

LINCOLN COUNTY – CIRCUIT COURT RULES
(www.wisbar.org)

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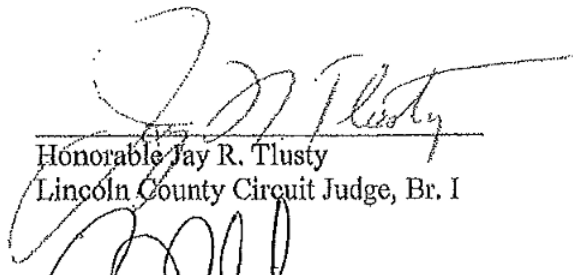
Rule #1

Identifying Data to Comply with Wis. Stats., Sec. 970.02(7)

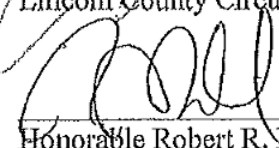
- 101: Original effective date: May 21, 1982 Revised effective date: September 1, 2014
Reviewed date: June 3, 2019
- 102: All prosecutors and special prosecutors coming before the Lincoln County, Wisconsin Circuit Court shall inform the Judge of said Court in any case where a person or defendant charged with an offense specified under sec. 165.83(2)(a), Wis. Stats., has not had his or her fingerprints, photographs and/or other identifying data taken.
- 103: If data has not been taken, then it is directed that this information be obtained. The Court will make a more specific order with regard to such information in all cases where it is necessary and appropriate to so.

This rule has been reviewed and approved by Honorable Greg Huber, 9th District Chief Judge.

Dated this 5th day of November, 2019



Honorable Jay R. Trusty
Lincoln County Circuit Judge, Br. I



Honorable Robert R. Russell
Lincoln County Circuit Judge, Br. II

Rule #2

Small Claims Procedure

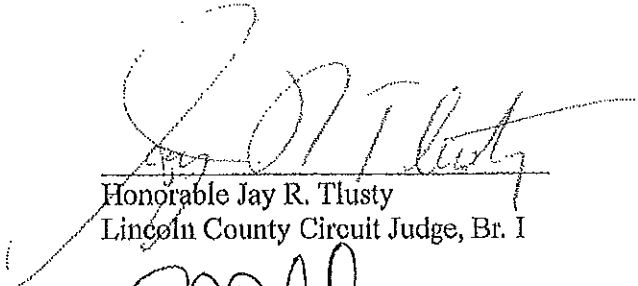
- 201: Original effective date: November 16, 2001 Revised effective date: September 1, 2014
Reviewed date: June 3, 2019
- 202: All small claims initial return dates shall be set by the Lincoln County Clerk of Circuit Court. The Plaintiff shall not be required to appear at the initial return date. If the defendant does not contest the matter then the defendant does not have to appear at the initial return date and a default judgment will be granted to the plaintiff.
- 203: The Clerk of Circuit Court Office will do service of the summons and complaint by first class mail on behalf of the plaintiff for a fee, unless it is an eviction or replevin action or if the defendant resides outside of Lincoln County. The plaintiff also has the option of personal service, however, the plaintiff must provide a certificate of service prior to the initial return date or your case will be dismissed.
- 204: All defendants who contest the matter shall file a written answer to the complaint filed against them. The written answer shall set forth the defendant's defense to the claim.
- a) If the answer is filed in the office of the Clerk of Circuit Court prior to the scheduled initial return date, the defendant or his or her representative need not to appear on the initial return date.
 - b) If the defendant or his/her representative appear on the initial return date and contest the plaintiff's claim, the answer must be filed within ten calendar days following the initial return date.
 - c) Any failure to file an answer as provided herein shall result in a default judgment being entered against the defendant.
 - d) The original of any answer shall be filed with the Clerk of Circuit Court with a copy to the plaintiff's attorney or if unrepresented to the plaintiff.
- 205: The plaintiff will be notified as to whether or not a judgment was entered in his or her favor, or that the matter has been set for a trial and notified of the trial date.
- 206: If the defendant or his/her representative fail to appear on the initial return date, judgment will be granted against them in accord with the demand in the complaint together with taxable costs.
- 207: A plaintiff or his or her legal representative may reduce the demand in a complaint as against defendants at any time prior to the initial return date by written contact with the Clerk of Circuit Court's Office. Such reduction shall be received in the Clerk of Circuit Court's Office prior to the initial return date.
- 208: There shall be no adjournment of the initial return date except upon agreement of the parties or as otherwise ordered by the Court based upon cause shown.

