

**Judges Roundtable: Insights from the Bench**  
American Inns of Court - James E. Doyle Chapter  
October 17, 2023

Panel:

Honorable Ellen K. Berz, Dane County Circuit Court  
Honorable David D. Conway, Dane County Circuit Court  
Honorable Rhonda L. Lanford, Dane County Circuit Court  
Honorable Ashley J. Morse, Rock County Circuit Court  
Honorable Mario White, Dane County Circuit Court  
Moderator: Honorable Susan M. Crawford, Dane County Circuit Court

*Explanatory Note: The rules mentioned below, and some of the concepts addressed in the rules, will be discussed throughout the judges' answers to the questions below, as opposed to being addressed in 'lecture' format.*

**Dane County and Rock County Circuit Court Local Rules; Supreme Cour Rules Chapter 20, subchapter III**

References:

[Dane County Local Court Rules](#)

[Rock County Local Court Rules](#)

[SCR Chapter 20 Rules of Professional Conduct for Attorneys](#)

Decorum

- Dane County is much more focused on decorum than Rock County – see the Code of Professional Responsibility, Courtesy, & Decorum.
- Rock County Rule 107: “Demeanor of Counsel” relates to where to speak and question witnesses from – same as Dane County Rules (Dane Co. R. 105, 106).
  - o ***Do you enforce this?***
- SCR are very concerned with lawyer conduct and communication with court, but the local rules do not often bring this up. When they do, it is a restatement of the SCR.
  - o ***Do you ever feel the need to remind an attorney about SCR rules relating to decorum and communication?***
- Panel additional commentary:
  - o Conway: Stand where you want
  - o Lanford & White tend to agree

Motions Generally

- Not discussed as much as attorneys might expect in either set of rules. (Rock Co. R. 204 –Summary Judgement) (Dane Co. R. 307, 319).

## Summary Judgement and other Briefing Issues

- Dane and Rock both default to MSJ decisions without a hearing.
  - o Rock allows for a movant to schedule the hearing. (Rock Co. R. 204)
  - o Dane does not explicitly state movant may schedule a hearing, instead allowing a hearing only by court order. (Dane Co. R. 307)
  - o ***How do you handle MSJ hearings? How often do you want oral argument?***
- Length of Briefs
  - o Dane – 40 pages; 10-page reply limit. (Dane Co. R. 115)
  - o Rock – 20-page trial brief, nothing re: MSJ or other briefs. (Rock Co. R. 201)
- Panel additional commentary:
  - o Lanford: I like oral argument; it engages me more. I almost always schedule oral argument.
  - o Berz: Also usually schedules oral argument.
  - o Conway: Less likely to schedule oral argument; can be a waste of time and resources.

## Family Law

- Rock requires pre-trial conference, and mandatory mediation when placement is an issue. (Rock Co. R. 404, 405).
- Dane is silent on these issues.

## Expediency

- Dane County more focused on this.
  - o the Code of Professional Responsibility, Courtesy, & Decorum Rule 8 – attorneys will attempt to negotiate and agree informally on procedural and prelim matters.
  - o Rock lacks language like this. (CPRCD R. 8).
- Dane holds orders for signature for 7 business days. (Dane Co. R. 318).
  - o Rock does not hold orders for signature.

## Matters Unexpectedly Absent from the Rules

- Civil Court scheduling does not significantly appear in the local rules.
  - o Nothing about the requirements for scheduling conferences or for how the courts will schedule certain landmark events in cases.
  - o No mention of certain required components of a scheduling order.
  - o ***What is the best way for a new attorney to learn these things that seem to be mostly a matter of custom?***
- There is not much about motion practice, aside from limited briefing page requirements, or some minor points about getting a hearing in MSJ matters. (Rock Co. R. 204 – Summary Judgement) (Dane Co. R. 307, 319).
- Not as many procedural rules related to hearings or pre-trial practices.

## **Other Questions**

1. When there is no statute or local rule governing a procedure, how often do you take guidance from (a) other courts, and/or (b) suggestions of attorneys appearing before you?
  - a. Crawford: Look at the Wisconsin Judicial Benchbook first. There are some cases where I will let the attorneys who are experienced in that type of matter take the lead.
2. When a Motion to Quash a subpoena is filed, and the date for compliance with the subpoena that the movant is seeking to quash is coming up quickly, how should that be handled?
  - a. Crawford: When appropriate, submit a proposed order for a stay of the impending deadline with your motion.
  - b. Conway: I will referee discovery disputes on the spot. I'll find time in my schedule.
  - c. Lanford: Will find time in schedule to address discovery disputes.
3. Do you direct how you want exhibits handled, or do you leave that to your clerk/JA? Are attorneys well-advised to check with your clerk in advance, or is it a case-by-case situation?
  - a. Panel consensus:
    - i. Inquire at the pretrial conference or jury status hearing as to how the judge or clerk wants it done.
    - ii. Many attorneys don't know how to handle exhibits.
    - iii. Pre-marking them doesn't really help.
  - b. Morse: In Rock County, we can't always project electronic exhibits on a screen.
4. What are 3 to 5 things attorneys do that kind of irk you (or maybe "that you wish they didn't do")?
  - a. Know the rules of evidence.
  - b. Be prepared.
  - c. Cite law in support of your position.
  - d. White: Don't start with "Briefly...", "Just one more question...", or "With all due respect..."
  - e. Berz: In criminal cases, file responses to motions *in limine*, or stipulate.
  - f. Crawford: In closing argument in a jury trial, connect the jury instructions to the evidence; don't just rehash the evidence.