

3.1 SERVICE

- (a) Copies of all pleadings shall be served on the Family Court Commissioner. Upon service, each party will receive a Preliminary Scheduling Order requiring the parties to exchange specific information within 90 days of filing. Failure to comply with the Preliminary Scheduling Order may result in the imposition of sanctions by the Court or delay in scheduling such matters for contested hearings or trial.
- (b) Pursuant to Wis. Stat. 767.15, when any party or one or more of his or her children is presently receiving, has received, or has applied for public assistance i.e., W-2, Wisconsin Works, Medical Assistance, Badger Care, Food Stamps, Child Care Assistance, Kinship Care or Foster Care), or an arrearage is owed to the State of Wisconsin, the moving party or the party receiving public assistance shall provide notice to Fond du Lac County Child Support Agency of the filing of any pleading and of any hearing scheduled on the pleading. Notice of all Family Court hearings shall be given to the Fond du Lac County Child Support Agency. Notice shall be provided to the Fond du Lac County Child Support Agency five days (eight days if by regular mail) prior to any scheduled hearing, and if no hearing is set, within twenty (20) days of service on the other party. Failure to provide timely notice to the Child Support Agency is grounds for adjournment of the hearing or reconsideration of the resulting orders.
- (c) Where either party is receiving, has received during the pendency of the action, or has applied for public assistance, the Marital Settlement Agreement shall be submitted to the Fond du Lac County Child Support Agency for approval as to form, after signature of all parties, including any *guardian ad litem*, and before submission to the Family Court Commissioner for approval.
- (d) Where either party is receiving, has received during the pendency of the action, or has applied for public assistance, a copy of the Findings, Conclusions and Judgment shall be filed by the attorney or party preparing same, with the Fond du Lac County Child Support Agency.
- (e) When a *guardian ad litem* has been appointed, the petitioner or the moving party shall serve a copy of all current pleadings, together with all relevant prior orders, on the *guardian ad litem*, within twenty (20) days after receiving notice of the appointment.

3.2 PRE-TRIALS / PARENTING PLAN

Each parent is responsible for completing a proposed parenting plan on their own behalf and seeing that the original is filed with the Court and that both attorneys, the other parent if not represented by an attorney, the Family Court Commissioner and the *guardian ad litem* if appointed, receive a copy, in advance of any scheduled pre-trial hearing. In addition, other minimum documentation to be presented at any pre-trial hearing will consist of all documentation required pursuant to the Preliminary Scheduling Order.

3.3 DEFAULT HEARINGS (767.10)

- (a) The party requesting a default hearing certifies that a written stipulation, signed by both parties and approved by the Family Court Commissioner, has been filed at the time of the request for hearing, and that all statutory waiting periods have expired.
- (b) The moving party shall at the final hearing, before the case is called, provide the Clerk with a completed DHSS Divorce Certificate, Certificate of Mailing, Final Financial Disclosure Statement and Findings of Fact, Conclusions of Law and Judgment of Divorce.

3.3 CONTESTED HEARINGS

Minimum documentation to be presented at trial by the moving party as exhibits will consist of all documentation required pursuant to the Preliminary Scheduling Order.

3.4 FINANCIAL STATEMENTS: FORM & CONTENT

A financial disclosure statement and verification of income for three (3) months prior to the hearing date must be filed by both parties before or at the time of any hearing concerning child support, maintenance, property division or any other financial matter, including but not limited to temporary order hearings, contempt hearings, final divorce hearings and hearings on motion to modify financial matters. A copy must be provided to the other party. A copy must be provided to Fond du Lac County Child Support Agency if public assistance is being received by either party. Failure of either party to timely file a complete financial disclosure statement as required shall authorize the Family Court Commissioner or Circuit Court Judge to accept the statement of the other party as accurate and complete.

3.5 ORDERS AND FIVE (5) DAY RULE

- (a) An order rendered by the Family Court Commissioner shall be reduced to writing by the moving party unless otherwise directed by the Family Court Commissioner.

- (b) All Orders for child support shall indicate how child support was calculated, and if the child support order contains a deviation from the percentage standards, the amount of deviation and the reason for the deviation pursuant to Wis. Stat. § 767.25(1n). If an Order fails to state a deviation and a reason for a deviation, child support shall be considered to have been calculated using the percentage standard.
- (c) In lieu of obtaining an opposing party's signature approving as to form any order, when the Court renders an oral ruling which must be reduced to writing, the party drafting such order or judgment may submit the proposed order or judgment to all parties prior to submitting such order or judgment to the Court for its approval. The submission shall clearly reflect that the proposed order or judgment is being submitted under the five (5) day rule. An objection by any party to the form of the proposed order or judgment must be received by the Court within five (5) days of the receipt of the draft. Five (5) days shall not include weekends and holidays and shall be computed pursuant to Wis. Stat. 801.15(1). Upon expiration of the five (5) day period, the Court may sign the order or judgment as submitted, modify the order or judgment if the Court deems it appropriate, or schedule the matter for further proceedings. If the parties are unable to resolve disputes as to proposed orders, the parties shall obtain a transcript of any hearing on the record, splitting the cost of preparation of the transcript equally.

