

WASHINGTON COUNTY CIRCUIT COURT CIVIL PROCEDURES

(Revised June, 2012)

I. PRETRIAL PROCEDURE

A. FILING PAPERS

All documents submitted for filing should be hole-punched at the head of the document with a standard two-hole punch. The holes should be 2-3/4" center to center and have a diameter of no less than 1/4". An action is commenced upon the filing of the Summons and Complaint with the Clerk of Courts office, and payment of the statutory filing fee. The clerk assigns a case number and a random assignment to a specific Branch is made. Copies are authenticated for service.

All documents pertaining to a specific case shall be filed with the Clerk of Courts office directly and not with the judge who has been assigned the case. Judges and clerks will not accept documents for filing unless presented during the course of a hearing related thereto. The case number shall be on all documents filed with the Clerk of Court after the Summons and Complaint.

B. SERVICE ON OPPOSING COUNSEL

Unless the Court shall otherwise direct, before submitting to the Court any proposed order, findings, conclusions of law, or judgment, a copy shall be submitted to opposing counsel. A place for notation of the approval of opposing counsel as to form may be provided at the foot thereof. Alternatively, counsel may mail a copy of the proposed form to opposing counsel with the condition that if no objection is brought to the attention of the court within five days from the date of receipt by the Court, approval is presumed and the Court may execute the original after the five days.

C. SCHEDULING CONFERENCES & PHONE SCHEDULING CONFERENCES**1. NOTICE**

- a. If all parties are represented by attorneys, four months from the date of filing has elapsed and issue has been joined:
 - i. The clerk shall set the matter for a telephone scheduling conference on a date approximately six months after filing.
 - ii. Notice shall be sent to the attorneys approximately six weeks in advance of the date and time and each attorney shall be sent a copy of the "Scheduling Conference Data Sheet", local form CV-4003, and the "Civil Scheduling Order", local form CV-4001.
 - iii. Each party shall complete the "Scheduling Conference Data Sheet" and return it to the Court one week in advance of the scheduling conference.
- b. If any party is unrepresented or if the Court determines there are too many attorneys/parties for an effective telephone conference, all attorneys/parties may be required to appear at the courthouse, in the room specified in the order, to hold the scheduling conference.

2. PROCEDURE FOR CONFERENCE

- a. All telephone scheduling conferences shall be initiated by plaintiff's attorney who shall place the call to the judge's clerk after all attorneys are on the line, and the call will then be transferred to the judge.
- b. Unless otherwise directed by the judge, the judge will complete the civil scheduling order and the clerk will mail a copy to all attorneys. The order may establish:
 - i. dates for completion of discovery, naming experts, filing of reports, motions and mediation.
 - ii. the date of a pretrial/scheduling conference.

- c. The order is final unless objected to within 10 days of mailing.
- d. Stipulations extending any dates set forth in the scheduling order are not binding unless the Court approves such stipulation.

D. PRETRIAL/SCHEDULING CONFERENCE

1. Parties and trial counsel are required to be present in person for any Pretrial/Scheduling Conference on the date as set in the Civil Scheduling Order unless the judge ordered otherwise.
2. The judge may complete a Civil Pretrial/Scheduling Order and, if completed, the clerk will mail a copy to all parties. The order may establish:
 - a. the trial date and length;
 - b. dates for filing of trial briefs;
 - c. the number of preemptory challenges;
 - d. any stipulations or other issues.
3. The order is final unless objected to within 10 days of mailing.

E. JURY TENDER

Pursuant to §805.01(2) and 814.61(4), jury demand must be made prior to or at the scheduling conference or at such time as ordered by the Court. Failure to pay the fee at the time ordered by the Court shall constitute a waiver of jury trial unless excused by the Judge. No demand for a jury trial may be withdrawn after the payment of the jury fee without the written consent of all other parties to the action. Unless authorized by the Court, no jury fee may be split between the parties and duplicate tenders for juries will not be returned to any party.