Rule #2 **Small Claims Procedure (continued)**

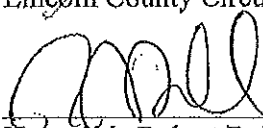
- 209: No judgments granted in small claims court will be docketed until the docketing fee has been tendered to the Clerk of Circuit Courts.
- 201: If the claim is for an eviction, the Court shall attempt to give the matter the first available trial date on its calendar.
- 211: In eviction actions you may file an amended summons and complaint for monetary damages within 21 calendar days of the judgment granting the eviction.
- 212: At trial the parties will be limited to 2 witnessed per side. If upon receipt of the notification of the trial date it is known there will be more than 2 witnesses (including the party), the matter will be rescheduled.
- 213: If a party has exhibits they must bring the original and 3 copies of each exhibit to the trial.
- 214: If a party desires a jury trial, that party must pay to the Clerk of Circuit Court the jury fee within 20 calendar days of the date the answer is filed. The party requesting the jury trial is responsible for preparing a draft of the jury instructions and verdict, and shall submit them to the court and opposing party 10 calendars days before the jury trial.

This rule has been reviewed and approved by Honorable Greg Huber, 9th District Chief Judge.

Dated this 5th day of November, 2019



Honorable Jay R. Thusty
Lincoln County Circuit Judge, Br. I



Honorable Robert R. Russell
Lincoln County Circuit Judge, Br. II

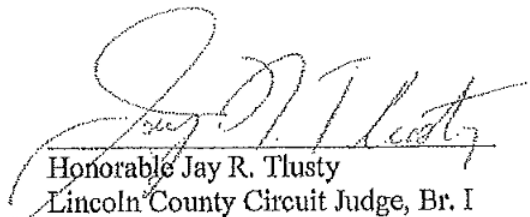
Rule #3

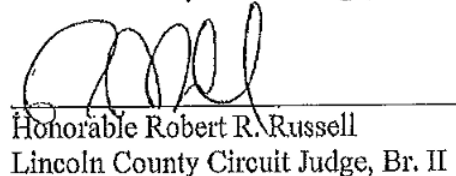
Felony Arraignment Procedures

- 301: Original effective date: November 16, 2001
Revised effective date: September 1, 2014 Reviewed date: June 3, 2019
- 302: In felony criminal matters, the arraignment shall occur immediately at the conclusion of the preliminary hearing in which there has been a bind over or at any scheduled preliminary hearing date where the preliminary hearing is waived. The Lincoln County District Attorney and the defense shall be prepared to proceed immediately following the bind over unless the Court grants an extension for the arraignment.
- 303: If the information contains charges other than those found in the original complaint, the Court shall set the matter for a judicial scheduling conference at which an arraignment date will be set, unless the defense desires to proceed immediately to an arraignment.
- 304: The defendant or his or her representative, or the District Attorney may for good cause shown, request that the arraignment not be held immediately following the bind over, in which case the matter will be set for a judicial scheduling conference.

This rule has been reviewed and approved by Honorable Greg Huber, 9th District Chief Judge.

