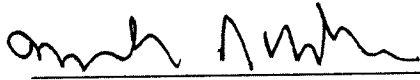


This revision of the Manitowoc County Local Rules reflecting revision of Rule 5 as approved by the Manitowoc County Circuit Court Advisory Council is adopted by the judges of Manitowoc County.

Dated September 25, 2023 at Manitowoc, Wisconsin:

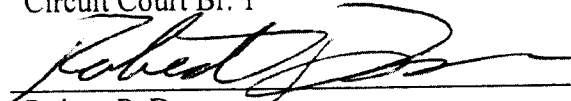
BY THE COURT:



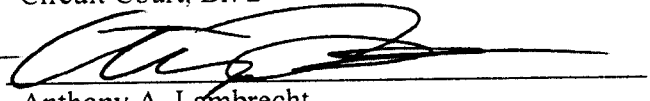
Mark R. Rohrer
Circuit Court Br. 1



Jerilyn M. Dietz
Circuit Court, Br. 2

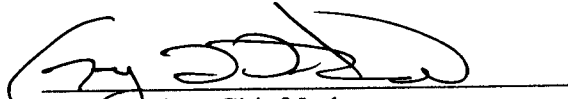


Robert P. Dewane
Circuit Court, Br. 3



Anthony A. Lambrecht
Circuit Court Br. 4

Approved this 30th day of September, 2023.



Guy Dujcher, Chief Judge
Fourth Judicial Administrative District

COURT RULES TABLE OF CONTENTS

1. COURT RULE PROCEDURES

- 1.01 Procedure for Adoption of Court Rules
- 1.02 Publication
- 1.03 Effect of Rules

2. RULES OF GENERAL APPLICABILITY

- 2.01 Procedure for Adjournments
- 2.02 Facsimile Transmission of Documents (Amended 04-10-17)
- 2.03 Attorney Responsibility in Representing Clients

3. CRIMINAL/TRAFFIC RULES

- 3.01 Procedure for Service of Process for State Public Defender Clients

4. CIVIL PRACTICE RULES

- 4.01 Procedure for Exhibits
- 4.02 Open (Re-numbered as 6.05 on 04-01-11)
- 4.03 Mortgage Foreclosure Procedure (Amended 02-01-13)

5. SMALL CLAIMS RULES

- 5.01 Service by Mail Authorized
- 5.02 Pleadings in Writing
- 5.03 Statement of Defenses Required (Amended 06-02-23)
- 5.04 Appearances in Small Claims Court (Amended 06-02-23)
- 5.05 Hearing Procedures
- 5.06 Third Party Actions
- 5.07 Application for Bench Warrant

6. FAMILY COURT RULES

- 6.01 Procedure for Dismissing Inactive Family Actions
- 6.02 Post Judgment Procedures
- 6.03 Divorce Stipulated Final Hearing Requirements
- 6.04 Divorce Pretrial Requirements
- 6.05 Payment of Non-Contract Guardian ad Litem Fees (Amended 01-01-17)

7. JUVENILE COURT RULES

- 7.01 Termination of Parental Rights of Parents Subject to a Prior Order for Support
- 7.02 Default of Non-Appearing Parent in Child in Need of Protection and Services

1. COURT RULE PROCEDURES

1.01 PROCEDURE FOR ADOPTION OF COURT RULES.

- (1) Court Rules, prior to adoption, shall be presented at two successive meetings of the Manitowoc Circuit Court Advisory Committee for advice. This requirement may be waived with respect to the adoption of any rule for good cause as determined upon the order of all Manitowoc Circuit Judges.
- (2) All rules shall be adopted by written order of the Manitowoc Circuit Judges.
- (3) Orders adopting rules shall specify an effective date. Pursuant to Wis. Stat. §753.35(1), except for a rule adopted or amended as an emergency rule, the Circuit Judge shall file an adopted or amended rule with the Clerk of Courts office prior to the rule's effective date.

1.02 PUBLICATION.

Following adoption, all rules shall be filed and distributed as required by Wis. Stat. §753.35.

1.03 EFFECT OF RULES.

Any rules adopted hereunder are intended to provide for the guidance of parties and more efficient administration of the courts. Any Circuit Court Judge or Court Commissioner has the authority to explicitly or implicitly waive compliance with any court rule and such waiver shall not affect the validity of any court proceeding.