3.6 INCOME WITHHOLDING ORDER

Any order, either stipulated to or contested, establishing or modifying child support, family support or maintenance must be accompanied by an Order for Income Withholding or an Order Terminating/Suspending Income Withholding if the payer is employed. Said Order shall be prepared by the moving party unless otherwise prepared by the Family Court Commissioner with copies provided to the parties during the course of a hearing.

3.7 ARREARAGES

- (a) Unless otherwise provided by the Court, all child support, family support or maintenance arrearages for temporary maintenance and support incurred as a result of prior orders and before the granting of a Judgment of Divorce/Separation shall be carried forward as an arrearage in the Judgment of Divorce/Separation. Except as otherwise ordered, dismissal of a divorce/separation action upon stipulation of the parties or for failure to prosecute will result in expungement of all arrears except those owed to the state.
- (b) Unless the parties agree otherwise, or if it is shown by credible evidence that the records of the Wisconsin Support Collection Trust Fund are not accurate, the amount of any arrearage shall be as shown by the account history provided by the records of the Wisconsin Support Collection Trust Fund.

3.8 DE NOVO HEARINGS

- (a) Pursuant to Wis. Stat. 757.69(8), any party who was present at a hearing held by the Family Court Commissioner has the right to have the assigned Circuit Court Judge hold a new hearing upon the filing of a motion within 15 days of the oral decision of the Family Court Commissioner, or within 15 days of mailing of a written decision by the Family Court Commissioner if the order was not orally given by the Family Court Commissioner at the time of the hearing. Findings and orders entered by the Family Court Commissioner by stipulation or entered by default are not subject to *de novo* review. Fifteen (15) days shall be counted consecutively and include weekends and holidays pursuant to Wis. Stat. 801.15(1).
- (b) The party requesting the *de novo* review must notify in writing all interested parties, including the *guardian ad litem*, the Family Court Commissioner, the Family Court counselor and the Fond du Lac County Child Support Agency of the time and date for the hearing.
- (c) An order based on the decision of the Family Court Commissioner must be on file prior to the *de novo* hearing.
- (d) Notices or motions requesting a hearing *de novo* will not stay the order of the Family Court Commissioner unless the Circuit Court Judge assigned to the case specifically grants a stay of the order. Should a party request a hearing *de novo*, the Court will not proceed with any enforcement actions requested by that same party before the hearing *de novo*.
- (e) The Family Court Commissioner will not hear any motions to modify an order or temporary order if the matter is pending a *de novo* hearing or if the divorce trial has been held and the Circuit Court has taken the matter under advisement. The order in existence will remain in effect until the Circuit Court renders its decision.
- (f) The Circuit Court's subsequent *de novo* hearing order shall apply retroactively to the effective date of the Family Court Commissioner's order unless otherwise provided by the Circuit Court.

3.9 EX PARTE ORDERS

- (a) All requests for ex parte orders, whether pre-judgment or post-judgment shall be submitted to the Family Court Commissioner, or if the Family Court Commissioner is unavailable, to the assigned Circuit Court Judge.
- (b) Motions for ex parte orders must be accompanied by:

1. One or more affidavits of parties or lay witnesses alleging facts of which the affiant has personal knowledge and which, if true, constitute an emergency or other urgent circumstance justifying the issuance of the proposed order; or:

2. One or more affidavits of competent expert witnesses based on facts of record or alleged in proper affidavits, constituting an emergency or other urgent circumstance justifying the issuance of the proposed order.

- (c) All requests for an ex parte order shall contain a return date before the Family Court Commissioner within seven (7) days of filing and shall contain language which (a) extends the ex parte order only until the date and time of the hearing and (b) specifically permits modification or revision by the Family Court Commissioner or Circuit Court Judge.
- (d) If service is not obtained by the date of the hearing, a separate application for a new ex parte order must be obtained from the Family Court Commissioner or assigned Circuit Court Judge.
- (e) It is the responsibility of the person or attorney who has obtained the ex parte order to notify all counsel of record, including any *guardian ad litem*, and pro se parties of the ex parte order and the date and the time of hearing. The party obtaining an ex parte order shall provide copies of the pleadings and ex parte order to all counsel of record, including any *guardian ad litem*, and pro se parties at least 48 hours prior to the scheduled hearing.