Dated this 5th day of November, 2019


Honorable Jay R. Tlusty
Lincoln County Circuit Judge, Br. I


Honorable Robert R. Russell
Lincoln County Circuit Judge, Br. II

Rule #4

Discovery in Criminal Prosecutions

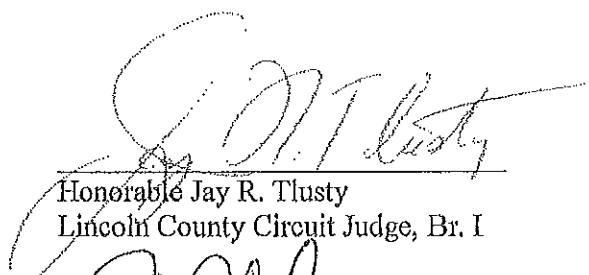
- 401: Original effective date: March 19, 2003
Revised effective date: September 1, 2014 Reviewed date: June 3, 2019
- 402: Wis. Stats., §971.23 provides for the timing of responses to demands for discovery in criminal cases but is ambiguous in that it only provides that the responses shall be made "a reasonable time" before trial.
- 403: It would be benefit of to the defense and the prosecution for the Court to define what is considered to be "a reasonable time" before trial.
- 404: Nothing in this rule shall be construed as prohibiting or discouraging the defense and prosecution from voluntarily disclosing information, evidence, statements, and reports to the other under informal or formal agreements, nor shall this rule apply to disclosures or notifications for which a specific date or time limit is prescribed by state. In the absence of such voluntary disclosure, statutory specific date or time limit, or order of the Court upon motion, the following rules will control.
- 405: Demands for discovery and the responses thereto, pursuant to §971.21 Wis. Stats., shall be made in writing and served by ordinary mail. The demand may not be made until after the entry of a plea in both misdemeanor and felony matters. Unless otherwise allowed by the Court, no demand may be made less than 475 days prior to trial.
- 406: A party shall respond by production of the materials within 30 days of being served with said demand. A party is under a continuing duty to immediately supplement any responses previously made when and if additional demanded material becomes available to them. Any materials produced more than 30 days after demand but less than 30 days before trial, will be subject to the sanctions set forth in §971.23(7m) unless good cause is shown. Any material produced more than 30 days after demand, but more than 30 days before trial may be subject to the sanctions set forth in §971.23(7m).
- 407: Any demand for discovery in a criminal case filed in this county shall contain the following statement: "This demand is subject to a Lincoln County Circuit Court Rule in regard to time limits for responding and supplementing responses, please refer to it for your specific obligations. If necessary, you may obtain a copy of that Court Rule from the Lincoln County Clerk of Circuit Courts."

Rule #4

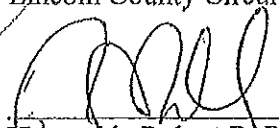
Discovery in Criminal Prosecutions (Continued)

This rule has been reviewed and approved by Honorable Greg Huber, 9th District Chief Judge.

Dated this 5th day of November, 2019



Honorable Jay R. Tlusty
Lincoln County Circuit Judge, Br. I



Honorable Robert R. Russell
Lincoln County Circuit Judge, Br. II

Rule #5 **Facsimile Transmission of Documents to the Court**

(Not applicable to Attorney's- ONLY non-efiling parties)

501: Original effective date: February 16, 2004

Revised effective date: September 1, 2014 Reviewed date: June 3, 2019

502: Facsimile documents to be filed in a Lincoln County court case shall be transmitted directly to the Lincoln County Clerk of Circuit Court and shall be accepted for filing only at 715-536-0361, pursuant to the following provisions:

- a) The document does not exceed fifteen (15) pages in length.
- b) No filing fee is required.
- c) No additional fee or charge must be paid by the circuit court for accepting or receiving the facsimile document.
- d) Papers filed by facsimile transmissions completed after regular business hours of the Clerk of Circuit Court's office are considered same day filing if filed by 11:59 PM. The regular business hours of the Lincoln County Circuit Courts are 8:00 AM to 4:30 PM, Monday through Friday.
- e) Facsimile documents are considered filed upon receipt by the Clerk of Circuit Court and are the official record of the court and may not be substituted. The transmitting party shall send no additional copies of the facsimile transmission. The Clerk of Circuit Court shall discard any duplicate papers subsequently received by the Clerk of Circuit Court, assigned Judge or Court Commissioner. Parties who have transmitted documents by facsimile to the court shall retain in their own files any "original" document that was used for the facsimile transmission. In the event the authenticity of the faxed document is challenged, the party who faxed the document to the court shall have the burden of showing authenticity.

503: The party transmitting the facsimile document is solely responsible for ensuring its timely and complete receipt. The Circuit Court, Judge or clerk, is not responsible for:

- a) Errors or failures in transmission that result in missing or illegible documents.
- b) Periods when a circuit court facsimile machine is not operational for any reason.

504: If documents are transmitted to a plain-paper facsimile machine of a non-court agency, party or company for the receipt, transmittal and delivery to the Clerk of Circuit Court, the Clerk of Circuit Court shall accept the papers for filing only if the transmission complies with the foregoing court rule or has been approved by the assigned Judge or Court Commissioner and certified by the party or attorney.