753.35 Rules of practice and trial court administration

(1) A circuit may, subject to the approval of the chief judge of the judicial administrative district, adopt and amend rules governing practice in that court that are consistent with rules adopted under §751.12 and statutes relating to pleadings, practice and procedure. The court shall file each adopted or amended rule with the clerk of circuit court. Except for a rule adopted or amended as an emergency rule, the court shall send a copy of the filed adopted or amended rule to the secretary of the local bar association in that circuit, the court administrator for that judicial administrative district, the state bar of Wisconsin, the state law library and the office of the director of state courts. A person may submit to the court written comments on a rule for the court's consideration in determining whether revision of the rule is needed. The clerk of circuit court shall print and make available to the public, at cost, all rules adopted or amended under this section.

2. RULES OF GENERAL APPLICABILITY

2.01 PROCEDURE FOR ADJOURNMENTS.

Whenever an adjournment is sought more than 48 hours prior to a scheduled court proceeding, the requesting attorney/party shall:

- (1) Make request in writing;
- (2) State the specific reason for request;
- (3) Provide a copy of the request to other parties; state the position of the other parties on the request;
- (4) Provide a copy of the request to his/her client at the judge's discretion;
- (5) Direct the request to the presiding judge.

2.02 FACSIMILE TRANSMISSION OF DOCUMENTS.

- (a) Facsimile Equipment. The Manitowoc County Clerk of Circuit Court office shall maintain a plain-paper facsimile machine. The telephone number for said fax machine is (920) 683-2733.
- (b) Approval Required for Facsimile Transmissions Exceeding 15 Pages. Prior approval must be obtained from the assigned judge or court commissioner for the facsimile transmission of documents exceeding 15 pages in length to the Clerk of the Circuit Court for filing, and the party or attorney transmitting the document shall certify that the assigned judge or court commissioner has approved the facsimile transmission.
- (c) Facsimile Fees. A fee of \$1.25 per page will be charged for each page sent by the Clerk of Circuit Court by facsimile transmission. Prepayment is required before the Clerk of Circuit Court sends any document. Payments may be made in person by cash, check, credit card, or debit card.
- (d) When Facsimile Documents Considered Filed. A facsimile document must be transmitted directly to the Clerk of Circuit Court fax machine at (920) 683-2733 to be considered officially filed. No exceptions.
- (e) Documents Permitted to be Filed. Facsimile documents transmitted for filing directly to the Clerk of Circuit Court shall be accepted for filing only if:
 - (1) No filing fee is required to file the document.
 - (2) The document does not exceed 15 pages in length or the facsimile transmission has been approved by the assigned judge or court commissioner.
- (f) Conditions of Acceptance of Facsimile Documents:
 - (1) No Additional Copies. Pursuant to Wis. Stat. § 801.16(2)(e), facsimile

documents filed with the Clerk of Circuit Court are the official record and may not be substituted. Do not follow up a fax transmittal with the original document. **NO ADDITIONAL COPIES SHOULD BE SENT. ANY DUPLICATE PAPERS SUBSEQUENTLY RECEIVED WILL BE DISCARDED.**

- (2) Responsibility for Errors. The party transmitting a facsimile document is solely responsible for ensuring its timely and complete receipt. The Clerk of Circuit Court is not responsible for errors or failures in transmission that result in missing or illegible documents or failures in transmission due to periods when the facsimile machine is not operational for any reason.
- (3) Facsimile Transmission Filing Deadlines. Documents filed with the circuit court by facsimile transmission completed after regular business hours of the clerk of circuit court's office are considered filed on a particular day if the submission is made by 11:59 p.m. central time, as recorded by the court facsimile machine, so long as it is subsequently accepted by the clerk upon review. The expanded availability of time to file shall not affect the calculation of time under other statutes, rules and court orders. Documents submitted by facsimile transmission completed after 11:59 p.m., are considered filed the next day the clerk's office is open.
- (4) Authentications. If authenticated copies of a filed facsimile document are requested, the Clerk of Court will prepare the copies from the filed facsimile document, at a cost of \$1.25 per page, which must be prepaid before copies will be mailed out or faxed.
- (5) Exercise Discretion in Filing Documents by Facsimile. There is no comparison between the quality of an original document and a facsimile transmission. Facsimile transmissions can be fuzzy, illegible, crooked, or contain lines created by faulty equipment on either end of the transmission. To help maintain quality documents in our court record, we would encourage individuals to limit use of facsimile transmissions for filing documents to situations where there is a time deadline at issue or for situations requiring immediate attention by the court. Facsimile transmissions should not become a substitute for mailing.

