Waukesha County Circuit Courts
Court Appointed Counsel Appointment and Compensation Agreement

Effective Date: May 1, 2025

In June of 2018, the Wisconsin Supreme Court reviewed and ordered amendments to the operational direction provided to Circuit Courts under Supreme Court Rules. The Order, 2018 WI 83, specifically addressed appointment and compensation rates established for Court appointed attorneys.

This Court Appointed Counsel Appointment and Compensation Agreement ("Agreement") is intended to establish appointment and compensation parameters for services performed by attorneys who accept appointments from the Circuit Court (hereinafter "Counsel"), the service obligations of Counsel to the case participants served in various case types, and the administrative responsibilities of Counsel, the Clerk of Circuit Court, and the Circuit Court.

This Agreement is intended to be a contract and agreement guiding legal services providers according to the direction found in Wisconsin Supreme Court Rule 81.02(1m).

1. **Term:** The term of this Agreement shall be effective beginning May 1, 2025 (the "Effective Date"), and shall continue until subsequently modified, replaced, or terminated. This Agreement shall apply to all appointments of Counsel after the Effective Date. Appointments made prior to this Effective Date shall operate in conformity with the terms in effect prior to the Effective Date.

2. **Termination:** This Agreement may be terminated by either party at any time by providing written notice to the other party. If this Agreement is terminated, Counsel shall continue to provide full services on all cases still pending where there is an active appointment made under this Agreement, and all the terms hereof shall continue to govern that appointment until the case is completed or Counsel's appointment is terminated.
   Counsel appointed to a case pursuant to this Agreement shall serve at the pleasure of the appointing Court, and the appointment may be terminated at any time, for any reason, at the discretion of the Circuit Court.
   In the event of a suspension or revocation of Counsel's license, Counsel shall immediately notify the Clerk of Circuit Court and this Agreement shall automatically terminate. Counsel shall also promptly notify the responsible court official on all cases where an active appointment exists such that successor counsel can be appointed.
   Counsel shall not accept appointments in instances where doing so would result in a conflict of interest.

3. **Types of Appointments:** Guardian *ad Litem* or Advocate Counsel appointments may be made at the discretion of the Court for any statutorily authorized purpose. Additionally, appointments may be made at the discretion of the Court to provide representation for

persons who do not qualify for State Public Defender services in Felony, Misdemeanor, Criminal Traffic, and various Juvenile or Probate case types. Specific appointments are managed and communicated between the Court and Counsel in the manner established in each branch.

4. **Create and Maintain a List of Attorneys Eligible for Appointment:** The Clerk of Circuit Court shall maintain a list of approved attorneys who have submitted signed agreements and are eligible to accept Circuit Court appointments. This list will include all attorneys who have completed and submitted an Attorney Profile form that provides their full contact information, appointment type availability, certification of appropriate CLE and GAL training, State Public Defender private appointment certification, and acknowledgement / acceptance of service terms. The list will be updated as frequently as necessary to add new attorneys or remove existing attorneys as circumstances require. Attorneys may contact an individual court or divisional office to obtain the information necessary to be added or removed from appointment consideration.

   The List of Attorneys Eligible for Appointment will be shared with each Circuit Court Judge and will be used at the discretion of each Court for its appointments. It is intended that this list will be used for all appointments, except in extraordinary circumstances as determined by the Court.

5. **Legal Services Duties and Responsibilities:** Counsel agrees to provide all legal services necessary to effectively serve their client, advise and assist the Court, and/or provide for effective legal assistance. It is understood that Legal Services necessary for each individual case is dependent upon each particular case. Counsel will have the discretion and exclusive control over the manner and means by which they serve the legal interests of their clients in each case. For purposes of this Agreement, the term “Legal Services” shall mean those legal services that, from an objective standpoint, are reasonably required for an experienced, ethical and competent attorney to provide an appropriate and effective legal defense or representation in every appointed case.

   Counsel shall advise their clients of the potential for, and necessity of, the client’s legal obligation for reimbursement of fees for Legal Services under the order appointing counsel.

   Consideration will be given by the Court to appoint attorneys with foreign language fluency to represent clients with limited English proficiency, or the Court will coordinate external interpretation services between the attorney and client.

   No eligible client shall be denied effective Legal Services by Counsel because of age, race, religion, color, ethnicity, sex, sexual orientation, physical condition, mental or cognitive capacity, or other disability.

6. **Professional Status, Insurance, Continuing Legal Education, and Eligibility:** During the term of this Agreement, Counsel must at all times remain licensed to practice law in the State of

Wisconsin and maintain their license in good standing. Counsel shall keep in force liability insurance to insure themselves in any claim of malpractice, injury or damage to persons or property that may arise in the performance of their obligations under this Agreement. Counsel shall be familiar with, and follow Supreme Court Rules directing licensure, practice, liability, and any required education requirements as identified by state statute or Supreme Court Rule.