II. MOTION PRACTICE

A. SCHEDULING

Each judge has certain specific dates and times when motions are calendared to be heard. Motions should be scheduled consistent with any scheduling order. All motions are to be scheduled through the Judicial Assistant for the specific branch in

question after informing the Judicial Assistant of the case number, the nature of the motion, and the estimated amount of time for argument on the motion. Due to potential time constraints, motions may not be scheduled on a date previously provided by the Judicial Assistant for a motion in the same case without prior approval of the judge. If the parties agree that a motion may be decided on briefs only, without oral argument, the Judicial Assistant should be advised and a request made for a briefing schedule. The judge will then set the briefing schedule.

B. BRIEFS

The Court should receive briefs in support of motions at least 20 days prior to argument although each Court may establish a briefing schedule in individual cases upon its own motion or upon request. Briefs shall contain a short, concise statement of the party's arguments in support of its position, together with the citations of the authorities upon which it relies.

If no briefing schedule has been set, the opposing party shall, within ten days after the filing of the supporting brief, file a response brief in opposition containing a short, concise statement of the position upon which it relies together with citation of authorities. The moving party shall have five days thereafter for filing its reply. No brief beyond the reply shall be filed except upon leave granted. The Court may, by order, excuse the filing of supporting, response and reply briefs, and may shorten or extend the time fixed by this rule for the filing of briefs. Each party shall serve a copy of their brief upon opposing party and file proof of such service at the time of filing its brief.

Failure to file any of the briefs provided for by this rule shall not be deemed to be a waiver of the motion or matter on the part of the supporting party or a withdrawal of the opposition by the opposing party, but the Court may upon its own motion or on the motion of a party, take such action, including a striking of the motion, or a granting of the motion without further briefs or hearing, or the entry of an order to file supporting or opposing briefs, as it may in its discretion determine.

C. SUMMARY JUDGMENT

1. Scheduling - SEE II A and B above. Motions must be filed and heard within the time limits set by §802.08(1) unless extended by the scheduling order for the case or by order of the Court.
2. Affidavits must be filed at least five days prior to hearing pursuant to Sec. 802.08(2), Wis. Stats. or as ordered by the Court.

D. DEFAULT JUDGMENT

1. In actions to which §806.02(4) applies (action on express contract for recovery of a liquidated amount of money only) the Clerk will render the judgment without order of the Court. No order for judgment or judgment for the judge's signature need be submitted.
2. All other default judgment motions follow regular procedure except as specified in Section III hereof.

E. MINOR SETTLEMENTS (Sec. 807.10, Wis. Stats)

1. If settlement is over the amount specified in Sec. 867.03(1g), Wis. Stats., and minor is entitled to monies prior to 18th birthday, a guardianship action must be commenced in the office of the Register in Probate (Chapter 54). Counsel shall obtain a hearing date from that office for approval of settlement of both the guardianship action and the civil action.
2. If the settlement is over the amount specified in Sec. 867.03(1g), Wis. Stats., but the settlement is structured so that the first payment is to be made on or after the minor's 18th birthday or the settlement is to be paid to a Discretionary Needs Trust, no guardianship action is necessary. Counsel shall contact the Clerk of Courts office for a date for approval of the settlement.
3. If settlement is at or less than the amount specified in Sec. 867.03(1g), Wis. Stats., the Court, in its discretion, may order a disposition as set forth in Sec. 54.12, Wis. Stats.

4. Appointment of a guardian ad litem for a minor will be made by the judge to whom the case has been assigned.

III. APPEARANCES

A. APPEARANCES BY ATTORNEYS & CLIENTS REQUIRED

Unless excused by the Court, attorneys for all parties shall appear:

1. At all motions or trials unless otherwise specifically provided herein.

Attorneys and clients shall appear:

2. At all Pretrial/Scheduling Conferences unless the attorney has full authority to settle, and the client is immediately available by telephone and the Judge has excused the client.
3. The attorney appearing at a Pretrial/Scheduling Conference shall be the attorney who will try the case.

B. FORECLOSURE APPEARANCES NOT REQUIRED

1. Attorneys for a mortgagee in a foreclosure action need not appear at a hearing on a default foreclosure judgment and may appear by affidavit if:

- i. The case is in default with no responsive pleading filed by mortgagor.
- ii. Proof of service, copy of Lis Pendens, etc. are all on file.
- iii. A hearing date is obtained and notice given to all defendants, which shall indicate that judgment will be granted on that date unless anyone appears to object.
- iv. An affidavit or affidavits of a representative of the mortgagee setting forth all evidence based on personal knowledge necessary to allow court to grant judgment is filed, as set forth in (2) below.
- v. An affidavit to establish the reasonableness and necessity of attorney's fees is filed.
- vi. Affidavits, findings and judgment papers are filed at least 3 days prior to the date of the motion hearing.