2.03 ATTORNEY RESPONSIBILITY IN REPRESENTING CLIENTS

- A. An attorney appearing in any case shall file a notice of retainer, in writing or by e-filing, with the Clerk of Court;
- B. An attorney withdrawing from a case shall submit either a stipulation and order to withdraw or an order for substitution, in writing or by e-filing, with the Clerk of Court;
- C. An attorney at the close of the case shall notify the Clerk of Court, in writing or by e-filing, that he or she is no longer representing the client. The exception to

this rule shall be for those cases in which the defendant is represented by an attorney through the State Public Defender's Office.

- D. Any attorney who fails to submit an order or a notice under subsection B or C above shall remain as the attorney of record until such an order or a notice is filed.

3. CRIMINAL/TRAFFIC RULES

3.01 PROCEDURE FOR SERVICE OF PROCESS FOR STATE PUBLIC DEFENDER CLIENTS.

- (1) In Manitowoc County Circuit Court proceedings where counsel has been provided to a person through the office of the State Public Defender, service of process of witnesses and payment for service of process and witness fees shall be accomplished, pursuant to Wis. Stats. § 885.10, in the following manner:
 - (a) That subpoenas directed to the Manitowoc County Sheriff's department for service shall be accompanied by a photocopy of the State Public Defender's "Order Appointing Counsel";
 - (b) That the presentation of the aforesaid copy of the "Order Appointing Counsel" shall have the effect of a court order requiring the Sheriff's department to serve process on the witness named therein in the same manner as service of process for witnesses for the State;
 - (c) That service of process fees and witness fees in a Manitowoc County Circuit Court proceeding where counsel has been provided to a person through the office of the State Public Defender shall be paid in the same manner as witness fees for the State are paid.
- (2) That this rule does not purport to regulate or otherwise limit in any Manitowoc County Circuit Court proceeding the use of other agents for service of process, the manner of service, or payment of service and witness fees, except as set forth above.

4. CIVIL PRACTICE RULES

4.01 PROCEDURE FOR EXHIBITS.

- (1) Pleadings and other papers already in the court files (time stamped), including the stipulations and financial disclosure statements, shall not be marked as exhibits.
- (2) Exhibits that have been marked for identification shall be retained by the clerk unless the exhibit is withdrawn on the record or the court authorizes other disposition either on the record or by written order.
- (3) At the close of all non-criminal trials, the presiding judge or court commissioner shall request the parties to stipulate to the disposition of all exhibits being held following determination of any appeal or expiration of the time for appeal if no appeal is filed.
- (4) If parties stipulate as requested, they shall sign a form provided by the clerk and make arrangements for appropriate disposition of the exhibits.

4.02 RE-NUMBERED AS 6.05 ON 04-01-11.

4.03 MORTGAGE FORECLOSURE PROCEDURE. (Amended 02-01-13)

Motions for Default Judgment or Judgment on the Pleadings shall be scheduled for a hearing in open court. Notice shall be provided to all defendants at least ten (10) days before the hearing, whether or not any defendant has previously appeared. If all parties consent or no defendant appears at the scheduled hearing, the court may grant judgment based on affidavits or testimony.

In all residential mortgage foreclosure actions filed as of today, February 1, 2013, the plaintiff shall attach to the Summons and Complaint served on all other parties copies of the following forms prescribed by the court.

- (a) Notice of Availability of Mediation through the Winnebago Conflict Resolution Center
- (b) Application for Mediation

Plaintiff shall serve all forms on all mortgagors named in the action. The forms shall be printed on yellow paper and can be downloaded from the Manitowoc County Clerk of Court website at:

<http://www.co.manitowoc.wi.us/department/document.asp?ID=4>

“Residential mortgage foreclosure actions” is defined as those foreclosure actions involving either first or second mortgages and involving one-four family residences, owner occupied, or tenant occupied, so long as the landlord owns no more than five one-four family rental properties.

While entry into the Foreclosure Mediation Program is voluntary for both parties, by consenting, the parties agree to abide by the process set forth in the Foreclosure Mediation Process Description below.

