

**BAYFIELD COUNTY CIRCUIT COURT**  
**10<sup>th</sup> JUDICIAL DISTRICT LOCAL COURT RULES**  
**JANUARY 1, 2020**

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**Part 1: Publication and Revision of Court Rules**

- 101** District Rule adoption and promulgation
- 101.01** Pursuant to §753.35 (2), the Tenth Judicial District Court Rules are incorporated herein by reference.
- 102** Proposed rules shall be posted for public review in the County Courthouse by the Clerk of Circuit Court and copies shall be forwarded to the Secretary of the local Bar Association at least thirty days prior to formal adoption.
- 103** Notice of proposed rules as described in Sec. 101 shall constitute sufficient public notice.
- 104** Rules shall be adopted by written order of the Circuit Judge, subject to approval of the Chief Judge.
- 105** Orders adopting rules shall specify an effective date.
- 106** Once adopted, court rules shall be filed with the Clerk of Circuit Court and the Clerk of Circuit Court shall provide copies to the Secretary of the local Bar Association and the Chief Judge.

**Part 2: Court Practice**

**201** **Calendars for attorneys**

Attorneys are required to have their calendars with them in court or at all video or teleconference hearings so that firm court dates can be set. In the event that an attorney does not have his or her calendar in court, a date will be set in accordance with the judge's calendar, and the attorney will have the responsibility to adjust his or her professional or personal calendar accordingly.

**202** **Closure of Proceedings**

**202.01 Media Coverage**

Unless good cause has been shown to the Judge, a party moving that any judicial proceedings required by law to be public be closed to the news media must notify the court and the media coordinator in writing at least 72 hours prior to the time set to hear the motion. The purpose of this rule is to permit legal counsel to

appear on behalf of the media and be heard. The burden shall be upon the moving party to show cause why the proceedings should not be public as required by statute.

**203 Confidential Records**

All court ordered or statutorily required reports are confidential in all actions and proceedings. The original copy of the report shall be provided to the court. Copies of the report shall be provided to the district attorney or corporation counsel, the county department, counsel for the parties and guardian ad litem, as applicable.

Counsel for any party shall not provide his or her client or any other party with a copy of a report unless approved to do so by the court. A client or other party denied a copy of a report may read the counsel's copy of the report or the preparer's copy at the preparer's office.

A copy of the Dispositional Court Report in CHIPS, JIPS and delinquency matters, and the custody study or stepparent adoption study in family court matters will be provided to the parent(s) or guardian of the juvenile by the Department of Human Services. The parent or guardian shall not release the copy to any third party. See Bayfield County Juvenile Court Records Policies concerning other Juvenile records.

**204 Continuances**

All stipulated requests for continuance of trial date shall require the consent of the named parties in writing or on the record and must be for good cause shown. Non-stipulated requests for continuance must be on motion and hearing and for good cause shown. All requests for continuance are subject to the approval of the court. Any party seeking a continuance must make an effort to consult with opposing counsel or party before contacting the judge's office.

**205 Court Commissioner – no rules promulgated**

**206 Entry of order/judgments (Five-day Rule) – no rules promulgated**

**207 Facsimile/Electronic Transmission of Documents to the Court**

Facsimile transmission of documents to the court will be accepted pursuant to Wis. Stat. 801.16 (2).

**207.01 E-mail communication with the court.** No party or lawyer shall communicate directly or indirectly with a judge by e-mail regarding any pending or closed case. "Party" includes, but is not limited to, social workers, probation agents, corrections/police officers or pro se individuals. "Lawyer" includes legal assistant, secretary or other office staff of the lawyer.

No substantive issue on any pending or closed case may be communicated to the judicial assistant by e-mail. All substantive issues must be communicated by letter or motion and e-filed. Pro se parties may submit written correspondence which will be

scanned and filed by the clerk. All lawyers are required to opt-in to any criminal or civil case, whether pending or closed, and e-file a communication intended for the court. A copy of the e-filed communication must be mailed to a pro se party at the time of filing.

A party or lawyer may communicate directly with a judicial assistant by e-mail for scheduling, case assignments, requests for telephone appearance or jury trial notifications (i.e. trial status and order of trials pursuant to policy), provided that the other party or lawyer is copied on the e-mail communication.

**208 Filing Fees – no rules promulgated**

**209 Filing a name change – no rules promulgated**

**210 Holding of court in location other than the county seat**

Criminal intake court, juvenile intake court and any associated function thereto, may convene at the tribal court facility in Red Cliff, Wisconsin.

**211 Issuing of Writs – no rules promulgated**

**212 Judicial Assignments – no rules promulgated**

**212.01** Intake – no rules promulgated

**212.02** Civil Matters – no rules promulgated

**212.03** Criminal Matters – no rules promulgated

**212.04** Juvenile Matters – no rules promulgated

**212.05** Other Matters – no rules promulgated

**213 Jury Fees – no rules promulgated**

**214 Rules of decorum**

**214.01** Court shall be formally opened each day in which court business is transacted either by the Bailiff or the Clerk of Court.

**214.02** As the Judge enters the courtroom, the Bailiff or Clerk of Court shall require all present to rise and stand. When the Judge has reached the bench, he/she shall then instruct all to be seated and the business of the court shall proceed.

