

TABLE OF CONTENTS

Civil

Volume II

	Page
CV 1 Civil Process Flowchart	
Civil Process Flowchart.....	CV 1-2
CV 2 Commencement of Action	
1. Summons and Complaint.....	CV 2-1
2. Answer	CV 2-10
3. Affirmative Defenses	CV 2-10
4. Counterclaims/Cross-Claims.....	CV 2-11
5. Venue	CV 2-11
CV 3 Substitution and Disqualification	
1. Substitution of Judge	CV 3-1
2. Disqualification of Judge.....	CV 3-6
3. Disqualification of Judge for Bias or Impartiality	CV 3-7
4. Disqualification of Court Commissioner.....	CV 3-9
CV 4 Scheduling/Pretrial Conference	
Scheduling Conference	CV 4-1
1. Scheduling Conference Discretionary, Not Mandatory	CV 4-1
2. Matters to Be Covered at Scheduling Conference.....	CV 4-2
3. Consideration of Alternative Dispute Resolution (ADR)	CV 4-4
4. Scheduling Order	CV 4-6
5. Sanctions.....	CV 4-7
Pretrial Conference.....	CV 4-17
1. Pretrial Conference Not Mandatory	CV 4-17
2. Purposes of Pretrial Conference.....	CV 4-17
3. Participants.....	CV 4-18
4. Sanctions for Failure to Appear	CV 4-19
5. Pretrial Order	CV 4-20
6. Enforcement of Pretrial Order	CV 4-20
7. Sample Form	CV 4-21

CV 5 Pretrial Motions

1.	Technical Requirements for Motions.....	CV 5-1
2.	Amendment of Pleadings	CV 5-2
3.	Pro Hac Vice	CV 5-4
4.	Motion to Stay Wisconsin Proceeding to Permit Trial in Foreign Forum	CV 5-5
5.	Motion for More Definite Statement	CV 5-5
6.	Motion to Strike.....	CV 5-6
7.	Consolidation and Severance.....	CV 5-7
8.	Motion for Joinder	CV 5-9
9.	Motions to Intervene	CV 5-10
10.	Motion for Substitution of Deceased Party	CV 5-12
11.	Redacting Court Records	CV 5-12
12.	Sealing Court Records.....	CV 5-13
13.	Admissibility of Expert Testimony.....	CV 5-14
14.	Appointment of Counsel.....	CV 5-16

CV 6 Dispositive Motions

1.	Motion for Judgment on the Pleadings	CV 6-1
2.	Motion to Dismiss.....	CV 6-2
3.	Motion for Summary Judgment	CV 6-11
4.	Motion for Claim or Issue Preclusion	CV 6-22

CV 7 Statutes of Limitation/Notices of Claim

1.	Purpose	CV 7-1
2.	Statutes of Limitation and Statutes of Repose	CV 7-1
3.	Accrual of Cause of Action	CV 7-3
4.	Commencement of Action	CV 7-6
5.	Tolling/Extending Statutes of Limitation/Relation Back	CV 7-7
6.	Borrowing Foreign Statutes of Limitation.....	CV 7-10
7.	Pleading Statutes of Limitation as a Defense.....	CV 7-11
8.	Effect of Repeal or Amendment of Statutes of Limitation	CV 7-11
9.	Claims Against Suable Governmental Entities	CV 7-11
10.	Claims Against State Employees	CV 7-16
11.	Common Statutes of Limitation	CV 7-18

CV 8	Discovery	
1.	Purpose of Discovery	CV 8-1
2.	Methods of Discovery	CV 8-1
3.	Jurisdiction over Nonresidents: Oral Depositions	CV 8-4
4.	Protective Orders	CV 8-5
5.	Limits on Discovery	CV 8-7
6.	Discovery of Specific Items	CV 8-13
7.	Discovery of Experts	CV 8-13
8.	Experts' Fees and Expenses	CV 8-15
9.	Failure to Make Discovery	CV 8-15
10.	Spoliation of Evidence and Destruction of Documents	CV 8-16
11.	Discovery Sanctions	CV 8-18
12.	Retention of Discovery Documents	CV 8-21
CV 9	Civil Proceedings: Phone; Video; Fax; and e-Filing	
1.	Proceedings by Telephone	CV 9-1
2.	Proceedings by Videoconferencing	CV 9-4
3.	Use of Fax/e-Filing	CV 9-6
4.	Remote Court Proceedings	CV 9-8
CV 10	Motions Relating to Trial	
1.	Limine Motions	CV 10-1
2.	Exclusion and Separation of Witnesses at Trial	CV 10-3
3.	Mistrial	CV 10-5
4.	Continuance and Delay	CV 10-9
5.	Redacting and Sealing Court Records, see CV 5, Secs. 11 and 12	CV 10-12
CV 11	Empaneling of Jury	
1.	Jury Panel	CV 11-1
2.	Juror Qualifications	CV 11-1
3.	Jury Service	CV 11-2
4.	Challenge to the Array	CV 11-2
5.	Excuses and Deferrals	CV 11-4
6.	Insufficient Jurors	CV 11-5
CV 12	Voir Dire/Selection of Jury	
1.	By the Court	CV 12-1