7. **Compensation:** When appointed pursuant to this Agreement, Counsel will be paid for Legal Services and reimbursed for expenses as follows:

    a. Guardian *ad Litem*: Attorneys accepting appointment to serve in the capacity of a Guardian ad Litem in any case type will be appointed at the SCR base rate of $100 per hour, or higher if the Court directs pursuant to SCR 81.02, except as follows:

        i. Attorneys accepting appointment as a Guardian *ad Litem* for the purpose of reviewing and communicating the results of DNA testing in paternity and marital presumption review matters will be paid a flat fee of $300.

        ii. Attorneys accepting appointment as a Guardian *ad Litem* for uncontested Protective Placement annual reviews ("Watt's Reviews") will be paid at a flat fee of $300 for an annual visit and report to the court on the status of the ward. (Effort will be made to assign multiple cases with wards in close proximity to each other to the same appointed GAL to provide a higher level of efficiency. Additional compensation may be available when a ward resides more than 45 miles from the appointed GAL).

        iii. For contested Protective Placement reviews, an attorney accepting appointment as a Guardian *ad Litem* may identify and bill for the additional time over and above those required in subsection ii. above, at a rate of $100 per hour.

    b. Advocate Counsel: Attorneys accepting appointment to serve in the capacity of Advocate Counsel in any case type will be paid at a base rate of $100 per hour which is based on the rate of compensation paid to private bar attorneys who accept service appointments through the State Public Defender Office. (The SPD rate was increased in 2023 by the State through the biennial budget and can be found in 2023 WI Act 19.)

    c. Non-Indigent *"Dean"* Counsel:

        i. Attorneys accepting appointment to serve in the capacity of non-indigent "*Dean*" counsel in all criminal misdemeanor and criminal traffic cases will be paid a flat fee of $575 per case. Flat fee appointments will exclude all

OWI 2nd and higher charged cases. Circumstances may result in additional cases being filed for the same defendant, and in these instances a supplemental fee of $125 may be added for services required on each additional case that is filed and managed simultaneously with the original appointment.

ii. Attorneys accepting appointment to serve in non-indigent "*Dean*" appointments for OWI 2nd and higher cases will be paid at a base rate of $100 per hour.

iii. Attorneys accepting appointment to serve in non-indigent "*Dean*" appointments for criminal felony cases will be paid at a base rate of $100 per hour.

iv. Appointments made in OWI 2nd cases and in criminal felony cases that have additional charges added as part of the action are not considered separate for billing purposes. Similarly, if a represented defendant has a separate case filed following the original appointment and representation is extended to the new case this is considered all one service for billing purposes. Unusual service circumstances should be brought to the court's attention for discussion.

d. In exceptional circumstances a case may require an additional commitment of time to ensure that effective representation is provided. Any additional service time or, as noted below, supplemental services, must be communicated to the Court in advance to obtain approval. Failure to do so may result in the additional fees or expenses being disallowed.

e. Counsel may submit a final invoice for payment of Legal Services performed to date in the event a bench warrant is issued by the Court and the defendant is not re-arrested within 60 days of the warrant being issued. If case activity thereafter re-opens, continuing Legal Services will be at the discretion of the Court.

8. **Reimbursed Expenses:** Counsel appointed pursuant to this Agreement shall be reimbursed for expenses as follows:

a. Investigative or expert services approved in advance by the Court and the defendant, and conditioned upon the agreement of the defendant to repay the cost of same, in addition to his/her repayment of the attorney fees as ordered in this Agreement.

b. Discovery fees charged by the District Attorney's Office for materials requested by and provided to Counsel. Receipts must accompany invoice.

c. Costs for external photocopying or obtaining supplemental electronic media, if total for any one (1) case exceeds ten dollars ($10.00). Receipts must accompany invoice.

d. Transcript preparation fees with prior approval of the Court. Receipts must accompany invoice.

e. Other extraordinary costs may be incurred and reimbursed only with prior approval of the Court and with the agreement of the client to promptly pay the same. Receipts must accompany invoice.

9. **Unreimbursed Expenses:** Counsel under this Agreement will be required to provide his or her own office; business supplies, mail, postage or delivery costs, office and support services, phone services and internet, and will not receive any supplies, office, or support services from Waukesha County. Mileage, travel time, fuel surcharges, training, travel for training, and legal research materials are not provided or reimbursed under this Agreement. Cascading fees for services of law clerks, legal assistants, administrative support, or other staff, and overhead or other expenses are not reimbursed under this Agreement.