**214.03** Supreme Court Rule 62.02 shall be strictly enforced. Any party and any attorney appearing in court shall refrain from making comments regarding the personal or professional competence of another party or attorney.

- 214.04** When trial is to a jury, the jurors shall take their place in the jury box when the Judge so directs.
- 214.05** All parties and lawyers must respect the difficulty faced by the court reporter when more than one person is talking at a time. Except for objections of counsel, only one person may speak at a time while court is in session.
- 214.06** The flag of the United States and the State of Wisconsin shall be displayed in the courtroom at all times while court is in session.
- 214.07** Lawyers or parties shall never lean upon the bench or appear to engage the court in a manner which would lessen the dignity of the proceedings in the eyes of the jury and public.
- 214.08** Witnesses shall be examined from a position at the counsel table, except when handling exhibits, unless a lectern is provided by the court, in which case the examination shall be either from the position at the counsel table or the lectern. Persons examining witnesses may either stand while examining a witness from the counsel table or remain seated. Upon approval of the court, counsel may approach the witness during examination.
- 214.09** When a lawyer or party is addressing the jury, he or she shall not crowd the jury box.
- 214.10** During examination of jurors on voir dire, the lawyer or party conducting the examination shall, insofar as practical, use collective questions, avoid repetition, and seek only material information on juror qualification. The court reserves the right to suspend voir dire in the interest of justice and efficiency.
- 214.11** During trial, no lawyer or party shall exhibit familiarity with witnesses, jurors or opposing counsel and generally the use of first names shall be avoided. In arguments to the jury, no juror shall be addressed individually or by name.
- 214.12** Lawyers and court officers shall, while in attendance upon the court, be attired in such a manner as not to lessen the dignity of the court or of its proceedings in the eyes of the jury and public.
- 214.13** Lawyers shall advise their clients and witnesses of the formalities of the court and seek their full cooperation therewith. It is expected that lawyers will guide clients and witnesses as to appropriate attire.
- 214.14** Witnesses shall be examined with courtesy and respect.
- 214.15** The swearing of witnesses shall be by oath or affirmation.
- 214.16** In jury cases 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.

**214.17** The judge shall wear a robe while presiding on the bench, provided that judicial discretion may be exercised otherwise in appropriate situations.

**214.18** A bailiff or court security officer shall provide courtroom security when ever court is in session and such bailiff or officer shall be in the courtroom in full uniform, unless directed otherwise by the presiding judge. Special security rules may be adopted by the court in individual cases. Everyone in attendance at court shall obey the lawful commands of the bailiff or court security officer. Security and metal detection will be handled by security officers. Only law enforcement personnel shall carry a firearm in the courtroom, unless otherwise allowed by the presiding judge.

**214.19** All attorneys must become familiar with the Digital Audio Recording System, and understand that all proceedings are being digitally recorded and appropriate use of microphones will be required.

**215 Substitutions and Recusals – no rules promulgated**

**216 Telephonic hearings/motions – no rules promulgated**

**217 Use of Videoconferencing:**

**217.01** All video proceedings are to be indicated on the court record.

**217.02** Any proceeding or appearance allowable by statute, case law, or at the discretion of the court, may be conducted by video either by request of a party or at the discretion of the presiding court official. Parties requesting use of video must obtain prior court approval.

**217.03** Any party requesting the use of video for an upcoming hearing should attempt to do so within a reasonable amount of time prior to the hearing and physical transport of any prisoner, patient, detainee, or witness.

**217.04** If any party objects to conducting a hearing via video, they must **(1)** notify all counsel and parties not represented by counsel, orally on the record or in writing, of such objection within a reasonable amount of time prior to the hearing, and **(2)** notify the court, orally on the record or in writing, of the reason why they object to the use of video. The court will be guided by Wis. Stat. § 885.56 in determining whether to permit the use of video in a particular case.

**217.05** If a defendant who is in custody has a physical disability that will make communication via video difficult for the defendant, judge, or both, the defendant shall be brought personally before the judge, unless an interpreter is made available and both the defendant and the interpreter can be heard and seen via video during the proceedings.

**217.06** During a video proceeding, the court shall maintain full control of the remote camera and courtroom camera.

Video conference is encouraged to be utilized whenever practically reasonable. Parties seeking to appear or have witnesses appear by video conference shall obtain prior court approval.

## **218 Case processing time guidelines**

**218.01** The benchmarks enumerated below are goals for processing trial court caseload. These goals are meant to apply to all cases, except for individual cases in which the court determines exceptional circumstances exist.

