORTH COUNTY  
BAR ASSOCIATION

LAWYERS STANDARD OF CONDUCT

I respect the law and our system of justice. I pledge to uphold the dignity and integrity of each in my private and professional life, and in my dealings with the court, court personnel, other lawyers, clients, and the public.

I acknowledge that while striving to be an effective advocate, I must be guided not only by the Rules of Professional Conduct, but also by a fundamental sense of fair play.

In the conduct of my legal practice, I will treat all persons with respect and civility.

My word is my bond in my dealings with the Court, court personnel, other lawyers, clients, and the public.

I will be honest with clients and myself about my abilities and experience, and in the advice that I provide.

I will strive to be punctual in communications with others and in honoring commitments. I recognize that procrastination and tardiness can be costly.

I will make a good faith effort to stipulate to undisputed facts in order to avoid needless costs or inconvenience and to accommodate any reasonable scheduling request. I will use the discovery process and other legal proceedings solely for legitimate and non-obstructive purposes.

I value the respect and trust, which the public and other lawyers have given me, and I will act at all times to preserve that respect and trust.