

Rusk County Circuit Court Rules

(Tenth Judicial District)

Effective Date: June 1, 2007

[Part 1: Tenth Judicial District Rules](#)

[Part 2: Court Practice](#)

[Part 3: Civil Practice](#)

[Part 4: Criminal Practice](#)

[Part 5: Family Law Practice](#)

[Part 6: Foreclosure Practice](#)

[Part 7: Juvenile Practice](#)

[Part 8: Probate Practice](#)

[Part 9: Small Claims Practice](#)

[Part 10: Traffic/Forfeiture Practice](#)

PART 1: TENTH JUDICIAL DISTRICT RULES

101 DISTRICT RULE ADOPTION AND PROMULGATION

101.01 Pursuant to §753.35(2)m the Tenth Judicial District Court Rules are incorporated herein by reference.

PART 2: COURT PRACTICE

201 CONTINUANCES

201.01 Court proceedings will not be adjourned by the Court except upon formal motion for good cause shown or with the specific approval of the Court upon stipulation by all parties.

202 COURT COMMISSIONER

202.01 All requests for a Court Commissioner shall be made to the Judicial Assistant. No Court Commissioner will follow through on any other requests unless prior approval has been granted by the Judicial Assistant.

203 FACSIMILE TRANSMISSION OF DOCUMENT TO THE COURT

203.01 Pursuant to §801.16(2)a, the Rusk County Clerk of Circuit Court shall accept and file facsimiles transmitted to a plain paper fax machine owned and operated by the Rusk County Circuit Court office. This document is not to exceed 15 pages. Any document with more than 15 pages shall be sent by regular mail. Once a facsimile document has been transmitted to the Court, it is not necessary to mail the original document to the Court.

There currently is a fax machine located in the Clerk of Circuit Court office and that fax number is 715-532-2110. There also is a fax machine located in the Judges office, that fax number is 715-532-2266.

All faxes regarding out of County cases, which have been assigned to Judge Henderson, shall be transmitted to the Judge Office.

204 TELEPHONIC HEARINGS

204.01 Telephonic Appearances will be allowed upon prior approval of the Court. The party wishing to appear by telephone shall contact the Court at least 48 hours prior to the scheduled court appearance to obtain permission to appear by telephone.

205 VIDEOCONFERENCING

205.01 Use of videoconferencing shall be allowed upon agreement of all parties involved and upon court approval.

205.02 SCHEDULING – The scheduling shall be done pursuant to the Tenth District procedures for Scheduling Out-Of-County Cases.

205.03 RESPONSIBILITIES – The Court of venue will be responsible for operating the videoconferencing system, including: checking the equipment prior to each proceeding; turning the system on; making connections with remote sites; and controlling the equipment during the proceeding.

205.04 COSTS – The County of venue will be responsible for paying for any transmission costs.

206 RULES OF DECORUM

206.01 Attorneys and parties shall be prepared to proceed at the time matters are scheduled. Failure to proceed on time may be grounds for sanctions, including but not limited to costs, dismissal, judgment and ruling against the late party on the particular matter before the Court.

PART 3: CIVIL PRACTICE

301 SERVICE AND ANSWER – All Civil cases will be reviewed by the Judicial Assistant for service and answer 90 days after filing. If issue has been joined, the matter will be set for a Telephone Scheduling Conference. If a case has not reached issue, a dismissal order or a default proceeding may be initiated by the Court.

302 SCHEDULING

302.01 A Telephone Scheduling Conference will be scheduled by the Court once issue has been joined. At this conference, a Scheduling Order will be determined to include but not limited to; Deadline for naming of expert witnesses, discovery closure, deadline for some form of Alternative Dispute Resolution to be completed as well as a Telephone Pretrial Conference date. A Jury Trial date will not be given until the pretrial conference date. The Court will allow the jury fee to be paid after the pretrial conference.

PART 4: CRIMINAL PRACTICE

401 DEFENDANT'S PRESENCE REQUIRED – Defendant's shall be present at all court appearances. The Judge, for good cause, may approve authorizations to appear upon advance request in misdemeanor cases.

402 WARRANTS AND WARRANTLESS ARRESTS

402.01 Probable Cause Determinations - The Judicial Assistant shall be contacted first in all probable cause determination matters. She will make the necessary arrangements with the Judge, or in his absence, a Court Commissioner, and will then advise the arresting officer or dispatch officer of the selected person. This procedure will also be followed in search warrant matters. This procedure will also be followed on weekends and holidays when the courthouse is closed.

403 CASH BONDS

403.01 When a cash bond has been ordered by the Court on criminal matters, a payment of cash, certified check, money order or any other means of payment shall be accepted by the Clerk of Circuit Court.

404 MOTION PRACTICE

404.01 No Motion Date will be given out until after the Motion has been reduced to writing and filed with the Clerk of Circuit Court. Once that has been completed, the petitioning party may then contact the Judicial Assistant for a court date.

405 PRESENTENCE INVESTIGATION

405.01 The Order for Presentence Investigation (PSI) shall be completed by the Clerk of Circuit Court. A Sentencing date will be scheduled at the time the PSI has been requested. This date will be set at least 6 to 8 weeks out, to allow time for the PSI to be completed.