- a.** Civil actions, not including family actions or small claims actions, should be disposed of within 360 days from the filing of the summons and complaint, except that actions involving personal injury, property damage, or other intentional tort should be disposed of within 540 days from the filing of the summons and complaint. All other civil actions should be disposed of within 180 days from the filing of the summons and complaint.
- b.** Family actions under chapter 767 should be disposed of within 360 days from the filing of the petition.
- c.** Contested small claims actions should be disposed of within 180 days from the filing of the summons and complaint.
- d.** Felony actions should be adjudicated within 180 days of the date of first appearance of the defendant and in no event longer than 90 days after demand for a speedy trial. *See Wis. Stat. 971.10(2).*
- e.** Misdemeanor and criminal traffic actions should be adjudicated within 180 days of the date of first appearance of the defendant unless the defendant is in custody, in which case trial should commence within 60 days from the date of the defendant's initial appearance in court. *See Wis. Stat. 971.10(1).*
- f.** Ordinance and forfeiture actions should be adjudicated within 180 days of the date of the first appearance of the defendant or entry of initial plea, whichever occurs first.
- g.** Estate actions should be disposed of within Twelve (12) months from the date of the filing of the petition for administration and within Six (6) months for ancillary probate for real estate only with a foreign personal representative.
- h.** Juvenile actions, both delinquency and CHIPS actions, should be disposed

of within 90 days from the filing of the petition.

**218.02** It will be the practice of the court to schedule every case for a next action or review date at every stage in the life of the case.

## **Part 2: Civil Practice**

### **301 Service and Answer**

All civil cases will be reviewed no later than 120 days after filing. If no service has been obtained or there has been no joinder of issues, the court may enter an order of dismissal or initiate default proceedings.

### **302 Scheduling**

The circuit judge requests trial counsel to pursue settlement at the earliest possible time. Recognizing the great inconvenience and expense that can be caused to the parties, jurors, witnesses, and the county, early settlements will be promoted by attorneys who have had timely consultations with their clients and who are prepared to discuss all aspects of their case.

**302.01** Orders such as orders to show cause and temporary restraining orders shall not be issued on unsigned pleadings, motions or affidavits.

### **303 Pretrial**

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

### **304 Discovery – no rules promulgated**

### **305 Other Motions**

In civil proceedings, all post judgment motions to reopen or vacate default judgments shall require a filing fee of \$50.00 to be paid to the Bayfield County Clerk of Circuit Court. If the court finds error on the part of the court which, in part, caused the default, the filing fee shall be refunded.

### **306 Judgments**

#### **306.01 Default Judgment**

No notice to defendant is required prior to entry of a default judgment in large claim civil actions where personal service was originally obtained upon the defendant. The

court does require formal motions for default judgment. A hearing is not required unless otherwise stated.

Hearing requests shall be heard by the court as soon as practicable. Upon the expiration of the time to request a hearing, plaintiff may apply to the court for default judgment, accompanied by an affidavit of the aforesaid notice to defendant. In actions where damages are not liquidated, a hearing shall be conducted to determine the amount of the judgment. The court may order a hearing to determine the amount of judgment in any case.

Any judge may in an individual case require further notice of proof regarding service, damages or costs, if appropriate.

## **Part 4: Criminal Practice**

### **401 Defendant's Presence Required**

In misdemeanor cases, a defendant shall appear personally in all matters, unless an authorization is signed by the defendant for his or her attorney to appear on their behalf. However, all authorizations require court approval and it shall be the policy of the court to only grant authorization in cases where the defendant resides outside the State of Wisconsin or more than 150 miles from the Bayfield County Courthouse.

### **402 Warrants and Warrantless Arrests – no rules promulgated**

### **403 Bonds – no rules promulgated**

**403.01** Cash Bonds – no rules promulgated

**403.02** No Contact Domestic Violence Bonds – no rules promulgated

### **404 Initial Appearances**

When a not guilty plea is entered by a defendant in a criminal proceeding, status conferences will be scheduled before the matter will be set for trial. At a status conference, the court will set the matter for jury trial, unless the defendant enters a guilty or no contest plea to the charge, a reduced charge or pursuant to a plea agreement, or unless a new status conference is required. The defendant shall appear in person unless counsel has filed a written authorization to appear and sought permission of the court to appear by telephone or by authorization. Prior to entry of a plea of guilty or no contest, the defendant shall complete and sign a written Plea Questionnaire/Waiver of Rights form and file it with the court. The form must be completed in full. Personal appearance is required by a defendant in all felony proceedings.

**405 Preliminary Hearings – no rules promulgated**

**406 Commitment Orders – no rules promulgated**

**407 Discovery – no rules promulgated**

**408 Jury and Bench Trials**

When any civil, criminal, juvenile (14 or older), or other jury trial demand is withdrawn **after 3:30 p.m.** on the preceding business day before trial, a jury fee of not less than \$500.00, but not more than the actual jury cost to the county for a twelve person jury (\$250.00, but not more than the actual jury cost to the county for a six person jury), will be assessed pursuant to Wis. Stat. §814.51.

**408.01** Pretrial order and order setting case for trial.

The circuit judge requests trial counsel to pursue settlement at the earliest possible time. Recognizing the great inconvenience and expense that can be caused to the parties, jurors, witnesses, and the county, early settlements will be promoted by attorneys who have had timely consultations with their clients and who are prepared to discuss all aspects of their case. The court shall set timelines and other requirements in a pre-trial scheduling order.

**409 Motion Practice**

All stipulated requests for continuance of a trial date shall require the consent of all parties in writing or on the record and must be for good cause shown. All non-stipulated requests for continuance must be by written motion and hearing and for good cause shown. Any continuance is subject to approval of the court.