2.	By the Attorneys	CV 12-2
3.	Individual Voir Dire	CV 12-4
4.	Three Forms of Bias: Statutory, Subjective, and Objective	CV 12-4
5.	Challenge for Cause and Ruling.....	CV 12-10
6.	Peremptory Challenges.....	CV 12-12
7.	Additional Jurors	CV 12-14
8.	Bias of Juror Determined After Jury Empaneled.....	CV 12-14
9.	Swearing in Jury	CV 12-14

CV 13 Jury Management Problems

1.	Jury View.....	CV 13-1
2.	Jury Note-Taking	CV 13-3
3.	Questioning by Jurors.....	CV 13-4
4.	Communications with Jury.....	CV 13-5
5.	Misconduct.....	CV 13-10
6.	Polling the Jury, see CV 19, Sec. 5.C.	CV 13-11
7.	Communication After Trial.....	CV 13-11

CV 14 Opening Statements

1.	Scope	CV 14-1
2.	Order of Statements.....	CV 14-2
3.	Control by Court.....	CV 14-3
4.	Use of Evidence or Visual Aids.....	CV 14-3

CV 15 Trial Evidence

1.	Witnesses.....	CV 15-1
2.	Depositions	CV 15-11
3.	Use of Admissions and Interrogatories	CV 15-13
4.	Demonstrative Evidence and Experiments.....	CV 15-14
5.	Exhibits.....	CV 15-16

CV 16 Motions at Close of Evidence

1.	Motion to Dismiss at Close of Plaintiff's Evidence	CV 16-1
2.	Motion at Close of All Evidence.....	CV 16-2
3.	Duty of Court.....	CV 16-3
4.	Effect of Granting Motion	CV 16-4
5.	Amending Pleadings to Conform to Proof.....	CV 16-4

CV 17	Closing Argument	
1.	Scope and Purpose	CV 17-1
2.	Right to Open and Order of Argument	CV 17-1
3.	Control by Court	CV 17-2
CV 18	Jury Instructions	
1.	Preliminary Instructions	CV 18-1
2.	Curative Instructions	CV 18-2
3.	Instruction Conference	CV 18-4
4.	Final Instructions	CV 18-5
5.	Reinstruction	CV 18-6
6.	Responsibility of Ct.....	CV 18-6
7.	Responsibility of Attys.....	CV 18-7
8.	Form, Scope, and Order of Instruction	CV 18-8
9.	Sending Jury Instructions to Jury Room.....	CV 18-9
10.	Admonition to Jury on Recess.....	CV 18-9
CV 19	Verdicts	
1.	Forms of Verdict	CV 19-1
2.	Verdicts in Specific Cases.....	CV 19-2
3.	5/6 Rule	CV 19-4
4.	Inconsistent or Perverse Verdict.....	CV 19-6
5.	Receiving the Verdict.....	CV 19-8
6.	Entry of Judgment.....	CV 19-10
7.	Impeaching the Verdict	CV 19-10
CV 20	Motions After Verdict	
1.	Motion for Judgment on the Verdict.....	CV 20-1
2.	Postverdict Motions Challenging Verdict or Legal Effect of Verdict	CV 20-1
3.	Entitlement to New Trial: Case and Statutory Supple- mentation Based on Particular Grounds Asserted	CV 20-7
CV 21	Bench Trial	
1.	Jurisdiction	CV 21-1
2.	Findings of Fact	CV 21-3
3.	Conclusions of Law	CV 21-4

4.	Reconsideration, Amendment, and Additional Findings.....	CV 21-5
5.	Appeal	CV 21-5

CV 22 Damages

1.	Types of Damages Available	CV 22-1
2.	Contract	CV 22-11
3.	Torts.....	CV 22-19
4.	Economic Loss Doctrine	CV 22-26
5.	Mitigation	CV 22-31
6.	Damages for Wrongful Death	CV 22-32
7.	Rules for Multiple Defs	CV 22-35