406 PLEA HEARINGS

406.01 When a matter has been scheduled for a plea hearing, the Court requires that a Guilty Plea Questionnaire, a Waiver of Rights and a Case Settlement Agreement, signed by all parties, be filed prior to the Plea Hearing. Failure to do so may result in sanctions.

406.02 This instance also applies to any out of county cases which have been assigned to Judge Henderson except these documents shall be forwarded to him at least 7 days prior to the scheduled hearing.

407 JUDGMENT OF CONVICTION

407.01 The Rusk County Clerk of Circuit Court shall place the following Court Order under the comments section on all judgments of conviction in which Probation has been ordered:

PLUS SUPERVISION FEES: If probation is revoked or discharged with outstanding financial obligations, a civil judgment shall be entered against the defendant in favor of

restitution victims and/ or governmental entities for the balance due. All available enforcement actions may be used to collect the debt.

[Back to top](#)

PART 5: FAMILY LAW PRACTICE

501 ADVANCE PAYMENTS ON CUSTODY AND PSYCHOLOGICAL EVALUATIONS

501.01 A \$530.00 advance payment shall be paid to the Clerk of Circuit Court prior to any custody study being conducted by the Rusk County Human Services Department. Due dates to be determined by the Court on an individual case basis.

501.02 A \$200.00 advance payment shall be paid to the Clerk of Circuit Court prior to any home study being conducted by the Rusk County Human Services Department. Due dates to be determined by the Court on an individual case basis.

501.03 All Psychological Evaluations shall be paid by the parties, directly to the service provider.

502 CHILD SUPPORT WARRANTS

502.01 When a bench warrant is issued due to the non-appearance of a party at a child support hearing, the following procedures will apply:

1. The party will be picked up and transported to the Rusk County Sheriff's Department. If the party is apprehended in another Court, he will NOT be transported to the Rusk County Sheriff's Department.
2. The Sheriff's Department will contact the Judicial Assistant and inform her of the arrest. She will then notify the necessary parties of the arrest.
3. The Judicial Assistant will notify the Clerk of Circuit Court office of the arrest and a \$500.00 Signature Bond will be prepared. The Judicial Assistant will also give the Clerk of Circuit Court office a court date for the defendant's next appearance in court. This date will be listed on the Signature Bond.
4. Once the Signature Bond has been signed by the defendant, he or she will be released.
5. If a party is arrested in another county, the same procedure will apply however, once the Signature Bond has been prepared, it will be faxed to the Sheriff's Department in the arresting county for signature purposes. That Sheriff's Department will then fax a signed copy back to the Clerk of Circuit Court. Once this has been completed, the defendant will be released. This will avoid any unnecessary travel by the Sheriff's Department.
6. If a party is apprehended over the weekend, the defendant will be detained in the appropriate County Jail and the above procedures will be followed on the next available work day. No preparation of Signature Bonds will be done on a weekend or on a holiday when the courthouse is closed.

503 GUARDIAN AD LITEM

503.01 A Guardian ad Litem will not appointed until the parties have attempted court ordered mediation.

503.02 Upon appointment of a Guardian Ad Litem in any action affecting the family, each party shall make a \$250.00 retainer fee directly to the Clerk of Circuit Court. In post divorce actions, the moving party shall pay the entire retainer fee, the amount to be determined by the Court. This fee shall be paid within 60 days of the appointment.

503.03 In pro se matters, where a Guardian Ad Litem is necessary, the retainer fee must be paid prior to the Guardian Ad Litem appointment. The Court will allow 60 days for the party or parties to pay this amount. Once this amount has been paid, the Guardian ad Litem will be appointed.

504 PRETRIAL

504.01 Once the Court has been notified that a family matter is contested, the Court will order the parties to attend mediation. No court hearings will be scheduled until after mediation has been attempted.

504.02 Mediation is provided by the Rusk County Human Services Department. The Court will notify the parties of the mediation date. The first two sessions will be paid by Rusk County. Mediation after the first two sessions will be paid by the parties.

504.03 If no agreement is reached during mediation, a Guardian Ad Litem will be appointed pursuant to the guide-lines listed in Local Court Rule 503 entitled Guardian Ad Litem.

504.04 Once a Guardian Ad Litem has been appointed, the Court will schedule a Settlement Conference which will be a mandatory appearance by all parties and counsel. If no agreement is reached at this hearing, a Contested Matter will be scheduled.

504.05 WHEREAS, the Court recognizes the potential harm to children caused by the process of legal dissolution of marriage and/ or post judgment petitions involving custody and/ or physical placement issues, and

WHEREAS, a purpose of Chapter 767.115(1)(2), Wisconsin Statutes, is to mitigate such potential harm to children; and

WHEREAS, the Court feels parent education classes prior to the final dissolution of the marriage may mitigate such potential harm to the children;

THEREFORE, IT IS HEREBY ORDERED as follows:

EFFECTIVE SEPTEMBER 1, 2007

If there are minor children of the marriage and if the proceeding dissolution of marriage is contested, or the post judgment petition involves contested issues of custody and/or physical placement, the final hearing shall not be scheduled unless and until the parties have attended and participated in a Parent Education Class.