3.10 GUARDIAN AD LITEM

- (a) A *guardian ad litem* may be appointed by stipulation or following a motion hearing, wherein appropriate statutory findings have been made and/or mediation has been attempted. A *guardian ad litem* appointed by stipulation of the parties shall only be appointed upon payment of the full *guardian ad litem* deposit as ordered by the Court.
- (b) Upon appointment of a *guardian ad litem* in any action affecting the family, each party to the action, unless otherwise ordered by the Court, shall make a prepayment toward the *guardian ad litem* fees in the amount ordered by the Court. Failure of either party to pay *guardian ad litem* fees during the pendency of any action may result in the imposition of sanctions by the Court, dismissal of the *guardian ad litem* appointment or delay in scheduling matters for contested hearings or trial.
- (c) If any party believes that he or she is indigent and entitled to a waiver or reduction of the prepayment toward the *guardian ad litem* fees, that party shall file a Petition for Waiver/Reduction of Custody Study and/or Guardian ad Litem Fee Deposit; Affidavit of Indigency and Order provided by the Office of the Family Court

Commissioner. The Court may waive all or part of the advance fee, and may order the non-indigent party to pay the entire deposit.

- (d) Petitions for waiver or reduction of costs and fees shall be submitted for review by the Family Court Commissioner. The Family Court Commissioner may question the petitioner regarding income, employment and related information alleged and/or request supporting documentation. Payment or receipt of child support and/or maintenance, liquid assets, equity in real estate, and/or other substantial assets shall also be considered. The Family Court Commissioner may grant the waiver, deny the waiver but defer payment to a date certain, or deny the waiver and require payment as ordered. In the event of a waiver, at any time before or upon the conclusion of the case, the Family Court Commissioner may order either or both of the parties to pay the costs and fees in part or in full. Furthermore, reimbursement may be ordered when a party is no longer indigent.
- (e) Guardian ad litem fees shall be shared equally between the parties, unless otherwise allocated by the Court based upon stated findings, but the parties shall in any event be jointly and severally responsible for full payment of all *guardian ad litem* fees billed to Fond du Lac County. Upon conclusion of the matter, a judgment will be entered in favor of Fond du Lac County for reimbursement of fees paid, and real estate owned now or in the future by either party is subject to a lien in favor of the county. Any amounts unpaid under the order of the Court may be referred to the office of the Fond du Lac County Corporation Counsel for appropriate legal action and collection proceedings.

3.11 Custody Studies

- (a) Upon completion of the *guardian ad litem* investigation and recommendation, the *guardian ad litem*, either party, or the Court may request that a custody study be ordered. The Family Court Commissioner may order a custody study to be coordinated through Family Court Services. The responsibilities for Family Court Services and the purpose and scope of the study are as set forth in Wis. Stat. 767.11(14). In addition, the custody study may include a psychological evaluation and/or opinions of other experts.
- (b) An attorney for any party, the *guardian ad litem* and any unrepresented party may obtain a copy of a custody study report prepared by Family Court Services in any case involving said *guardian ad litem*, attorney for any party or unrepresented party. The original custody study report shall be filed with the Court and sealed within the Court file. Copies of the reports shall be released to an attorney for any party. Copies of the reports shall not be distributed directly to the parties, but an attorney may share the reports by allowing a client to read the report in the attorney's office or some other supervised designation. If a party does not have an attorney, the party may make arrangements to review the report under supervision of Family Court Services.

- (c) Said report shall not be reproduced in any fashion by any attorney, *guardian ad litem* or unrepresented party. Any attorney, *guardian ad litem* or unrepresented party shall be advised that the contents of such report shall not be disclosed to any other person or persons other than a party to the case wherein the custody study has occurred. All copies of the report shall be returned to Family Court Services or the Court upon completion of the case.
- (d) Custody study fees, including fees for psychological evaluations must be paid in full prior to commencement of the study unless otherwise ordered by the Court. Failure of either party to pay fees as ordered may result in the imposition of sanctions by the Court, dismissal of the *guardian ad litem* and/or custody study or delay in scheduling matters for contested hearings or trial. If either party should fail to pay any fee assessed by Family Court Services, Family Court Services shall notify the Family Court Commissioner in writing and the Family Court Commissioner in his/her discretion may deny a request for a copy of the custody study report until the requesting party pays outstanding fees.
- (e) Custody study fees shall be shared equally between the parties, unless otherwise allocated by the Court based upon stated findings, but the parties shall in any event be jointly and severally responsible for full payment of all custody study fees billed to Fond du Lac County, including Family Court Services fees, *guardian ad litem* fees, psychological evaluation fees, and other expert fees. Upon conclusion of the matter, a judgment will be entered in favor of Fond du Lac County for reimbursement of fees paid, and real estate owned now or in the future by either party is subject to a lien in favor of the county. Any amounts unpaid under the order of the Court may be referred to the office of the Fond du Lac County Corporation Counsel for appropriate legal action and collection proceedings.

3.12 **PRO SE PARTIES**

A person acting on his or her own behalf as an attorney, is held to the same standards and duties as an attorney admitted to the practice of law in the State of Wisconsin and is expected to know what the law requires and how to accomplish his/her purpose(s) in accordance with the applicable statutes and Court rules. No Court employee will instruct or inform any person proceeding on a pro se basis, how to proceed or what to do.