Foreclosure Mediation Process Description

A. Goal. The Manitowoc County Foreclosure Mediation Program is patterned after the Wisconsin Foreclosure Mediation Network Model. The goal of the Program is to assist parties determine, within a reasonable period of time, whether foreclosure can be avoided by an alternate mutually agreeable arrangement, such as a loan modification or repayment plan, or to allow for a graceful exit from the property. The mediation program seeks to achieve this goal by structuring the collection and exchange of information to prepare the parties for their mediation session. The neutral and impartial mediator then guides and summarizes the communications so that parties gain a complete and clear understanding of any options that may exist, or the reasons retention options are not available.

B. Eligibility. The Program is available to parties to a first or second mortgage foreclosure action involving a one-four family residential property. The homeowner need not reside in the property, but they may not own more than four other rental properties. This is consistent with the eligibility criteria for the U.S. Treasury's Making Homes Affordable loan modification program. In addition, the action must be pending in Manitowoc County. Vacation properties or "seasonal homes" are not eligible, nor are homes subject to a bankruptcy.

C. Request/Consent Process:

1. Mediation Request Form. To initiate the mediation process, either party may make a request. The homeowner's request must utilize the "Mediation Request Form." Within two business days of receiving the Request Form, the Program Administrator will refer a housing counseling agency to the homeowner via mail or email. The homeowner's second step is to contact a housing counselor to set up a meeting for the purpose of compiling a complete financial package. The housing counselor sends the package directly to the Program Administrator. The homeowner's third step is to pay the application fee of \$150 by check, money order or credit/debit payment via telephone.

If the homeowner does not complete all three steps within 60 days from receipt of the Mediation Request Form, in the absence of extenuating circumstances, the application will be deemed inactive.

2. Lender's Consent. After the homeowner has completed all three application steps, the Program Administrator will notify Lender's counsel and request Lender's participation, seeking a response within 10 business days. Lender's non-refundable fee

of \$150 is due at the time of consent. If no response is received within 30 days, the Program Administrator will notify the Court that Lender has not responded and will close the mediation

D. Mediation Preparation/Document Exchange:

1. On-line Portal. By consenting, Lender agrees to utilize an Administrator selected secure internet based portal to:

- a. Post the lender required loan modification application forms and requirements,
- b. Receive the homeowner's loan modification package documents and
- c. Exchange messages about any outstanding documents or information.

2. Initial Submission of Loan Modification Request Packet ("Financial Package"). Within 2 business days of lender's consent, the Program Administrator will send the homeowner's financial package to the lender, either via the Portal or via lender's counsel.

3. Notice of Deficient Package and (Lender's Confidential Loan Data Sheet). Within 5 business days after receipt of homeowner's initial submission of information, Lender shall:

- a. Notify the Program Administrator of any known deficiencies, including any missing information or documentation required for the loan modification application to be complete, and
- b. Send the completed Confidential Loan Data Sheet.

4. Supplemental Submission. Within 10 days from the date of the Lender's notification of deficiencies in the financial package, homeowner shall submit supplemental information or documents. This deadline may be extended for compelling circumstances beyond the homeowner's control.

5. Notice of Commencement of Review Period. When no outstanding Lender requests for information or documents remain, the Program Administrator will send a Notice to the Court advising that:

- a. The Homeowner has delivered to Lender, via Program Administrator, a completed application for a loan modification;
- b. Lender is reviewing the application for alternatives to foreclosure; and
- c. The next scheduled mediation activity.

E. Mediation Session

1. Assignment of Mediator. At the time of the Initial Submission, the Program Administrator will assign a trained neutral and impartial mediator, who will utilize the facilitative style of mediation, refraining from directing or advising the parties, and will abide by the Uniform Model Standards of Mediator Conduct.

2. Attendance by Parties with Authority. By consenting, Lender agrees to designate a representative with knowledge of all of the Lender's loss mitigation programs either with full authority to make a determination on the homeowner's request or access to persons having such authority. Such representative may appear via video or teleconference. All attorneys will appear in person or via videoconference (if such accommodations are available). Absent prior arrangements, all mortgagors and the mediator must be present at the mediation session. If subsequent mediation sessions are scheduled, all appearance may be via teleconference.

3. Confidentiality and Privilege. All communications made by the parties, attorneys and other participants at or in connection with the mediation shall be privileged and not reported, recorded or placed into evidence, or made known to the Court or construed for any purposes to be an admission. The Mediator will keep confidential all statements made during the mediation session, and will report to the Court only the results of the mediation or the procedural status of the mediation case.