2. Any affidavit submitted in support of a default foreclosure judgment, summary foreclosure judgment or judgment on the pleadings must specifically and without reference to other documents previously filed set forth all information necessary to support the motion including the following information:

- i. The date of filing of the summons and complaint and any amended summons or complaint.
- ii. The date and specific manner of service on each of the defendants named. If service on any defendant is by publication, an affidavit as to reasonable efforts to serve the defendant personally or by substituted service shall be provided.
- iii. The length of the period of redemption being requested (with reference to the section of Ch. 846 authorizing the requested redemption period) as well as specific factual information based on personal knowledge supporting the period of redemption requested and whether a deficiency judgment is being sought or waived. Proposed Findings and Orders should highlight the length of the period of redemption and waiver or non-waiver of deficiency language in any such pleadings by bolding the same.
- iv. The amount due and owing as of the date of the affidavit or hearing date together with the amount of attorney fees requested, a listing of disbursements being added to the judgment and the total thereof.
- v. The date of filing of the Lis Pendens in the office of the Register of Deeds.
- vi. A copy of any responsive pleading giving rise to a motion for summary judgment or judgment on the pleadings.

- vii. Whether the plaintiff is the original mortgagee and, if not, information establishing how the plaintiff became the current holder of the mortgage with assignments incorporated into the affidavit establishing the plaintiff's standing.
3. Any document filed by a defendant and determined by the court to constitute a responsive pleading will void any motion for default judgment and require a personal appearance by an attorney for the plaintiff, which may be by telephone at the discretion of the Court.
 4. Any motion to confirm a Sheriff's sale in a foreclosure action must set forth the relief requested in addition to confirmation of the sale and must be supported by an affidavit or affidavits which specifically and without reference to any document previously filed set forth all information necessary to confirm the sale including the following information:
 - i. The date and location of the Sheriff's sale.
 - ii. The name of the successful bidder and the amount of the bid.
 - iii. Information from which the court can conclude that the successful bid represents fair value such as the opinion of an appraiser or specific tax valuations.
 - iv. The date of filing of any amended summons or complaint.
 - v. The names of any additional defendants added since the granting of the judgment.
 - vi. The date and specific manner of service on any additional defendant.
 - vii. Information as to the potential claim of any added defendant and facts from which the court can conclude that the interest of any such defendant is subsequent to that of the plaintiff.

viii. The nature of any specific amounts being requested to be added to the judgment.

ix. Whether a writ of assistance is being requested.

5. Failure to file the appropriate documentation at least 3 days prior to the date of the hearing will require a personal appearance by plaintiff's attorney at such hearing.

6. The case will be called on the motion date and the sale confirmed if there is no objection. If any party appears to object, the matter may be adjourned for further hearing. In that event, costs may be awarded against plaintiff if the plaintiff's attorney did not appear and the court finds the objection to be valid.

IV. TRIALS

A. SETTLEMENT

In Washington County, a jury panel is called specifically for the case scheduled for trial. The court may impose costs if a case is settled within two business days of the trial date (§814.51).

B. VOIR DIRE

As part of its voir dire, the Court will inform the jury panel as to the cause, parties, and counsel and the nature of the action, so that they may be sufficiently informed to answer questions touching upon their qualifications to act as jurors. The court shall next ask questions pertaining to the qualifications of the jurors; the parties or their counsel shall then continue such voir dire examination. Attorneys will not be allowed to ask about information on the voir dire examination that was available on the jurors' questionnaires. Individual voir dire of jurors will not be permitted. Questionnaires are available from the jury clerk approximately two weeks before trial.

C. INSTRUCTIONS

Proposed instructions are to be submitted to the Court at the

Pretrial/Scheduling Conference. After the trial has commenced, requests for instructions shall be submitted in writing to the Court before opening arguments to the jury begin, unless the trial judge otherwise permits. Any special instruction shall be on a separate page, with a duplicate copy thereof, and each shall have noted thereon the citation of authorities relied upon to sustain such instruction. When a standard instruction is requested from Wisconsin Civil Instructions, it may be requested by number only, except if there is any change of the language thereof. Any requested modifications shall be submitted in writing.