**410 Pre-Sentence Investigation – no rules promulgated**

**411 Probation – no rules promulgated**

**Part 5: Family Law Practice**

**501 Advanced payments on custody and psychological evaluations**

The court may direct one or both parties to prepay the fees for mediation sessions provided by family court counseling services beyond the first session. The court may also direct one or both parties to prepay the \$500.00 fee for a legal custody and physical placement study.

The fees for mediation and custody studies are payable directly to Bayfield County's Clerk of Circuit Court. The family court counseling services shall adopt a sliding fee schedule to be approved by the circuit judge.

The court may reduce the fees in accordance with the party's ability to pay or provide the services without payment of the fees if both parties are unable to pay. If parties are unable to pay, the court shall grant a separate judgment for the amount of the fees in favor of the county and against the party or parties responsible for the fees.

**502 Child Support Warrants – no rules promulgated**

**503 Guardian ad litem**

Prior to appointment of a guardian ad litem in any action affecting the family, each party shall, if ordered by the court, deposit an advance on fee of \$500.00 with the Clerk of Courts. The court may waive this requirement based upon the inability of a party to pay. The court may direct that the fees of the guardian ad litem be paid by Bayfield County, and may direct that the fees be reimbursed to Bayfield County by either or both parties. The court shall grant a judgment for the amount of the reimbursement, in favor of Bayfield County and against any party responsible for reimbursement.

**503.01** It is the policy of the court to expect each guardian ad litem to obtain a copy of and be familiar with the contents of *GAL Practice Guidelines* provided by the Family Law Section of the State Bar of Wisconsin.

**504 Pre-trial – no rules promulgated**

**504.01 Order procedure for contested divorces**

The court will set every action for divorce or legal separation for a stipulated final hearing/status conference upon the expiration of 120 days after service of the summons and petition upon the respondent or the expiration of 120 days after the filing of the joint petition.

**504.02 In any action affecting the family in which a minor child is involved, the following shall apply:**

- a. Both parties shall attend and complete an educational program addressing the effects of divorce on children. A brochure containing a schedule of the dates, times, places and providers of the program shall be provided to each party by the Clerk of Court. The Educational Program shall be completed prior to the date of the final hearing herein, unless for good cause shown, a party is relieved of this obligation by the court.
- b. Each party shall be responsible for a payment of any fee payable at the time of the session. Each parent shall be responsible for providing proof of completion of the program to both the Bayfield County Clerk of Court and the Family Court Commissioner if the program is completed outside of the course provided by Bayfield County.
- c. A party may attend an alternative educational program not listed in the brochure

with the approval of the Family Court Commissioner. Any party wishing to attend an alternative program must first contact the Family Court Commissioner. Any party attending an approved, alternative Educational Program shall be responsible for all costs thereof, and shall provide proof of attendance to the Bayfield County Clerk of Court and the Family Court Commissioner.

- d. No mediation shall take place until both parties attend and complete the Educational Program addressing the effects of divorce on children, unless the court, for good cause shown, orders otherwise.
- e. Failure by either party to comply with this order shall be cause for imposing sanctions which may include dismissal, default judgment, contempt, monetary penalties, orders limiting or barring the presentation of testimony or introduction of evidence at trial, or any combination thereof, or such other or further sanctions as the court may deem appropriate under the circumstances. The court may refuse to enter final judgment until such time as the provisions herewith have been completed.

**504.03** The provisions of every judgment of divorce, annulment or legal separation regarding child support and provision of health insurance for the parties' minor children shall be submitted to the Bayfield County Child Support Agency for review prior to submission to the court for signature.

### **Part 6: Foreclosure Practice**

**601 Service – no rules promulgated**

### **Part 7: Juvenile Practice**

**701 Confidentiality**

This local court rule establishes the policies and procedures of the Juvenile and Children's Court of Bayfield County. It shall supersede all previous statements of the policies and procedures of the Bayfield County Circuit Court concerning proceedings under Wis. Stat. Ch. 48 and 938 in whatever form or format promulgated. All juvenile court proceedings shall be confidential.

**702 Definitions**

**Child:** Refers to a person under the age of Eighteen (18) involved in a Chapter 48 CHIPS Proceeding.

**CHIPS:** Child In Need of Protection or Services: a Chapter 48 Proceeding concerning a child who is within the jurisdictional requirement of Wis. Stat. §48.13, generally involving orphaned, abandoned, abused, neglected, special treatment children, and children with alcohol or other drug abuse impairments.

**Court:** When used without further qualification, means the court assigned to exercise jurisdiction under Chapters 48 or 938 of the Wisconsin Statutes.

**Court Intake:** The process of submitting to the juvenile intake worker written referrals from agencies or departments authorized in Chapters 48 or 938 to refer a child/juvenile to the court.

**Custody Intake:** The process by which a person is taken into custody under §48.19 and §938.19 of the Wisconsin Statutes, and delivered to the juvenile intake worker for a custody determination.

**JIPS:** Juvenile In Need of Protection or Services: a Chapter 938 Proceeding concerning a juvenile who is within the jurisdictional requirements of §938.13 of the Wisconsin Statute, generally involving uncontrollable juveniles, habitual truants, school dropouts, children under ten (10) who commit a delinquent act, children who are not responsible because of mental disease or defect, and children who are not competent to proceed.