If a party refuses or fails to attend the class, the Court may make such orders in regard to the failure or refusal as are just, and among the following:

- (a) An Order refusing to assign the trial date until the party requesting the trial attends the class;
 - (b) An Order declining to set or enforce permanent placement rights for the disobedient party until the disobedient party attends the class;
 - (c) An Order reserving the granting or approval of final custody; and
 - (d) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey the order to attend the parent education class.
- If the parties have been previously referred to mediation by the Court or they have obtained other parent education regarding visitation and custody, the Court may, upon written recommendation of such mediator, waive the requirement that the parties attend the parent education class and assign the matter for trial.

505 STANDARD POLICY ON PERIOD OF PHYSICAL PLACEMENT

It is the policy of this Court to order periodic placement on a “reasonable schedule” The Court defines as reasonable that the non-custodial parent have as much time with the child as the parties’ schedule and the child’s schedule allows. In the event the parties cannot determine what is reasonable, the parties should refer to the following schedule as a guideline as to what the Court normally would recommend and order if the matter was before the Court as a contested issue.

1. BIWEEKLY - The non-custodial parent shall have the children(ren) placed with that parent every other weekend from 6:00p.m. Friday until 6:00 p.m. Sunday.
2. MIDWEEK - The non-custodial parent shall have the child(ren) placed with that parent between the hours of 6:00 p.m. to 8:00 p.m. on either the Monday or Wednesday evening before the next scheduled biweekly placement.
3. HOLIDAYS - The parents shall alternate holiday placements. On the holiday to which the non-custodial parent is entitled to placement, the schedule is as follows:

New Years’ Day 8:00 a.m. to 8:00 p.m
Easter 8:00 a.m. to 8:00 p.m.
Memorial Day 8:00 a.m. to 8:00 p.m.
July 4th 8:00 a.m. to 8:00 p.m.
Labor Day 8:00 a.m. to 8:00 p.m.
Thanksgiving 8:00 a.m. to 8:00 p.m.
Christmas (See Below)

Parents shall adopt a tradition such that one parent has placement every Christmas Eve while the other parent has placement Christmas Day. In the even an agreement cannot be reached, the non-custodial parent shall be entitled to Christmas Day from 8:00 a.m. to 8:00 p.m.

4. SPECIAL DAYS - Mother’s Day and Father’s Day are devoted to the parent whose day it is. The non-custodial parent shall have the child(ren)’s placement on his/her day from 8:00 a.m. to 8:00 p.m.
5. BIRTHDAYS - The non-custodial parent shall have all of the children on any on child’s birthday from 4:00 p.m. to 8:30 p.m.

6. SUMMER PLACEMENT - The non-custodial parent shall have extended placement during the summer for a period of four consecutive weeks commencing at 12 noon on the second Sunday following the ending of the school year.

7. PRECEDENCE - Holidays, Mother's Day, Father's Day and birthday placements take precedence over biweekly, midweek, and summer placements.

PART 6: FORECLOSURE PRACTICE – NO LOCAL RULES ADOPTED

PART 7: JUVENILE PRACTICE – NO LOCAL RULES ADOPTED

PART 8 PROBATE PRACTICE – NO LOCAL RULES ADOPTED

[Back to top](#)

PART 9: SMALL CLAIMS PRACTICE

901 SERVICE

901.01 Service of the summons in all eviction actions shall be sheriff service or process server.

901.02 Service regarding all other small claims actions may be served by regular mail, certified mail, sheriff or process server.

901.03 Service regarding Motions for Contempt on Small Claims matters shall be served on the Judgment Debtor by regular mail as is authorized by the Rusk County Circuit Court.

902 APPEARANCE

902.01 The plaintiff is required to appear on the initial appearance date.

902.02 If the defendant does not appear or file a written answer, a judgment will be granted.

902.03 If the defendant files a written answer contesting the claim, it will be set for a pretrial conference. The Court will prepare the pretrial conference order. The parties will be required to submit in writing, one week prior to the scheduled pretrial conference, a concise statement of their disagreement, the position they intend to take at trial including the names of witnesses who will testify and a brief statement of the content of their testimony.

902.04 At the time of the pretrial conference, the Court will do one of three things:

1. Approve a settlement resolution of all issues, including dismissal.
2. Set a Trial Date, including orders in regard thereto.
3. Order Alternative Dispute Resolution pursuant to §802.12.

PART 10: TRAFFIC/FORFEITURE PRACTICE

1001 UNDERAGE ALCOHOL

1001.01 A party who has received an underage alcohol citation will be given the opportunity to attend and successfully complete the Rusk County Underage Alcohol Program. When issuing a ticket of this nature, the arresting officer will attach a pamphlet explaining the program, to the ticket. Parties, who wish to attend this class, must have the proper paperwork filled out prior to entering the courtroom on their court date. Upon successful completion of this class, the party will be able to have a reduction in their fine/forfeiture as well as either an avoidance of the suspension of their driver's license or a reduction in the amount of time.

[Back to top](#)