

**LOCAL CIVIL RULES OF  
THE ALLEN SUPERIOR & CIRCUIT COURTS  
hereinafter referred to as COURT**

Adopted September 8, 2000, Effective November 1, 2000  
Including Amendments Received Through January 1, 2015

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**LR02-AR00-01            Applicability and Citation of Rules**

- A. Scope.** The following rules shall apply to civil cases filed in the Allen Superior Court Civil Division or the Allen Circuit Court (herein after referred to as “Court”), but shall not apply to family or criminal cases. Nothing in these rules shall limit the general jurisdiction of any judge.
  
- B. Citation.** These local rules may be cited as Allen County Local Civil Rule \_\_\_ or A.C. L.Civ.R. \_\_\_\_\_. The Indiana Rules of Trial Procedure are hereinafter referred to as Trial Rule \_\_\_\_\_ or T.R. \_\_\_\_\_.

*Adopted as Superior Civil Rule 2, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule AR00-1, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Renumbered as Superior and Circuit Civil Rule AR00-01 effective January 1, 2015.*

**LR02-TR4-02            Service of Process**

- A. Procedure for Service of Process**
  - (1) By Mail.** When service by certified mail is requested, the party shall not prepare envelopes, but shall furnish for each party to be served, the originals and three copies of prepared summons, complaints, notices or subpoenas to the Clerk, who shall prepare the envelopes using the addresses furnished. Proper postage and return receipt request card will be furnished by the Clerk. Upon receipt of the return, the Clerk shall insert the return with the pleadings in the packet.
  - (2) By Sheriff.** When Sheriff service is requested, the party shall furnish for each party to be served, the original and three copies of prepared summons, complaints, notices or subpoenas to the Clerk, who will forward the documents to the Sheriff for proper service.
  
- B. Summons and Complaint Served Together – Exceptions.** The summons and complaint shall be served as provided by the Trial Rule 4(E) except as may otherwise be provided by statute or other Trial Rule.

*Adopted as Superior Civil Rule 2 September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 4-1, and amended effective December 7, 2006. Renumbered as Superior and Circuit Civil Rule TR4-02 effective January 1, 2015.*

**LR02-TR3.1-03            Appearances**

- A. Written Appearance Form.** An attorney entering an appearance on behalf of any party shall file a written appearance as provided in T.R. 3.1 and serve a copy on all parties of record.

- B. Filing Appearance.** Appearances shall be filed with the Clerk, who shall file-stamp the appearance and shall enter the attorney's name and the date of the appearance on the chronological case summary. In addition, the Clerk shall note the attorney's name, address, or box number, and telephone number on the chronological case summary. It is the duty of attorneys to see that their appearance is properly filed and entered.
- C. Party Appearing Without an Attorney.** When a party to an action appears without an attorney, the party shall give, and the Clerk shall note on the chronological case summary of the case, a name, a mailing address, and telephone number of the party to which notices and communications concerning the case may be delivered and mailed pursuant to T.R. 5 (B).
- D. Address Changes.** It is the duty of all attorneys who have entered their written appearance and of all parties who are not represented by an attorney, to notify the Court, through the Clerk, of any change of their mailing addresses and telephone numbers. The notification shall be in writing filed separately for each case to which the change applies and served upon other parties to each case or their attorneys of record.
- E. Proof of Mailing.** Certificates of service or proof of mailing of pleadings concerning any case shall be deemed sufficient proof of service if such pleadings were mailed to the last known address of a party or attorney noted upon the chronological case summary.

*Adopted as Superior Civil Rule 3, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 3.1-1 and amended effective December 7, 2006. Renumbered as Superior and Circuit Civil Rule TR3.1-03 effective January 1, 2015.*

#### **LR02-TR3.1-04                      Withdrawal of Appearance**

- A. Procedure for Withdrawal.** A request to withdraw an appearance shall be in writing and only by leave of Court. Permission to withdraw shall be given only after the withdrawing attorney has given his or her client at least ten (10) days written notice of his or her intention to withdraw and has filed a copy of that notice with the Court; or upon a simultaneous or prior entering of appearance by counsel for the client. Once a case has been assigned to a judge, no motion to withdraw appearance shall be granted except by the judge to whom the case has been assigned. After the case has been scheduled for trial, a hearing shall be set on the motion to withdraw. The Court will not then grant a request for withdrawal of appearance unless good cause is shown.
- B. Contents of Notice.** Any notice of intention to withdraw shall include an explanation to the client as follows:
- (1) the present status of the case;
  - (2) the date or dates of scheduled hearings and any other pending matters;
  - (3) advise that the provisions in LR02-TR3.1-03(C) and (D) apply to the client after withdrawal of counsel;
  - (4) the expectation of the Indiana common law that, as an unrepresented party, the client will be held to the same standard of conduct as an attorney licensed to practice in the State of Indiana;
  - (5) the prejudice which might result from failure of the client to act promptly or to secure new counsel; and

- (6) an attorney, in compliance of T.R. 3.1 (E), shall certify the last known address and telephone number of the party, subject to the confidentiality provisions of T.R. 3.1(A)(8) and (D).