4. Scope of Subject Matter. The mediation session may include negotiation of a modification of the homeowner's loan, whether by new payment terms, reduction or forgiveness in principal, interest, escrow shortage or advanced costs, surrender or sale of the mortgaged property or otherwise. Disputes of the amount due, application of payments, or other claims are within the scope of mediation only if both parties expressly make such election.

5. Close of Mediation. The Mediator shall cause the mediation process to conclude when:

- a. The homeowner has withdrawn from the mediation process,
- b. The Lender has reached a determination about the Homeowner's eligibility for a loan modification and the Homeowner has been afforded an opportunity to discuss the determination during a mediation session, or
- c. The Homeowner has failed, after 10 business days, to supply information or documents identified as outstanding by the Lender and the Lender has requested that mediation be closed.

The Program Administrator shall send to the Court a Final Mediation Report no later than 10 days after the conclusion of the mediation.

Pursuant to the authority of Court Rule 1.01(1) and in recognition of the significant increase in home foreclosure actions and to assist parties in resolving these actions as expeditiously as possible, the requirement that this rule be presented at two successive meetings of the Manitowoc County Circuit Court Advisory Committee is waived.

5. SMALL CLAIMS COURT RULES

5.01 SERVICE BY MAIL AUTHORIZED.

Service of summons by regular mail is authorized as provided in Wis. Stats. §799.12(3), except personal service shall be required for eviction actions, replevin actions where a deficiency is requested, all consumer credit replevin actions brought under Chapter 425, and non-earning garnishment actions.

5.02 PLEADINGS IN WRITING.

All pleadings under Chapter 799 shall be in writing unless specifically ordered otherwise by the court in a specific action.

5.03 STATEMENT OF DEFENSES REQUIRED. (Amended 06-02-23)

Except as otherwise provided by these rules for Evictions and any related damages claim, in order to contest, the defendant must file a written Statement of Defenses within 10 business days following the return date and send a copy to the plaintiff or plaintiff's attorney as required by law. Failure to serve and file a timely Statement of Defenses may result in a default judgment against the defendant.

5.04 SMALL CLAIMS APPEARANCES. (Amended 06-02-23)

Except as otherwise provided by these rules for Evictions and any related damages claim, small claims hearings before the Commissioners are conducted by videoconferencing means unless parties choose to appear in person or the hearing cannot be effectively be conducted by videoconference due to the nature of the evidence. Parties must present documents to the opposing party in advance of any contested hearing. Failure to do so may result in the hearing being rescheduled.

(1) Replevin and monetary cases:

For any non-eviction matter, counsel for either party must appear in order for attorney fees to be awarded. The appearance may be by letter. If there is no letter of appearance by counsel for the return date, the case will be dismissed (with prejudice if the defendant appeared.)

Plaintiffs need not attend the return date, but must file the Declaration of Non-Military Service and the proof of service (Certificate of Service) for service other than by mail through the Clerk of Court as set forth in Rule 5.01. Failure to file may result in dismissal, though the court may allow a grace period.

Defendants need not appear if not contesting. To contest, defendants must file a written Statement of Defenses, either personally or by counsel prior to the return date or appear at the return date either in person or by videoconference. A written Statement of Defenses by defendant or counsel will constitute appearance. If

appearing in person to contest, the defendant shall file the written Statement of Defenses as set forth in Rule 5.03. A commissioner hearing will be set at the return date. If the Statement of Defenses is not received timely, a judgment may be granted against the defendant as demanded in the complaint.

(2) Evictions:

Plaintiff and/or plaintiff counsel must attend return date either in person or by videoconference. Letter appearance by counsel is not sufficient in eviction cases. Failure to appear by plaintiff will result in dismissal.

Defendants must attend return date either in person or by videoconference if contesting for any reason. Failure to appear results in granting plaintiff's request. Defendants must state any defense to the eviction action at the return date. A stipulated resolution can be reached and filed with the court at anytime regarding the eviction or the monetary issues.

If at the return date, the Commissioner determines defendant has grounds to contest the eviction, a hearing (Eviction Trial) will be set with the assigned judge during the designated time block. The Eviction Trial could be as soon as the day after the return date. Defendant's written Statement of Defenses must be received by the Court by the close of business the day before the Eviction Trial. Service of the Statement of Defenses on the plaintiff can be made at the start of the Eviction Trial if time does not permit delivery by mail. Appearances shall be in person for Eviction Trials, except as allowed by the judge in which case a videoconference appearance is required. If a party fails to appear, judgment may be entered against an absent defendant or the case dismissed with prejudice in the event of an absent plaintiff. When granting a judgment of eviction, the judge will state if there is any stay of entry of judgment or stay in issuing a writ of restitution. A separate commissioner hearing [Rule 5.04(3)] will be set to determine the amount of any monetary judgment.