CV 23 Costs

1.	Generally	CV 23-1
2.	Costs and Fees That Are Recoverable	CV 23-1
3.	Offers of Judgment/Settlement.....	CV 23-5
4.	Taxation of Costs.....	CV 23-10

CV 24 Frivolous Actions

1.	Damages for Maintaining Frivolous Claims	CV 24-1
2.	Signatures and Representations to Court.....	CV 24-2
3.	Purposes for Section 802.05	CV 24-4
4.	Initiating Section 802.05 Motion for Sanctions	CV 24-5
5.	Opportunity to Respond.....	CV 24-7
6.	Sanctions	CV 24-7

CV 25 Judgments/Relief from Judgment

	Judgments.....	CV 25-1
1.	Judgment Is the Determination of the Action	CV 25-1
2.	Judgment May Be Final, Interlocutory, or Partial.....	CV 25-2
3.	Default Judgments.....	CV 25-3
4.	Judgment on Admitted Claim	CV 25-6
5.	Rendition, Perfection, and Entry of Judgment	CV 25-7
	Relief from Judgment.....	CV 25-8
1.	Purpose and Standard	CV 25-8
2.	Grounds	CV 25-9
3.	Procedure.....	CV 25-11

4.	Limitations.....	CV 25-13
5.	Relief Pending Appeal	CV 25-14

Volume IIA

CV 26 Certiorari

1.	Definition	CV 26-1
2.	Purpose.....	CV 26-3
3.	Jurisdiction	CV 26-3
4.	Commencement	CV 26-3
5.	Traditional Standards for Certiorari	CV 26-8
6.	Common-Law Certiorari	CV 26-11
7.	Statutory Certiorari.....	CV 26-12
8.	Judgment and Appeal.....	CV 26-14

CV 27 Habeas Corpus

1.	Scope of Remedy	CV 27-1
2.	Persons Eligible to Seek Habeas Corpus.....	CV 27-3
3.	Subject-Matter Jurisdiction	CV 27-6
4.	Venue	CV 27-7
5.	Parties	CV 27-7
6.	Non-Writ Procedure.....	CV 27-8
7.	Writ Procedure.....	CV 27-9

CV 28 Mandamus/Public Records

1.	Definitions.....	CV 28-1
2.	Subject-Matter Jurisdiction	CV 28-2
3.	Court Discretion	CV 28-2
4.	Requirements for Remedy	CV 28-3
5.	Parties	CV 28-6
6.	Non-Writ Procedure.....	CV 28-7
7.	Writ Procedure.....	CV 28-8
8.	Public Records Procedure—Mandamus.....	CV 28-11

CV 29 Prohibition

1.	Definition	CV 29-1
2.	Purpose.....	CV 29-1

3.	Requirements for Remedy.....	CV 29-1
4.	Non-Writ Procedure	CV 29-2
5.	Writ Procedure	CV 29-3

CV 30 Judicial Review of Administrative Agency Decisions (Ch 227)

1.	Judicial Review of Agency Rules—Declaratory Judgment Procedures.....	CV 30-1
2.	Judicial Review of Agency Decisions	CV 30-4
3.	Nature of Judicial Review of Agency Decisions	CV 30-4
4.	Scope of Judicial Review of Agency Decisions	CV 30-5
5.	Statutory Elements of Reviewable Agency Decision	CV 30-8
6.	Standing to Seek Review of Agency Decision.....	CV 30-8
7.	Commencing Judicial Review of Agency Decision	CV 30-9
8.	Record in Judicial Review of Agency Decision.....	CV 30-13
9.	Motions in Judicial Review of Agency Decision	CV 30-15
10.	Pretrial Practice	CV 30-19
11.	Scope of Review of Agency Decision	CV 30-19
12.	Judgment.....	CV 30-26
13.	Remittitur.....	CV 30-26

CV 31 Worker’s Compensation

1.	Judicial Review	CV 31-1
2.	Commencement of Action	CV 31-1
3.	Pretrial Practice	CV 31-3
4.	Hearing Practice and Procedure.....	CV 31-4
5.	Judgment.....	CV 31-7
6.	Remittitur.....	CV 31-8

CV 32 Unemployment Insurance

1.	Judicial Review	CV 32-1
2.	Commencement of Circuit Court Review	CV 32-1
3.	Pretrial Practice	CV 32-3
4.	Hearing Practice and Procedure.....	CV 32-4
5.	Judgment and Remittitur.....	CV 32-8