**703 Requests for Access**

**703.01** Form of Requests for Access— no rules promulgated

**703.02** Deficient Requests for Access— no rules promulgated

**703.03** Requests for Access by Victims of Juvenile’s Act or Acts— no rules promulgated

**703.04** Procedure Upon Receiving Request— no rules promulgated

**703.05** Request to Attend Court Proceedings – no rules promulgated

**704 Delinquency Proceedings - no rules promulgated**

**705 Hearings - no rules promulgated**

**706 Notice to Victims of Children’s Acts - no rules promulgated**

**706.01** Notice to Victims of Children’s Acts

The victim-witness coordinator in the District Attorney's office shall be responsible for notifying each known victim who sustained personal injury or property damage of:

1. The policies and procedures of the court concerning their rights. The District Attorney may establish policies and procedures for the victim-witness coordinator.
2. Notices of scheduled proceedings in delinquency matters.

## **707 Plea Negotiations**

**707.01** The Circuit Judge requests trial counsel to pursue settlement at the earliest possible time. Recognizing the great inconvenience and expense that can be caused to the parties, jurors, witnesses, and the county, early settlements will be promoted by attorneys who have had timely consultations with their clients and who are prepared to discuss all aspects of their case.

## **Part 8: Probate Practice**

### **801 Jurisdiction of the Probate Court**

**801.1** Probate actions under Wis. Stat. Chapters 851 through 879.

**801.02** Guardianship and protective placements under Chapters 54 and 55.

**801.03** Trust actions under Chapters 701.

**801.04** Civil commitments under Chapter 51.

### **802: Responsibility within the Probate Court**

**802.01** Nothing contained in these rules will be construed to either limit or restrict the assigned judge in exercise of his or her discretion nor restrict the Chief Judge in the exercise of his or her duties.

**802.02** Responsibility of the Probate Judge: all contested matters falling under the jurisdiction of the probate court are handled by the probate judge.

#### **802.03 Responsibility of the Register in Probate/Probate Registrar**

**802.03.1** The Register in Probate's office is responsible for the opening, reviewing, filing, maintenance and closing of all files and papers dealing with civil commitments, probate, trust, protective placement,

adult adoption, guardianship (both adult and minor), as well as administrative matters dealing with probate court.

**802.03.2** The Probate Registrar handles uncontested informal probate hearings.

#### **802.04 Responsibility of Court Commissioners**

**802.04.1** The Probate Court Commissioner, if appointed, handles uncontested hearings on formal probates and trust matters.

**802.04.2** The Circuit Court Commissioner may handle civil commitment probable cause hearings, emergency protective placement hearings, summary hearings on *Watts* and temporary guardianship hearings.

#### **803: Filing of Documents**

**803.01** Filing of documents: all documents relating to Probate Court subject matter are to be filed at the Register in Probate's office unless filed with the court at the time of the hearing.

**803.02** Facsimile Transmission of Documents to the Court:

**803.02.1** Documents requiring original signatures may be faxed only for the purpose of showing the court the documents are complete; the original must be kept with the court.

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

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

**803.02.4** Copies of documents from court files will not be transmitted by facsimile without the appropriate costs being received in advance. The facsimile machine is not to be utilized in an effort to avoid payment of statutory copy fees.

#### **804: Scheduling**

**804.01** The Register in Probate's office schedules probate cases on the intake judge's probate calendar.

**804.02** Uncontested probate matters are scheduled with the Register in Probate.

## **805: Estates**

**805.01 Wills** Only original wills shall be accepted for filing with the court.

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

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

### **805.02 Summary Settlement and Summary Assignment**

Proof of Heirship must be filed with all opening papers for Summary Settlement and Summary Assignment petitions.

### **805.03 Bond of Personal Representative**

**805.03.1** The requirement of a bond and the amount of the bond is solely within the discretion of the court, except if otherwise provided by law.

**805.03.2** Generally, only Wisconsin residents may be appointed as Personal Representative of an estate. A Wisconsin resident appointed as Personal Representative is not required to post bond.

**805.03.3** At its discretion, the court may appoint a non-resident as Personal Representative of an estate if the non-resident **(1)** has a Wisconsin resident appointed as co-Personal Representative, with or without bond, and **(2)** has retained a Wisconsin attorney.

**805.03.4** A request in a will that the Personal Representative serve without bond is not binding on the court. However, the court will generally honor such a request.

**805.03.5** A Personal Representative who is **(1)** the sole heir and **(2)** a Wisconsin resident is not required to post bond.

**805.03.6** If two or more persons are appointed Personal Representatives, the judge may **(1)** require no bond, **(2)** take a bond from each, **(3)** take a joint bond from all, or **(4)** take a bond from some but not all.

**805.03.7** **Selection of Personal Representative** Only Wisconsin Residents may be appointed as Personal Representatives of an estate, unless, at the discretion of the court, the nominated nonresident is then required to have a resident agent and post a bond with the probate court in an amount determined by the Probate Court.

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

**805.05 Objection to Will** An objection to a Will filed must be in writing and filed with the Probate Court together with the statutory filing fee. When objection is filed, the Probate Court shall set a hearing date.

**805.06 Objection to Claims Filed** An objection to a claim must be in writing and filed with the Probate Court. When the objection to a claim is filed, the Probate Court shall set a hearing date. The personal representative or attorney for the estate shall send notice of the objection and notice of the hearing to all interested parties.