If at the return date, the Commissioner determines defendant fails to state a valid defense, the Commissioner will grant the judgment of eviction but may stay entry of judgment and/or issue of the writ of restitution until noon on the 5th business day after the return date. Plaintiff must contact the clerk of court to advise if writ is needed or, if entry of judgment was also stayed, whether judgment should be entered. When judgment is stayed, failure to contact the clerk may result in the eviction portion of the case being dismissed. A separate commissioner hearing [Rule 5.04(3)] will be set at the return date to determine the amount of any monetary judgment.

(3) Eviction Commissioner Hearing on Rent and Damages:

Following resolution of an eviction claim by defendant vacating the premises, a hearing to determine monetary damages will be set before Commissioner

approximately 6 weeks later, to allow plaintiff to determine damages. A rent and damages list must be received in the Clerk of Court's office (or E-Filed) not later than the close of business 5 days before the rent and damages hearing. This list must also state the date the notice was mailed to the defendant(s). A sample form may be obtained from the Clerk of Courts office.

Defendant is not required to file an answer contesting the monetary damages if final amount is not stated in the complaint. Any defendant may appear and contest the claims at Commissioner hearing.

(4) Counter Claim in Eviction Actions:

Defendant should be permitted to file a counterclaim at any stage. A modified statement of defenses and counterclaim form may be made available. Such form would indicate there is insufficient information to respond to the plaintiff's claim, but be completed by the defendant as to the counterclaim. If counterclaim is first raised at the Commissioner hearing on damages, a written counterclaim may be required to be filed and a new commissioner hearing set. If raised when making a demand for trial, plaintiff must be given opportunity at trial to respond or matter can be returned to the commissioner to address the counterclaim before trial with judge.

5.05 HEARING PROCEDURES.

- (1) If the action is not disposed of at the return date, the court shall set a commissioner hearing approximately 30 days after the return date. Commissioner hearings shall be set for 30 minutes and shall be conducted informally pursuant to Wis. Stats. §799.209. Each party shall have 15 minutes to present their case and the commissioner shall make a record of the proceeding noting the time and location of the hearing, the parties, witnesses and attorneys present and the decision. Any party that is not satisfied with the decision of the commissioner may file a Demand for Trial pursuant to Wis. Stats. §799.207.
- (2) In the event any party to a small claims case fails to appear at the commissioner hearing, the following disposition shall be made:
 - (a) Failure to appear of the plaintiff: Dismissal with prejudice.
 - (b) Failure to appear of the defendant: Default judgment.
 - (c) Failure to appear of both parties: Dismissal without prejudice.
- (3) Any defaulting party may bring a petition to reopen the default judgment. If the petition is granted, the court may award costs up to \$50.00 to the other party.

5.06 THIRD PARTY ACTIONS.

- (1) Any defendant wishing to add another party to a small claims action must file a third party summons and complaint no later than 20 days after the Return Date. Such third party summons and complaint shall be returnable at the commissioner hearing and serve pursuant to Wis. Stats. § 799.05 not less than 8 days prior to the commissioner hearing.
- (2) If a Demand for Trial is filed by any party after the commissioner hearing, the third party defendant shall file a written Statement of Defenses within 10 business days after receipt of notice of the trial date and send a copy to all parties in the action or their attorney.

5.07 APPLICATION FOR BENCH WARRANT.

A plaintiff seeking the issuance of a bench warrant against a judgment debtor who fails to appear in court on an order to show cause for failing to appear for a supplemental examination or failing to complete a financial disclosure statement shall complete an affidavit verifying the following information:

- (1) Debtor's full name.
- (2) Debtor's current address.
- (3) Debtor's date of birth.
- (4) Sex of debtor.

The applicant shall also provide, if available, the debtor's telephone number, driver's license number, height, weight, race, eye color, hair color, or other identifying characteristics. The affidavit shall recite that the judgment debtor has failed to appear in court on an order to show cause, specify the reason for the appearance, and verify that there is a proof of service on the judgment debtor for the failed court appearance in the court's file. The affidavit shall be prepared on a form to be supplied by the clerk.