10. **Statements/Invoices and Payment:** There are differences in business requirements for Criminal, Family, Civil, Juvenile, and Probate Legal Services appointments. Specific invoicing arrangements are established by each Circuit Court Services business division and will be structured to create efficiencies for both Counsel and the court. Absent direction otherwise, a single invoice for Legal Services shall be submitted within forty-five (45) days of notification by the court that Legal Services are complete and the action concluded.

    a. Flat Fee Appointments: Invoices for Flat Fee Appointments shall include basic remittance detail recording the case appointment, beginning and ending dates of billed service, and any supplemental information identifying agreed upon case related expenses. An affidavit attesting to the performance of the Legal Services shall accompany the invoice.

    b. Hourly Appointments: Invoices for Hourly Appointments shall include specific remittance detail regarding the case appointment, the beginning and ending dates of billed service with specific service entries by date on the case, and any additional expenses and/or supplemental Court approved case related expenses. An affidavit attesting to the performance of the Legal Services shall accompany the invoice.

The Court or the Clerk of Circuit Court, Juvenile Clerk of Court, or the Register in Probate may require counsel to submit additional documentation concerning requested fees and

expenses if necessary for service verification and/or reimbursement from the represented case party.

Upon receipt of a properly documented final invoice and any required supplemental fee and cost documentation, payment for service will be made within 30 days by the Clerk of Circuit Court / Waukesha County.

Counsel is advised that the Clerk of Circuit Court office may, at its discretion, deny payment on invoices that are submitted more than 90 days after completion of Legal Services.

11. **Taxes:** Counsel is an independent contractor and will not be considered an employee for any purpose. Counsel understands that he/she is responsible for all applicable taxes. No federal, state, or local income tax nor payroll tax of any kind shall be withheld or paid by Waukesha County on behalf of Counsel. A declaration for services rendered attesting to the performance of Legal Services shall accompany each invoice and include Counsel's federal employer identification or social security number to allow for proper reporting of payments to state and federal tax authorities.

12. **Benefits:** Counsel understands there are no health, dental, retirement, or other benefits offered by Waukesha County with respect to the services provided pursuant to this agreement.

13. **Notices:** Any Notices to be given hereunder by either party to the other may be affected either by personal delivery in writing, or by registered or certified mail, postage prepaid, with return receipt requested. Mailed notices shall be addressed as follows:

If to Court:
Chief Judge or Presiding Judge
Waukesha County Circuit Courts
515 W. Moreland Blvd.
PO Box 1627
Waukesha, Wisconsin 53187-1627

If to "Counsel":
_____

_____

_____

_____

If to County:
Monica Paz
Clerk of Circuit Court
515 W. Moreland Blvd.

Waukesha, WI 53188

14. **General Provisions:**

a. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin.

b. Indemnification and Defense of Suits. Counsel agrees to indemnify, hold harmless, and defend County, its officers, agents, and employees from any and all liability including claims, demands, damages, actions or causes of action; together with any and all losses, costs, or expense, including attorney fees, where such liability is founded upon or grows out of the acts, errors, or omissions of Counsel, his or her employees, agents or subcontractors in the performance of this Agreement.

c. Invalid Provisions. If any provision of this Agreement is held to be illegal, invalid, or unenforceable, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof; and the remaining provisions hereof shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance therefrom.

d. Entire Agreement. This Agreement sets forth the entire understanding of the parties and supersedes all prior arrangements or/and understandings, whether written or oral, with respect to specific case appointments made under it. No terms, conditions, warranties, other than those contained herein, and no amendments or modifications hereto shall be binding unless made in writing and signed by Waukesha County and Counsel and approved by the Presiding Judge.

e. Insurance Requirements. Counsel shall, at all times during the term of the Agreement, keep in force and effect insurance policies in accordance with the provisions below, issued by a company or companies authorized to do business in the State of Wisconsin and satisfactory to County. Such insurance shall be primary. Waukesha County shall be named as additional insured with respects to General Liability. Counsel shall furnish a Certificate of Insurance and upon request, certified copies of the required insurance policies. The Certificate shall reference this Agreement and provide for thirty (30) days advance notice of cancellation or non-renewal during the term of the Agreement.

Worker's Compensation and Employer' Liability Insurance. Statutory worker's compensation benefits and employers' liability insurance. Contractor shall require subcontractors not protected under its insurance to take out and maintain such insurance.

Commercial General Liability Insurance (including Professional Liability/Errors and Omissions Coverage). Policy shall provide coverage for premises and operations, products and completed operations, personal injury and blanket contractual coverage. Errors and omissions shall not be excluded or a separate policy covering such exposure shall be maintained. Failure to submit an insurance certificate, as required, can void this Agreement at the County's or the Court's discretion.

f. Execution. This Agreement may be executed in one or more counterparts, each of which shall be considered an original, and all of which taken together shall be considered one of the same instrument. A facsimile signature will have the same legally binding effect as an original signature.

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Waukesha County:

By: _____ Date: _____
Monica Paz, Clerk of Circuit Court

By Counsel:

By: _____ Date: _____
Signature

_____
Name

_____
Business Address

_____
Business Telephone Number

Court Approval:

By: _____ Date: _____
Chief Judge or Presiding Judge