**805.07 Tax Clearances** A Wisconsin closing certificate for fiduciaries shall be filed and a federal estate tax closing letter (if the estate met the standard to file a federal estate tax return) shall be filed with the court prior to the closing of any estate.

**805.08 Closing Estates** Signed receipts from heirs or beneficiaries and documentation that the residual beneficiaries or heirs have been advised as to the amount of the personal representative and attorney fees must be filed with the court.

**805.09 Extensions of Time to Closing Estates** When an estate cannot be closed within the required time limits, a petition setting forth the reasons for the request of an extension of time to close the estate must be filed with the court. A proposed order shall also be submitted. The court will review each request individually.

**805.10 Timeline to Close Estates** Estate actions shall be disposed of within Twelve (12) months from the date of the filing of the petition or application to open an estate.

## **806: Trusts**

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

### **806.02 Closing**

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

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

**806.02.3** The trust beneficiary (or beneficiaries) shall file a Trust Receipt for assets received from the Trustee.

- 806.02.4** A Wisconsin closing certificate for fiduciaries must be filed with the court before a trust may be closed and the trustee discharge.

## **807: Guardianship, Conservatorship and Protective Placement**

### **807.01 Temporary Guardianship**

- 807.01.1** A hearing shall be held on all temporary guardianship petitions.
- 807.01.2** A Petition to Extend Temporary Guardianship and an Order on Petition to Extend Temporary Guardianship shall be filed if an extension of the temporary guardianship is requested.
- 807.01.3** A Guardian ad Litem shall be appointed for the proposed ward in all temporary guardianship matters.

### **807.02 Guardianships**

- 807.02.1** Guardian ad Litem: the court shall appoint a Guardian ad Litem for the proposed ward; the Guardian ad Litem shall file a report with the court prior to the hearing.
- 807.02.2** The guardianship inventory together with the statutory filing fee shall be filed within sixty (60) days of the appointment of a guardian of the estate.
- 807.02.3** Unless previously ordered by the court, the guardian must petition the court for reimbursements of expenses and/or guardian fees prior to making payments to self.

### **807.03 Conservatorships**

- 807.03.1** The conservatorship inventory along with the statutory filing fee shall be filed within sixty (60) days of the appointment of a conservator of the estate.
- 807.03.2** A hearing is required to terminate a conservatorship.

### **807.04 Protective Placements**

- 807.04.1** A petition for protective placement may be filed with or any time after the guardianship petition is filed.
- 807.04.2** A competency evaluation must be completed and filed with the court on all protective placement petitions.

### **807.05 Protective Placement Reviews (*Watts*)**

**807.05.1** Summary hearings on *Watts* reviews will be held in front of the judge.

**807.05.2** If an objection to the protective placement is received, the matter will be scheduled with the judge for further proceedings.

### **807.06 Termination of Guardianships**

**807.06.1** **Guardianship of a person – deceased ward** Upon notification to the Probate Court that the ward has died, the court will issue an Order of Discharge of the guardian of the person.

**807.06.2** **Guardianship of the estate – deceased ward** Upon notification to the Probate Court that the ward died and filing of: (1) the final accounts as approved by the court; and (2) a proper receipt from the person/entity receiving the remaining assets in the ward's estate; the court will issue an Order of Discharge of the guardian of the estate.

**807.06.3** **Guardianship of the estate for a minor** Upon filing proof of the ward reaching the age of eighteen (18) and filing the final account and receipt signed by the ward, the court will issue an Order of Discharge of the guardian of the estate.

### **808: Civil Commitments**

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

**808.02 Scheduling and appointment of examiners/counsel:** the court will schedule all hearings regarding civil commitments.

**809 District probate timelines**  
**Effective date: January 1, 2013**

Estates	360 days
Informal Probate	360 days
Juvenile Delinquency	90 days*
Juvenile CHIPS	90 days*
Juvenile Ordinance	30 days
Termination of Parental Rights	120 days*

\*Certain juvenile cases have shorter statutory time limits due to custodial or other situations. In these circumstances the statutory time period must be followed.

**Part 8: Small Claims Practice**

**901 Service**

- a. Service of summons in small claims actions, except eviction actions, may be by mail in lieu of personal or substituted service. Service by mail to obtain a personal judgment shall be limited to Bayfield County.
- b. Service may be made by mail leaving the original and necessary copies of the summons with the clerk of court, together with the fee prescribed in Wis. Stats. §814.62(4).
- c. The clerk shall mail a copy to each defendant at the last known address specified in the summons. Service of the summons is considered completed when it is mailed, unless the envelope enclosing the summons has been returned unopened to the clerk prior to the return date. All mailing of summons shall be done in envelopes in which the clerks return address appears, with a request to return to that address.

**902 Appearance**

- a. A defendant may join issue in any of the actions specified in Wis. Stats. §799.01 without appearing at the return date, by answering by mail and the court receiving the answer prior to the return date.
- b. A proper answer by the defendant under this rule shall be deemed an appearance by

the defendant on the return date.

