

Postconviction/Postdisposition Motion Filing Checklist

Please note that this checklist only addresses technical filing and service requirements. For information and advice on writing and filing postconviction motions, please review Chapter Four, Section Three, of Appellate Practice and Procedure for SPD-Appointed Counsel, which is available at <http://wispd.org/index.php/for-the-legal-practitioner/spd-appellate-division/handbook>.

- Check that you have complied with any local rules regarding motion form, length, and filing, which are available at <http://www.wisbar.org/Directories/CourtRules/Pages/Circuit-Court-Rules.aspx>.
- If you intend to file the motion by fax, ensure that the relevant clerk of circuit court accepts filing by fax. *See* Wis. Stat. Rule 801.16(2).
- If the motion cites to any unpublished Wisconsin Court of Appeals opinion that may be cited under Wis. Stat. Rule 809.23(3), attach a copy of the opinion to the motion as required by that rule.
- File one copy of the motion with the clerk of circuit court and verify that it is received by the due date set by Wis. Stat. Rule 809.30(2)(h) or otherwise provided by the court of appeals. Note that the motion is considered filed when it is received. *See* Wis. Stat. Rule 801.16(1).
- Consider whether to send the judge an additional copy of the motion. If you are unfamiliar with the judge's preference, you may wish to call his or her assistant. *See* Wis. Stat. Rule 801.16(1).
- Serve the motion on the opposing party's attorney (in a criminal case, the district attorney), as well as the attorneys for any other parties and, if applicable, the GAL. Service by mail or facsimile is permissible. Wis. Stat. Rule 801.14(1) & (2).
- If the motion challenges the constitutionality of a statute, regardless of the case type, also serve the attorney general with the motion. *See Kurtz v. City of Waukesha*, 91 Wis. 2d 103, 116-17, 280 N.W.2d 757 (1979). Again, service by mail is permissible.
- Send a copy of the motion to your client. *See* Wis. S.C.R. 20:1.4.