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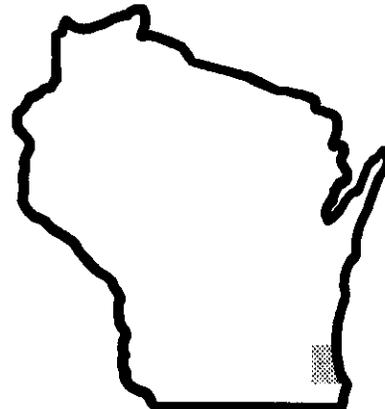
STATE OF WISCONSIN

## FIRST JUDICIAL DISTRICT

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### CHIEF JUDGE DIRECTIVE 09-12

**DATE:** June 18, 2009

**TO:** All Judges, All Court Commissioners, District Court Administrator, Deputy District Court Administrator, County Executive, Clerk of Circuit Court, Corporation Counsel, Sheriff, District Attorney, City Attorney, Public Defender, Court Coordinators, Managing Court Reporter, CCAP, Legal Resource Center, MSD, Facilities Management, Press

**FROM:** Chief Judge Jeffrey A. Kremers

**RE:** FCC PROTOCOL IN POST-JUDGMENT MATTERS

Effective August 1, 2009:

IT IS HEREBY DIRECTED that, the Family Division Court Commissioners shall follow the protocol set forth below in all Post-Judgment matters.

#### 1. **Post-judgment motions involving custody and/or placement in either divorce or paternity actions:**

- a. Perform an initial substantial change in circumstances analysis to determine whether the petitioner has met their statutory burden of proof. Review pleadings and solicit an offer of proof on the issue. If burden met, proceed to steps (b) through (g) below. If burden not met, dismiss action stating reasons for dismissal and if appropriate, refer parties to mediation.
- b. Help the parties resolve it.
- c. If unable to resolve it, determine if mediation is appropriate.
- d. If mediation appropriate, refer the parties to mediation and set a review date before FCC.
- e. If mediation not appropriate, complete the GAL appointment papers and set the matter for review before FCC.
- f. At the review hearing after mediation, determine if mediation was successful and if so, adopt parties' signed stipulation. If mediation was unsuccessful, follow step (e) above.
- g. At the review hearing after the appointment of a GAL, determine if GAL has had enough time to conduct an initial investigation. If GAL needs additional time, grant that request and set for another review before the FCC. If, however, GAL has completed initial investigation, get their report and recommendation. Help the parties resolve the remaining issues. If settlement is not possible, and FCC determines that it is not likely to become possible, determine and document the parties' positions and the GAL's recommendation, and;

- i. If it can be done at the review hearing, the FCC should make every effort to make final custody and placement orders.
  - ii. If orders cannot be made at that time, certify the matter to the Court for a scheduling/status conference.
- 2. In post-judgment actions where the issue involves a party relocating more than 150 miles away:**
  - a. Follow steps (a) through (d) above (except that mediation occurs before the appearance before the FCC per the statute).
  - b. At the review hearing, determine and document the parties' positions.
  - c. Make temporary orders per §767.481.
  - d. Complete the petition for appointment of GAL.
  - e. Refer the matter to the court for scheduling/status. (The GAL will make their first appearance before the Court at the status/scheduling hearing.)
- 3. In post-judgment actions where the issues involve enforcement of judgment (i.e. failure to pay variable and medical expenses, deliver property, refinance or sell houses, etc. and including motions to enforce placement orders not brought under §767.471):**
  - a. Make findings regarding the allegations of contempt.
  - b. If the parties agree, approve an agreement by the parties to comply with the order and set before FCC for review of performance.
  - c. If the parties do not agree to a resolution, impose a remedy if appropriate (other than jail) and set a review to ensure compliance.
  - d. If there is no appropriate remedy to impose, or if upon the review date there has been no compliance with the remedy, certify the case to the court for a contempt hearing with findings as to the basis of the contempt and a recommendation for a sanction and a purge (unless there are evidentiary issues, in which case set for scheduling conference before the Court).
- 4. In motions to modify a judgment regarding issues other than custody or placement (i.e. modify maintenance or deal with other more involved financial matters):**
  - a. Determine the current financial information and make detailed findings.
  - b. Determine and document each party's position by using offers of proof where appropriate.
  - c. If possible, the FCC should make every effort to make final orders subject to De Novo review.
  - d. If final order cannot be made, FCC shall make temporary orders and certify the matter to the Court for a scheduling/status conference.
- 5. When the issue is modification of child support:**
  - a. Determine the current financial information and make findings.
  - b. Make an order.
  - c. Advise the parties of their right to a hearing de novo.
- 6. When the issue is contempt for non-payment of support,**
  - a. Proceed as in #3 above.

Dated at Milwaukee, Wisconsin, this 18<sup>th</sup> day of June, 2009.

  
Jeffrey A. Kremers, Chief Judge