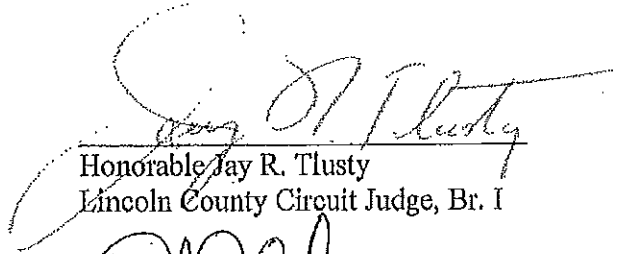
Rule #5

Facsimile Transmission of Documents to the Court (Continued)

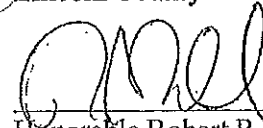
- 505: A Judge assigned to a particular matter may authorize, in advance, the filing of particular documents in that case that do not conform to these rules if good cause is shown and they are conforming with Wis. Statute Sec. 801.16. Facsimile documents exceeding fifteen (15) pages in length must certify that the assigned Judge or Court Commissioner has approved such filing.
- 506: Documents that are not to be filed but are to be used by the Court for reference may be transmitted by facsimile transmission at the discretion of the Judge or clerk.

This rule has been reviewed and approved by Honorable Greg Huber, 9th District Chief Judge.

Dated this 5th day of November, 2019



Honorable Jay R. Trusty
Lincoln County Circuit Judge, Br. I



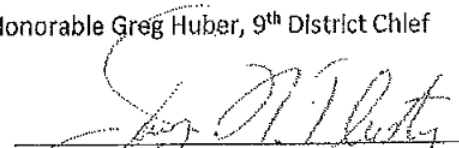
Honorable Robert R. Russell
Lincoln County Circuit Judge, Br. II

Rule #6 Preparation of Order to Produce in Criminal Matters

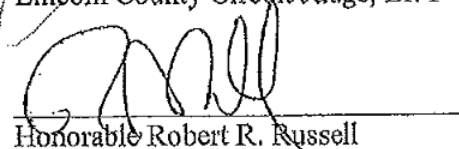
- 601: Original Effective date: November 15, 2004 Revised effective date: September 1, 2014
Revised effective date: February 24, 2016 Revised effective date: January 1, 2018
Reviewed date: June 3, 2019
- 602: Defendants who appear in Lincoln County Circuit Court may be incarcerated in the state prison system or other county jails.
- 603: It is beneficial to the Court, the prosecution and the defense to have certainty as to who is to prepare an Order to Produce.
- 604: If the defendant is held on Lincoln County charges in some jail facility other than Lincoln County, then the District Attorney's office will be obligated to prepare the Order to Produce.
- 605: If the defendant is out on bond and is being held in some other county on that county's charges, then the defense attorney will be obligated to prepare the Order to Produce.
- 606: If the defendant is in the state prison system, then the District Attorney is obligated to prepare the Order to Produce.
- 607: The Order to Produce shall be electronically filed with the Court for signature by the Judge a minimum of 7 calendar days before the hearing date.
- 608: It shall be the responsibility of the person preparing the Order to Produce to provide an electronic copy of the Order to Produce, after it has been signed by the Judge, to the Lincoln County Sheriff's Department at the following email address:
LINCOLN.SHERIFF.CORRECTIONS.SERGEANTS@co.lincn.wi.us

This rule has been reviewed and approved by Honorable Greg Huber, 9th District Chief Judge.

Dated this 5th day of November, 2019



Honorable Jay R. Tlusty
Lincoln County Circuit Judge, Br. I



Honorable Robert R. Russell
Lincoln County Circuit Judge, Br. II

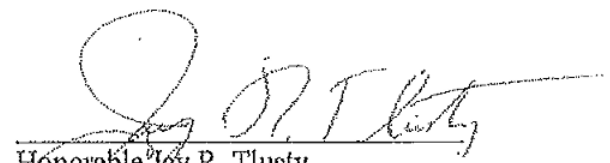
Rule #7

Payment of Guardian ad Litem and Attorney Fees

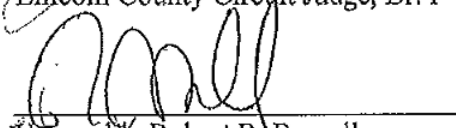
- 701: Original effective date: November 23, 2004
Revised effective date: September 1, 2014 Reviewed date: June 3, 2019
- 702: in order for an attorney who has been appointed as Guardian ad Litem (GAL) of Adverse Counsel by the Lincoln County Circuit Court to receive payment for their services from Lincoln County, they must submit an Itemized bill together with the proper *Affidavit and Order for Payment* to the Lincoln County Clerk of Circuit Court's Office or Lincoln County Register In Probate's Office (depending on who appointed them), no later than the 15th of each month for services rendered the month prior. The GAL is responsible for the distribution of bills to parties.
- 703: When an appointment is ongoing, the attorney must submit an up-to-date itemized billing statement together with the proper *Affidavit and Order for Payment* no later than January 15 of each year for services rendered in the previous calendar year.
- 704: Parties in the action must be compliant with Court ordered payments. Failure to do so may result in delay or termination of services.