6. FAMILY COURT RULES

6.01 PROCEDURE FOR DISMISSING INACTIVE FAMILY ACTIONS.

- (1) Dismissal Orders shall be prepared as follows:
 - (a) In all actions affecting the family in which there have been no motions or pleadings filed, or hearings scheduled for more than 6 months, the judicial assistant shall prepare an order of dismissal with 20 days notice.
 - (b) When a subsequent action affecting the family involving the same parties is filed, the clerk shall prepare an order for immediate dismissal of the prior action.
- (2) Any orders in the case for support or maintenance shall be computed by the Child Support Agency up to the date the Dismissal Order becomes effective.
 - (a) When the dismissal is a result of failure to prosecute, records of arrears or overage amounts shall be retained on the statewide KIDS computer system pursuant to administrative regulation.
 - (b) When the dismissal is a result of a subsequent family action being filed, the arrears or overage amounts shall be transferred to the support records of the more recently filed action.
 - (c) It shall be the responsibility of the parties to petition the court to adjust arrears and overage figures that they believe are incorrect.
 - (d) Copies of all orders entered pursuant to this court rule shall be sent to each party or attorney of record, to the Family Court Commissioner and to the Child Support Agency.
- (3) Copies of all orders entered pursuant to this court rule shall be sent to each party or attorney of record, to the Family Court Commissioner and to the Child Support Agency.

6.02 POST JUDGMENT PROCEDURES.

- (1) Where Post Judgment Motions Heard. All motions for revision of judgments under Wis. Stats. §767.32 shall be heard by the Family Court Commissioner, unless the Commissioner recommends, and/or the Court determines that the matter is more appropriate for hearing before a judge.
- (2) Hearing Procedure. Hearings shall be by sworn testimony and documentary evidence on the record. A "Findings of Fact and Order" of the Family Court Commissioner shall be prepared by the prevailing party, or in the case of pro se

participants, by the Family Court Commissioner, and submitted for signature within thirty (30) days of the date of the post-judgment hearing.

(3) Review by Circuit Court.

- (a) Either party may, at any time after the hearing, but not later than thirty (30) days after the date of the order, move for review of said Findings and Order of the Family Court Commissioner by the Judge of the branch of the court to which the case has been assigned.
- (b) The motion for review shall include:
 - 1. The decision, order or ruling for which a review is sought, and
 - 2. Whether the hearing requested is a new evidentiary (de novo) hearing or a hearing on the record. If the review is requested on the record, the moving party shall take the necessary steps to have a transcript of the commissioner hearing filed with the circuit court prior to the review hearing.

6.03 DIVORCE STIPULATED FINAL HEARING REQUIREMENTS.

- (1) Prior to the scheduling of a final stipulated hearing in a divorce case, the following items from the requesting party must be in the court file:
 - (a) The requesting party's signed Financial Disclosure Statement, which must have been furnished to the opposing party.
 - (b) A signed Marital Settlement Agreement resolving all issues of property division, custody, placement, child support and maintenance.

6.04 DIVORCE PRETRIAL REQUIREMENTS.

- (1) Prior to the scheduling of a pretrial in a divorce case, the following items from the requesting party must be in the court file:
 - (a) Financial Disclosure Statement The requesting party's signed Financial Disclosure Statement, which must have been furnished to the opposing party, complete with supporting information. "Supporting information" includes the following:

Assets:

- 1. Income Tax Returns. Copy of federal income tax returns for the last two years.

2. Current Income Information. Copies of the party's pay stubs for four most recent pay periods, or, if the stub shows year to date totals, the most recent period only.
3. Real Estate. In the case of real estate, copy of appraisal, tax bill, or other written information supporting the claimed value of the real estate. Also, a copy of the most recent mortgage balance statement from any mortgage holder.
4. Retirement Plans. In the case of any retirement plan, a written earnings statement or letter from the employer or plan administrator showing the current value of the plan or the current benefits which have been earned.
5. Life Insurance. A statement from the carrier showing the policy's current cash value, or statement from the carrier or employer indicating the plan has no cash value.

Liabilities:

A statement of all liabilities including for each the name of the creditor, amount of the debt, purpose for which incurred, and the monthly payment, if any, being made on the debt.

Asset and Liability Summary:

An Asset and Liability Summary, showing the party's claimed value of assets and amount of liabilities, and the proposed allocation of assets and liabilities, on the form provided with these requirements.