- c. Any summons under Wis Stat. §799.05 (6) or (7) or §799.12(6)(c) and any notice under Wis. Stat. §799.16 (4) shall notify the defendant of the option to answer without appearing in court on the return date and the methods of answering permitted by this rule.
- d. Plaintiff does not have to appear or have an authorized representative appear on their behalf at the Initial Appearance. However, if an answer is filed or if a defendant otherwise joins issues, the court will schedule further proceedings and the parties will be expected to conform their schedule accordingly.
- e. All post judgment motions to reopen or vacate default judgments shall require a filing fee of \$50.00 to be paid to the Bayfield County Clerk of Circuit Court. If the court finds error on the part of the court which, in part, caused the default, the filing fee shall be refunded.

### **903 Mediation Requirement**

**903.01** Cases arising in small claims court may lend themselves to settlement mediation. If both parties appear at the return date they may be referred to mediation immediately. Mediation is a conflict resolution process in which an impartial third-party, the mediator, facilitates communication between parties to promote reconciliation, settlement, or an understanding among them. Decision-making authority for any agreement or settlement rests with the parties themselves. A mediator is responsible for directing and protecting the mediation process. The role of the mediator includes, but is not limited to: **(1)** assisting the parties in facilitating communication; **(2)** clarifying issues; **(3)** reducing obstacles; **(4)** evaluating options; and **(5)** encouraging a voluntary agreement. Parties must engage in mediation in good faith and treat the mediator with the utmost respect. Failure to do so may be considered contempt of court and cause for a default judgment or dismissal. If the mediation is successful, the mediator will draft a settlement agreement which is signed by the mediator and all parties. If the mediation is unsuccessful the matter will be scheduled for trial with the court thereafter. The court may waive these requirements for good cause.

### **904: Party Identification**

**904.01** Parties not Properly Identified – no rules promulgated

**904.02 Change of Address** Parties must notify the Clerk of Court in writing of any change of address. Once the issue has been joined, the court is not responsible for any errors or omissions caused by an incorrect address.

**904.03 Use of Work Address** The Plaintiff may not serve the Summons and Complaint on the Defendant by first class mail or certified mail at his or her workplace. This exception does not apply to personal service on a party at his or her workplace.

**905: Return Date** Small claims return dates will be scheduled generally on Mondays at 10:00 a.m.

**906: Settlements** If a case settles prior to trial, the Clerk of Court should be contacted immediately in writing by the plaintiff.

**907: Garnishment**

**907.01 Commencement of Earnings Garnishment** To commence a garnishment action, a creditor must file an “Earnings Garnishment Notice” and pay the required fee.

**907.02** Upon the filing of the notice and payment of the filing fee, the Clerk of Court will provide the creditor with a garnishment packet that includes the following standardized court forms: **(1)** two earnings garnishment form blanks, with court seal; **(2)** exemption notice-earnings garnishment; **(3)** earnings garnishment-debtor’s answer; **(4)** garnishment exemption worksheet; and **(5)** poverty guidelines for earnings; and **(6)** garnishment answer to creditor.

**907.03** The creditor must complete the earnings garnishment form and within sixty (60) days after filing notice, the creditor shall serve one of the two (2) earnings garnishment forms upon the debtor and one upon the garnishee defendant.

**907.04 Service on the Garnishee** The methods of service on the garnishee defendant include: **(1)** first class mail; **(2)** certified mail, return receipt requested; **(3)** any means permissible for the service of a summons in a civil action, other than by publication; and **(4)** other means if the garnishee defendant signs an admission of service.

**907.05 Service on the Debtor** Service on the debtor shall be made within seven (7) business days after the date of service on the garnishee and at least three (3) business days before the payday of the first pay period affected by garnishment. Methods of service on the debtor include: **(1)** first class mail; **(2)** certified mail, return receipt requested; **(3)** any means permissible for the service of a summons in a civil action, other than by publication. Along with the earnings garnishment form, the debtor must also be served with an exemption notice, an answer form, an exemption worksheet, and poverty guidelines.

**907.06 Debtor’s Answer** The debtor must complete the form and deliver or mail it to the garnishee. It is the garnishee’s duty to send a copy of the answer to the creditor.

The answer can be sent to the garnishee or amended at any time during the effective period of earnings garnishment.

**907.07 Demand for Hearing** A creditor who objects to the answer provided by the debtor may seek a court hearing to review the appropriateness of the debtor's claim. An earnings garnishment objection will reinitiate the court process. Within five (5) business days after such a motion or petition is filed, the court shall schedule the matter for a hearing to be held as promptly as practicable. Notice of the hearing shall be given to the creditor, debtor and garnishee defendant.

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

- 1001** When a not guilty plea is entered by a defendant, in a civil forfeiture proceeding, the court will set the matter for trial to the court or a status conference. If the defendant demands a jury trial, jury fees must be received by the Clerk of Court within ten (10) days of the return date.
- 1002** All stipulated requests for continuance of a trial date shall require the consent of all parties in writing or on the record and must be for good cause shown. All non-stipulated requests for continuance must be by written motion and hearing and for good cause shown. Any continuance is subject to approval of the court.
- 1003** In civil forfeiture actions, all post judgment motions to reopen or vacate default judgments shall require a filing fee of \$50.00 to be paid to the Bayfield County Clerk of Circuit Court. If the court finds error on the part of the court which, in part, caused the default, the filing fee shall be refunded.