CV 33 Zoning

1.	The Comprehensive Plan.....	CV 33-1
2.	What Is Zoning?	CV 33-4

	3.	Statutory Authority	CV 33-5
	4.	Local Zoning Ordinances	CV 33-10
	5.	Decision Making	CV 33-15
	6.	Judicial Review	CV 33-21
CV 34		Eminent Domain	
		Condemnation for Sewers and Transportation	CV 34-1
	1.	Proceedings Before the County Condemnation Commission (CCC)	CV 34-1
	2.	Proceedings in Circuit Court	CV 34-6
	3.	Forms	CV 34-15
CV 35		Consumer Act/Creditor Actions	
	1.	Consumer Act	CV 35-1
	2.	Creditor Actions Generally	CV 35-5
CV 36		Replevin	
	1.	Collateral	CV 36-1
	2.	Judgment	CV 36-9
CV 37		Garnishment	
		Garnishment for Property Other Than Earnings	CV 37-1
	1.	Garnishment Generally	CV 37-1
	2.	Procedure	CV 37-2
	3.	Commencement of Action/Summons and Complaint	CV 37-3
	4.	Service	CV 37-5
	5.	Answer	CV 37-5
	6.	Payment into Court/Releases	CV 37-5
	7.	Trial	CV 37-6
	8.	Garnishee Liability and Defenses	CV 37-6
		Earnings Garnishment	CV 37-8
	1.	Earnings Garnishment, Generally	CV 37-8
	2.	Exemptions for Earnings Garnishment	CV 37-9
	3.	Commencement of Action/Answer	CV 37-10
	4.	Motions and Hearing	CV 37-13
	5.	Payment to Creditor	CV 37-14
	6.	Garnishee Liability	CV 37-15
	7.	Term of Garnishment/Fees	CV 37-16

	8.	Retaliation Prohibited.....	CV 37-17
	9.	Forms/Charts.....	CV 37-17
CV 38		Attachment	
	1.	Chapters 811 and 425	CV 38-1
	2.	Non-Consumer Act Attachment	CV 38-1
CV 39		Foreclosure	
	1.	Mortgage Foreclosure.....	CV 39-1
	2.	Land Contract Foreclosure	CV 39-24
CV 40		Settlements: Structured, Minors, and Incompetent Persons	
	1.	Structured Settlements.....	CV 40-1
	2.	Conditions of Settlement.....	CV 40-4
	3.	Procedure When Competency Raised.....	CV 40-4
	4.	Hearing to Approve Settlement.....	CV 40-5
	5.	Disbursement of Funds	CV 40-6
	6.	Wrongful Death Action Settlements	CV 40-7
	7.	For Wrongful Death Damages generally, see CV 22 , Damages	CV 40-9
	8.	Redacting and Sealing Court Records, see CV 5, Secs. 11 and 12	CV 40-9
CV 41		Small Claims	
	1.	Small Claims Procedure.....	CV 41-1
	2.	Initiating Action	CV 41-3
	3.	Venue Depends on Nature of Action	CV 41-4
	4.	Service of Summons	CV 41-6
	5.	Answers, Counterclaims, Cross-Complaints, and Impleader.....	CV 41-6
	6.	Circuit Court Commissioners	CV 41-7
	7.	Trial Before Circuit Court.....	CV 41-8
	8.	Judgment on Failure to Appear.....	CV 41-10
	9.	Adjournments	CV 41-12
	10.	Evictions	CV 41-12
	11.	Landlord/Tenant Claims Under Wis Adm Code § ATCP 134.06.....	CV 41-14
	12.	Automobile Repairs Under Wis Adm Code Ch ATCP 132.....	CV 41-18