This rule has been reviewed and approved by Honorable Greg Huber, 9th District Chief Judge.

Dated this 5th day of November, 2019



Honorable Jay R. Trusty
Lincoln County Circuit Judge, Br. I



Honorable Robert R. Russell
Lincoln County Circuit Judge, Br. II

Rule #8

Guardian ad Litem Appointments in Family & Paternity Cases

- 801: Original effective date: November 15, 2005
Revised effective date: September 1, 2014 Revised effective date: April 1, 2017
Reviewed date: June 3, 2019 Revised effective date: October 19, 2021
- 802: In any family or paternity action in which it is necessary for the Court to appoint a Guardian ad Litem, each party, unless determined to be indigent or eligible for a payment plan, shall be required to make to the Clerk of Circuit Court for Lincoln County the following payments for the appointment and continued services of the Guardian ad Litem.
- 803: \$500.00 due within 30 days of the Guardian ad Litem's appointment. A minimum of \$50.00 per month payable no later than the 15th day of each month, commencing with the next month. Month payments may be set by the Clerk of Court. The Guardian ad Litem shall not begin any duties as party of appointment until 1) the Guardian ad Litem signs the Order authorizing appointment; and 2) the required fees are posted by the parties, unless approved by the Court.
- 804: The Lincoln County Clerk of Circuit Court shall hold all payments in trust until a request for payment is received from the Guardian ad Litem and approved by the Court, at which time each party will be credited with the amount that party has paid toward the share of the Guardian ad Litem fees. The Clerk of Court shall refund to a party any excess amounts paid at the conclusion of the proceedings.
- 805: A party's failure to pay any of the required amounts may subject that party to potential sanctions for contempt of Court, and amongst other available sanctions, can result in a judgment being entered against the party.
- 806: The hourly rate for the Guardian ad Litem fees shall be as established in Supreme Court Rule 81.02. Guardian ad Litems shall submit to the Clerk of Court monthly detailed statements of the services rendered and Affidavits for payment on any case(s) for which the Guardian ad Litem completed work during the prior month. Copies of the monthly statement shall also be sent by the Guardian ad Litem to each of the parties, or their legal counsel if represented, for their information.
- 807: An attorney appointed to serve as Guardian ad Litem shall submit a report and recommendation, or correspondence as to case status to the Court, and shall provide copies to the parties, or their legal counsel if represented, within 90 days of the required payment made by the parties and/or a signed Order Appointing a Guardian ad Litem, whichever happens first, unless an extension is approved by the Court.

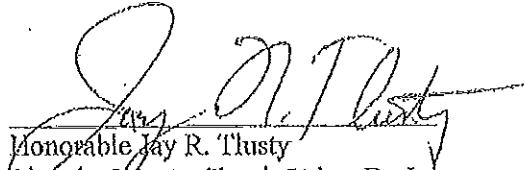
Rule #8

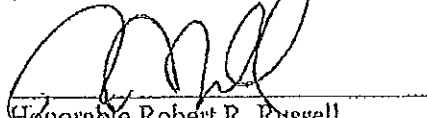
Guardian ad Litem Appointments in Family & Paternity Cases (continued)

808; The duties and appointment of the Guardian ad Litem shall terminate upon completion of the proceedings, unless the Court orders otherwise.

This rule has been reviewed and approved by Honorable Greg Huber, 9th District Chief Judge.

Dated this 19th day of October, 2021


Honorable Jay R. Thusty
Lincoln County Circuit Judge, Br. I


Honorable Robert R. Russell
Lincoln County Circuit Judge, Br. II

Rule #9

Media Regulations

901: Original effective date: September 1, 2014 Reviewed date: June 3, 2019

902: Media Coverage Policy

It is the Lincoln County Circuit Court's policy that the public be given an opportunity to know and understand the judicial court process as well as have knowledge of pending cases. As to bona fide members of the news media, this will be accomplished by encouraging open and accessible proceedings. This shall be subject, however, to such reasonable restrictions necessary to protect the public's access to the legal process to peacefully resolve disputes, to preserve the rights of persons seeking the protection of law, to encourage the search for the truth and to foster dignity in all judicial proceedings.