Monthly Budget:

A monthly budget showing current gross monthly income from all sources, deductions from gross income, net monthly income, and expenses.

- (b) Statement of Issues. The requesting party shall file a statement of issues indicating items which are in dispute and those which are not in dispute. With respect to any disputed items, the party shall set forth his or her position and, to the best of the requesting party's knowledge, the position of the opposing party. If child custody or placement is in dispute, the requesting party must have filed a Parenting Plan.
- (c) Discovery. The requesting party must state in writing that the party has completed discovery which he or she intends to conduct (or that he or she has filed a motion to compel discovery of information which has not been

timely furnished in response to a discovery request) and that he or she has complied with any discovery requests of the other party.

- (2) No later than ten (10) days before the Pretrial Conference the opposing party shall provide the following:
 - (a) Financial Disclosure Statement. The opposing party must file a Financial Disclosure Statement in the form described above. FAILURE TO FILE A FINANCIAL DISCLOSURE STATEMENT SHALL BE DEEMED TO BE AN AGREEMENT BY THE OPPOSING PARTY TO THE INFORMATION CONTAINED IN THE REQUESTING PARTY'S FINANCIAL DISCLOSURE STATEMENT.
 - (b) Statement of Issues. The opposing shall file a statement of issues indicating items which are in dispute and those which are not in dispute. With respect to any disputed items, the party shall set forth his or her position and, to the best of the requesting party's knowledge, the position of the requesting party. If child custody or placement is in dispute, the opposing party must file a Parenting Plan.
 - (c) Discovery. The opposing party must state in writing that the party has completed discovery which he or she intends to conduct (or that he or she has filed a motion to compel discovery of information which has not been timely furnished in response in response to a discovery request) and that he or she has complied with any discovery requests of the requesting party.

6.05 PAYMENT OF NON-CONTRACT GUARDIAN AD LITEM FEES.

Pursuant to the authority of SCR 81.02 and St. ex rel. Friedrich v. Dane County Cir. Ct., 192 Wis. 2nd 1 (1995), and based on the findings in the Order adopting this rule, court appointing Guardians ad Litem shall be reimbursed at the rate of \$100.00 per hour effective with appointments made after January 1, 2017.

Pursuant to the authority of Court Rule 1.01(1), in order to assure the appointment of qualified Guardians ad Litem, the requirement that this rule be presented at two successive meetings of the Manitowoc County Circuit Court Advisory Committee is waived.

7. JUVENILE COURT RULES

7.01 TERMINATION OF PARENTAL RIGHTS OF PARENTS SUBJECT TO PRIOR SUPPORT ORDER.

- (1) Whenever an action requiring the termination of parental rights of a party is commenced, the petition commencing the action shall be accompanied by an attachment which shall state whether or not there is an existing support order involving the parties. If a prior support order exists, the attachment shall indicate the jurisdiction in which the order was entered, the names of the parties as they appear on the support order, and the court case number assigned to the order.
- (2) If a petition as described above is submitted to either the Register in Probate or Clerk of Juvenile Court for filing without the attachment required in (1), the petition shall be refused and shall be returned to the person who submitted it, along with a copy of this court rule.
- (3) On receiving an order terminating the parental rights of a parent subject to a support order entered in a Manitowoc County action affecting the family, the Register in Probate or Clerk of the Juvenile Court shall give copies of the order, along with the information required in (1), to the Clerk of Circuit Court, and the Child Support Agency.
- (4) On receipt of an order terminating the parental rights, the Clerk of Circuit Court shall consider the order to be one terminating the obligation for future support payments in the action affecting the family, effective the date of the termination order. No other court ordered obligations or existing arrearage for support will be affected by a termination order. Any party requesting relief from obligations other than future support must petition the court that entered the original obligation in the action affecting the family.

7.02 DEFAULT OF NON-APPEARING PARENT IN CHILD IN NEED OF PROTECTION AND SERVICES (CHIPS) CASES

- 1) Whenever an action alleging a child is in need of protection and services is commenced, the court will provide notice to parents in writing, as prescribed under Wis. Stat. §48.27 and 48.273. Further notice of hearings will be provided in person, by mail or pursuant to statute.
- 2) If a parent fails to attend a hearing after receiving notice, and does not contact the court with a reason for non-appearance, then the parent will be found in default or deemed to be not contesting the matter being addressed at the hearing.