### **Part 11: Late Settlement Assessments**

- 1101** The circuit judge requests trial counsel to pursue settlement at the earliest possible time. Recognizing the great inconvenience and expense that can be caused to the parties, jurors, witnesses, and the county, early settlements will be promoted by attorneys who have had timely consultations with their clients and who are prepared to discuss all aspects of their case.
- 1102** When any civil, criminal, juvenile (14 years or older), or other jury trial demand is withdrawn **after 3:30 p.m.** on the proceeding business day before trial, a jury fee of not less than \$500.00, but not more than the actual jury cost to the county for a twelve person jury (\$250.00, but not more than the actual jury cost to the county for a six person jury), will be assessed pursuant to §814.51 Wis. Stats.

### **PART 12: Out-of-state lawyers**

- 1201** Supreme Court Rule 10.03(4) shall be strictly enforced.
- 1202** A non-resident lawyer who wishes to appear in an action must petition the court in writing. The petition shall state the name of the active member of the State Bar who will participate with the non-resident lawyer.
- 1203** If the court grants the petition:
- a. The active member of the State Bar shall appear in person at all proceedings held on the record, including those held out of court, such as depositions.
  - b. The active member of the State Bar shall review all pleadings, motions and other papers to be filed with the court. Both the non-resident lawyer and the active member of the State Bar shall sign all pleadings and motions.
- 1204** The non-resident lawyer is subject to the disciplinary authority of this state for conduct that occurs in connection with the action. SCR 20:8.5(2).

**Part 13: Policy and procedures regarding  
threats against the judiciary and security incidents in the court**

- 1300** No person, including attorneys and prosecutors, except law enforcement, may carry a weapon into any courtroom located in the Bayfield County Courthouse without approval of the court.
- 1301** Threats are defined as written or oral declarations of an intention to inflict injury or pain upon individuals employed by or involved in the court system. Any threat shall be treated as serious.
- 1302** Security incidents are episodes of conduct in the courts in which the physical health or safety of participants or the physical property of the courts are put at risk.
- 1303** All threats and security incidents are to be immediately reported personally or by telephone to the sheriff's office.
- 1304 Court Security Officer**

The sheriff is directed to designate an officer to serve as a court security officer. The court security officer shall be responsible for:

1. Referral and investigation of all threats and security incidents.
2. Assistance in training of court personnel in handling threats and security incidents.
3. Making recommendations to maximizing court security in the future.

### **1305 Training**

Upon hiring, every employee (including elected officials) shall be trained in the policies and procedures of handling threats and security incidents, including the use and completion of the report form. Refresher training shall be scheduled for all court employees on a yearly basis. All training shall be coordinated by the circuit judge, clerk of court, and court security officer. To the extent possible, such initial and refresher training should include the following:

1. The court's policies and procedures concerning threats and security incidents.
2. The physical layout of the courts and escape routes from courtroom and court offices.
3. Recognizing when a threat is being made.
4. Responding to a bomb threat.
5. Responding to a hostage situation.
6. Techniques in remaining calm and avoiding panic during a stressful or potentially dangerous incident.
7. Techniques in responding to threats and security incidents in such a manner as to defuse the danger of the situation without placing the individual at physical risk.
8. Techniques in enhancing a person's personal safety either in the courts or elsewhere.
9. Telephone protocol when a threat is being made over the phone.
10. Handling irate or abusive individuals in person or over the telephone.
11. Knowing when to contact law enforcement because of immediate concerns with a "panic button" rather than by telephone.
12. Handling threats that are made away from the courthouse.
13. Gathering evidence for potential prosecutions.
14. Using the threat/security incident report form.
15. Role playing activities in order to familiarize the employee with the process or recording and reporting threats.

### **1306 Wisconsin Court Security Threat and Incident Report Form (CS-265)**

A record shall be made of all threats and security incidents on the Wisconsin Court Security Threat and Incident Report form. Such record shall be made contemporaneously with the event being recorded or as soon after as possible. The original of such report shall be transmitted to the Court Security officer. If deemed appropriate, a copy may be maintained in the court offices affected.

### **1307 "Panic buttons"**

The panic button shall be used only in those cases where there is immediate dangerous or life-threatening activity that needs the presence of law enforcement officers. The Sheriff shall instruct officers acting under the sheriff to treat a panic button call as dangerous or life-threatening activity in process.

### **1308 Telephone threats**

- a. All court employees shall keep a copy of the Wisconsin Court Security Threat and Incident Report form immediately at hand beside all telephones on which calls from outside the courts can be received.
- b. To the extent possible, while the person making the threat is still on the telephone, the report form should be completed. If not possible, the form should be completed as soon as practical while all information is still fresh in the mind.
- c. The telephone on which a telephone threat was received should not be disconnected or hung up until such time as law enforcement personnel indicate that disconnecting is appropriate.

Recodified this 30th day of December, 2019.

BY THE COURT:

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Hon. John P. Anderson  
Circuit Judge

The Rules for Bayfield County Circuit Court have been approved this \_\_\_\_\_ day of January, 2020.

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Hon. Maureen D. Boyle, Chief Judge