903: General Media Regulations

- a) Adoption of Supreme Court Rules: The manner, method and restrictions as to media coverage is as set forth in Chapter 61 of the Wisconsin Supreme Court Rules. A current copy of such rules will be furnished to the media upon request.
- b) Courtroom Decorum: The same rules of courtroom decorum shall apply to the media and to all others observing court proceedings.

904: Closure Orders

Unless deemed impractical by the trial judge, a party requesting any judicial proceeding be closed to the news media must notify the court and opposing counsel at least 72 hours prior to the time set to hear such a request. The purpose of this rule is to permit legal counsel to appear on behalf of the media and to be heard. The burden shall be upon the moving party to show cause why Wis. Stat. §757.14 should not apply.

905: Location of Media Equipment

- a) Location Generally: Pursuant to Supreme Court Rule 61.05, the trial judge shall designate the location in the courtroom for any camera equipment and operators so that media coverage will not obstruct the view of others in the courtroom. Any media member planning to cover any court proceeding shall advise the court in advance so the court may instruct where to place media equipment.
- b) Microphones: Unless otherwise authorized, only four microphones will be permitted in the courtroom; one of the Judge's bench, one on the witness stand and one on each counsel table.
- c) Cameras: Cameras allowed in the courtroom shall be used in a manner that does not disrupt courtroom proceedings.
- d) Removal of Equipment: The disassembly and removal of media equipment will occur during breaks in court proceedings, unless it can be done without disrupting court.

Rule #9

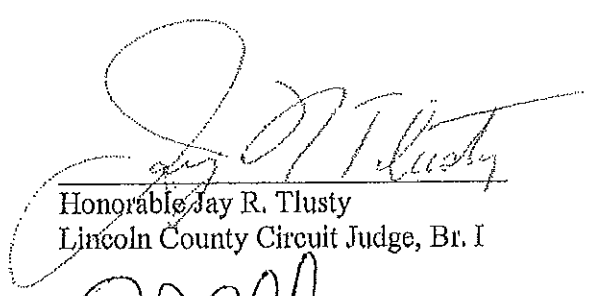
Media Regulations (continued)

906: Photography & Recording

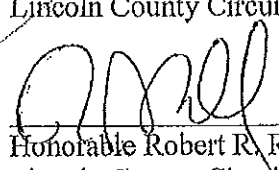
- a) Persons Protected: There shall be no visual photography in any form or any audio recording of any of the following, except upon request and specific advance authorization for each separate proceeding:
- Juveniles
 - Victims of sex crimes
 - Undercover agents
 - Police informants
 - Relocated witnesses
 - Any juror called or selected to serve
- b) Other Persons Protected: Any other person as deemed appropriate by the Court and in any manner deemed by a, b, or c.
- c) Manner Protection Enforced: To ensure compliance with this provision, all handheld or mounted cameras and microphones shall be capped, turned away from such persons or dismounted entirely during the testimony of any such persons, unless otherwise authorized in advance.

This rule has been reviewed and approved by Honorable Greg Huber, 9th District Chief Judge.

Dated this 5th day of November, 2019



Honorable Jay R. Tlusty
Lincoln County Circuit Judge, Br. I



Honorable Robert R. Russell
Lincoln County Circuit Judge, Br. II

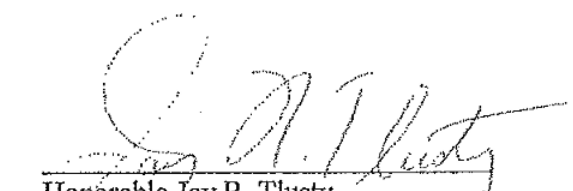
Rule #10

Motions Challenging the Admissibility of Expert Testimony (Daubert challenges) in Criminal and Forfeiture Cases, Sec. 907.02, Wisconsin Statutes