CV 42	Injunctions	
1.	Definition	CV 42-1
2.	Classification of Injunctions.....	CV 42-1
3.	Temporary Restraining Orders (TROs)	CV 42-2
4.	Temporary Injunctions	CV 42-5
5.	Permanent Injunctions.....	CV 42-8
6.	Domestic Abuse, Child Abuse, Harassment TRO/Injunction	CV 42-10
CV 43	Contempt	
1.	Contempt Generally	CV 43-1
2.	Summary Contempt	CV 43-2
3.	Non-Summary Remedial Contempt.....	CV 43-4
4.	Non-Summary Criminal Contempt	CV 43-7
5.	Comparison of Summary and Non-Summary Contempt Procedures: Chart.....	CV 43-7
CV 44	Section 1983 Actions in State Court	
1.	42 USC § 1983.....	CV 44-1
2.	Jurisdiction	CV 44-1
3.	Cause of Action	CV 44-4
4.	Recovery	CV 44-7
5.	Local Government Liability	CV 44-9
6.	Immunities and Defenses.....	CV 44-11
CV 45	Prisoner Litigation	
1.	Prison Litigation Reform Act (PLRA).....	CV 45-1
2.	Pleadings by Self-Represented Litigants.....	CV 45-9
3.	Venue	CV 45-10
4.	Certiorari	CV 45-11
5.	Mandamus	CV 45-16
6.	Habeas Corpus.....	CV 45-17
7.	Declaratory Judgment.....	CV 45-18
8.	Injunctive Relief.....	CV 45-18
9.	Tort Claims Against State Actors	CV 45-19
10.	Civil Rights Claims.....	CV 45-20
11.	Selected Civil Rights Issues	CV 45-23
12.	John Doe.....	CV 45-35

13.	Public Health/Clemency Requests.....	CV 45-35
14.	Deductions from Inmate Accounts	CV 45-36

CV 46 Declaratory Judgments

1.	Scope of Declaratory Judgments	CV 46-1
2.	Four Requisites for Declaratory Judgment.....	CV 46-1
3.	Bringing a Declaratory Judgment.....	CV 46-2
4.	Procedure	CV 46-4
5.	Standard of Review	CV 46-5

CV 47 Section 102.29 (Third-Party) Actions

1.	Nature of the Third-Party Claims	CV 47-1
2.	Section 102.29 Formula	CV 47-4
3.	Damages Subject to Division Under § 102.29	CV 47-6
4.	Damages Not Subject to Division Under § 102.29	CV 47-6
5.	Competing Claims	CV 47-7
6.	Reimbursement of Payments to State Treasury.....	CV 47-7
7.	Settlements.....	CV 47-8
8.	Common Insurer Conflicts	CV 47-8

CV 48 Insurance Questions

1.	Construction of Insurance Policies	CV 48-1
2.	Duty to Defend	CV 48-7
3.	Separating Coverage Issues from Liability Issues	CV 48-11
4.	Liability Insurance and Damages	CV 48-12
5.	Bad Faith by Insurer.....	CV 48-14
6.	<i>Pierringer</i> Release	CV 48-16
7.	Uninsured Motorist Coverage (UM).....	CV 48-18
8.	Underinsured Motorist Coverage (UIM)	CV 48-23
9.	Collateral Source Rule	CV 48-25
10.	Subrogation	CV 48-27

CV 49 Bankruptcy and Receivership Overview

	Bankruptcy	CV 49-1
1.	Introduction.....	CV 49-1
2.	Jurisdiction of the Bankruptcy Court	CV 49-7
3.	Property of the Bankruptcy Estate	CV 49-10
4.	Role of the Trustee	CV 49-13

5.	The Automatic Stay	CV 49-15
6.	Discharge/Dischargeability of Debt	CV 49-20
7.	Bankruptcy Terms	CV 49-22
8.	Questions Commonly Asked by State Court Judges.....	CV 49-28
	Receiverships.....	CV 49-33
1.	Receiverships Are Drastic Proceedings	CV 49-33
2.	Receivers: In General	CV 49-34
3.	Types of Receivers	CV 49-34
4.	Process.....	CV 49-34
5.	Chapter 128 Receiverships—Business	CV 49-35
6.	Wis. Stat. Ch. 813— <i>Pendente Lite</i>	CV 49-39
7.	Wis. Stat. § 816.04—“Selfish” Receiver	CV 49-41
8.	Chapter 128 Receiverships—Individual.....	CV 49-42

CV 50 Servicemembers Civil Relief Act

1.	Definition	CV 50-1
2.	Purpose.....	CV 50-1
3.	Procedure	CV 50-1

CV 51 Class Actions

1.	Generally.....	CV 51-1
2.	Judicial Tasks Typical in Class Actions That Are Not Typical in Other Civil Proceedings	CV 51-2
3.	Class Certification	CV 51-2
4.	Appoint Class Representatives and Class Counsel.....	CV 51-8
5.	Ensure Notice to Class Members and Potential Class Members.....	CV 51-9
6.	Approve Settlement.....	CV 51-10
7.	Approve Atty Fees and Nontaxable Costs	CV 51-11
8.	Disburse Residual Settlement Funds	CV 51-12