D. TRIAL BRIEFS

1. Trial briefs shall be filed 10 days before trial.
2. Trial briefs furnished to the Court shall be furnished to opposing counsel, unless counsel have agreed, or the Court has ordered, that briefs need not be exchanged.

E. OPENING STATEMENT AND CLOSING ARGUMENTS

Within reasonable discretion, taking into consideration the nature of the case and the evidence produced at the trial, the Court may limit the length of opening statements and closing arguments of counsel. Counsel shall be advised of such limitation prior to the commencement of opening statements or closing arguments.

F. DUTY OF ATTORNEYS WITH RESPECT TO OMISSIONS OR ERRORS IN INSTRUCTIONS

Immediately after the jury retires, counsel shall bring to the Court's attention obvious omissions or inadvertent errors contained in the instructions, so that the Court may make appropriate and timely correction.

G. APPEARANCE OF ATTORNEYS DURING JURY DELIBERATIONS AND AT TIME JURY RETURNS VERDICT

After the jury has retired to deliberate, if any attorney or party is not in the courthouse, they shall have been deemed to waive any appearance. Unless otherwise

directed by the Court, counsel shall furnish the clerk with a phone number at which they can be reached should a question arise or the verdict is reached, but the Court will not be obligated to wait for the attorney before taking appropriate action if counsel is not present or cannot be contacted immediately.

H. CONTINUANCES - ADJOURNMENTS

An attorney who has a conflict with a motion date scheduled by another party's attorney must contact the attorney who initially scheduled the motion before requesting any adjournment from the Court. The attorney who scheduled the motion may then contact the clerk's office to set up a new motion date. No adjournment will be granted without consent of the other party on motion.

I. TAXATION OF COSTS

Procedures for taxation of costs will follow Sec. 814.10, Wis. Stats. The clerk will tax costs and insert in the judgment and in the judgment and lien docket, if the judgment shall have been entered, on the application of the prevailing party, upon 3 days' notice to the other party(ies).

Objections to the bill of costs must be in writing and filed with the Clerk of Courts office prior to taxation. The clerk may adjourn the taxation, upon cause shown, to a reasonable time to enable either party to produce proof. The court on motion may review the action within 10 days after taxation.

V. SATISFACTION OF JUDGMENTS FOLLOWING BANKRUPTCY

A. NECESSARY DOCUMENTS

Any person seeking to satisfy a judgment which was the subject of a debt discharged in a bankruptcy action, or any person having an interest in real property to which such judgment attaches, may make an application to the Clerk of Courts by filing the following documents:

1. An Application for Order for Satisfaction of Judgments substantially in the form prescribed by Wis. Stat. 806.19(4) which includes: The name of the

judgment debtor or person interested in the real estate affected by such judgment;

- a. A list of the judgments to be satisfied by case name, case number date, and if available, the judgment and lien docket volume and page number; and,
 - b. A statement that the person signing and dating the Application believes such debts have been discharged in bankruptcy and that no inconsistent ruling has been made by the bankruptcy court or is currently being requested by any party from the bankruptcy court.
2. Copies of the schedules of debts as included in the bankruptcy petition filed in the bankruptcy court showing the judgment creditors listed in the Application.
 3. A statement or affidavit by the person signing the Application stating that the judgment creditors listed in the Application have received notice of the bankruptcy case and describing the means of notification.
 4. A certified or photographic copy of the order of discharge in the form served on the interested parties by the bankruptcy court.
 5. A proposed Order of Satisfaction to be signed by the Circuit Court as provided in Wis. Stats. 806.19(4).
 6. A statement or affidavit by the person signing the Application that the Application and proposed Order of Satisfaction has been served on each of the judgment creditors listed in the Application within five days of its submission to the Clerk of Courts indicating the manner of service.

B. SATISFACTION

Upon receipt of the documents required, and the statutory fee of \$5.00 for each judgment to be satisfied, the clerk shall submit the proposed Order to the Court for signature after which the clerk shall satisfy each judgment described in the Application.