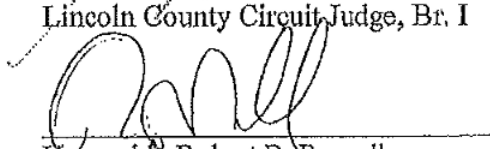
- 1001: Original Effective date: February 24, 2016 Reviewed date: June 3, 2019
- 1002: Any motions challenging the admissibility of expert testimony under §907.02 (Daubert), with accompanying affidavits and brief, will be filed within fourteen calendar days after the opposing party discloses their expert witness and provides a summary of the expert's testimony. Failure to file a motion, in absence of good cause, will be deemed a waiver of any §907.02 challenges. Opposing counsel shall file their pleadings opposing the motion within fourteen calendar days of the filing of the Daubert motion and related pleadings.
- 1003: A courtesy copy of the motion, affidavit and brief shall be provided to the judge by U.S. mail and opposing counsel upon filing the original pleadings with the clerk.
- 1004: Such motions will not be heard on the day of trial.

This rule has been reviewed and approved by Honorable Greg Huber, 9th District Chief Judge.

Dated this 5th day of November, 2019



Honorable Jay R. Thusty
Lincoln County Circuit Judge, Br. I



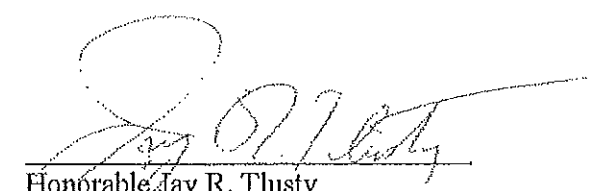
Honorable Robert R. Russell
Lincoln County Circuit Judge, Br. II

Rule #11 Appearances in Children in Need of Protection and Services (CHIPS) and Juveniles in Need of Protection and Services (JIPS) Proceedings by Incarcerated Party

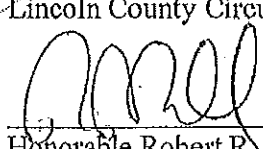
- 1101: Original effective date: December 1, 2018 Revised effective date: April 1, 2019
Reviewed date: June 3, 2019
- 1102: If a party is incarcerated in a county jail, a state prison, or a federal prison, the party may request to appear by video conference from such facility. Such requests must be made to the Juvenile Clerk of Lincoln County at least seven (7) calendar days prior to the scheduled hearing for which the party desires to appear by video conference. Such requests must be made to the Juvenile Clerk by U.S. Mail, personal delivery from someone of behalf of the incarcerated person, E-filing, or by fax.
- 1103: A request to appear by video conference must be made for each hearing in the manner indicated in paragraph 1102, unless such request has been made during a previous court proceeding.
- 1104: Whether or not a video conference request can be accommodated will be dependent on the availability to do so by the jail or prison where the party is incarcerated.

This rule has been reviewed and approved by Honorable Greg Huber, 9th District Chief Judge.

Dated this 5th day of November, 2019



Honorable Jay R. Thusty
Lincoln County Circuit Judge, Br. I



Honorable Robert R. Russell
Lincoln County Circuit Judge, Br. II

Rule #12

JUDICIAL TRANSFER OF SUBSEQUENT CRIMINAL CASES

- 1201: Original effective date: November 10, 2020
- 1202: If a defendant with an open criminal case in one branch of the Lincoln County Circuit Court is charged in a subsequent criminal case filed in the other branch of the Lincoln County Circuit Court, that subsequent case shall be transferred to the branch that presently presides over the prior open case.
- 1203: Cases shall be transferred pursuant to this policy upon the entry of a plea or pleas (upon the completion of the Initial Appearance in a misdemeanor case or Arraignment in a felon case).
- 1204: This rule applies to all class H felonies and below.
- 1205: This rule also applies to class G felonies and above if the defense attorney requests in writing that the case be transferred pursuant to this policy and the presiding judges in both branches approve.
- 1206: Notwithstanding 1204 and 1205, this rule does not apply to any case where the defendant has properly requested the substitution of the presiding judge.

This rule has been reviewed and approved by Honorable Greg Huber, 9th District Chief Judge.

Dated this 28th day of October, 2020

APPROVED <input checked="" type="checkbox"/>	DENIED <input type="checkbox"/>
Judge: <u>Greg Huber</u>	
Date: <u>11/13/20</u>	
Eff. Date: _____	

Jay R. Trusty
Honorable Jay R. Trusty
Lincoln County Circuit Judge, Br. I

Robert R. Russell
Honorable Robert R. Russell
Lincoln County Circuit Judge, Br. II