*Adopted as Superior Civil Rule 4, September 8, 2000, effective November 1, 2000. Amended and effective October 1, 2003; renumbered as Superior and Circuit Civil Rule 3.1-2, and amended effective December 7, 2006. Amended and renumbered as Superior and Circuit Civil Rule TR3.1-04 effective January 1, 2015.*

**LR02-TR5-05            Consent to Alternate Service**

- A. Courthouse Boxes.** Any Allen County Attorney or any Allen County law firm may, without charge, maintain an assigned Courthouse box in the library of the Allen County Courthouse for receipt of notices, pleadings, process orders, or other communications from the Court, the Clerk, and other attorneys or law firms.
- B. How Assigned.** Courthouse boxes shall be assigned only after the attorney or law firm has filed with the Law Librarian a Consent to Alternate Service (Appendix A).
- C. Effect of Consent.** Deposits made in any assigned box of notices, pleadings, process orders, or other communications made shall be deemed to constitute and be accepted as service equivalent to service by first class mail under Trial Rule 6(E).
- D. Form of Deposit to Box.** Any papers served under this rule by the Court, Clerk, or other attorneys or firm of attorney shall be placed in an envelope with the name of the intended receiving attorney on it and the current box number on the outside.
- E. Revocation of Consent.** Consent to Alternate Service under this rule shall remain valid until a written revocation has been filed with the Law Librarian.
- F. Index.** An index of those attorneys and firms consenting to alternate service is located near the boxes. The Law Librarian is responsible for assigning boxes and maintaining a file of consents and of revocations of consents to alternate service.
- G.** If an attorney revokes consent to alternate service, that attorney must notify the Courts and all counsel of record in any matter that the revoking attorney has an appearance filed.

*Adopted as Superior Civil Rule 5, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 5-1, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule TR5-05 effective January 1, 2015.*

**LR02-TR8-06            Preparation of Pleadings**

All pleadings shall be in accordance with the provisions of the Indiana Rules of Trial Procedure. For the purpose of uniformity and convenience, the following requirements shall also be observed:

- A. Form.** Pleadings must be printed on white paper. The lines shall be double spaced except for quotations, which shall be indented and single spaced. Handwritten pleadings may be accepted for filing at the discretion of the Court. Photocopies are acceptable if legible.
- B. Margins and Binding.** Margins shall be 1-1 ½ inches on the left side and ½ - 1 inch on the right. Binding or stapling shall be at the top left and at no other place. Covers or backing shall not be used. Double sided pages shall not be used.
- C. Signature.** All pleadings to be signed by an attorney shall contain the written signature of the individual attorney, the attorney’s printed name, Supreme Court Attorney Number, the name of the attorney’s law firm, the attorney’s address, telephone number, and a designation of the party for whom the attorney appears. The following is recommended:  
 John Doe, #284-703  
 Doe, Rowe and Smith  
 2222 Blackburn Building  
 Fort Wayne, Indiana 46802  
 (260) 555-1212  
 Attorney for Defendant  
 Neither printed signatures, nor facsimile signatures shall be accepted on original documents. Facsimile signatures are permitted on copies.

*Adopted as Superior Civil Rule 6, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 8-1 and amended effective December 7, 2006. Renumbered as Superior and Circuit Civil Rule TR8-06 effective January 1, 2015.*

**LR02-TR77-07                      Filing**

- A. Flat Filing.** The files of the Clerk of the Court shall be kept under the “flat filing” system. All pleadings presented for filing with the Clerk or Court shall be flat and unfolded. Only the original of any pleading shall be placed in the Court file.
- B. Filing Pleadings, File-Stamped Copies.** A copy of any pleading required to be served under Trial Rule 5 upon counsel of record or the adverse party shall be file-stamped.

*Adopted as Superior Civil Rule 7, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 77-1, and amended effective December 7, 2006. Renumbered as Superior and Circuit Civil Rule TR77-07 effective January 1, 2015.*

**LR02-TR59-08                      Default Judgments**

- A. Written Instruments.** Where a case is based on a written negotiable instrument, the original of the instrument must be produced for cancellation when obtaining judgment. If the only instrument produced is a photocopy including the photocopy of the signature of the defendant, an affidavit by plaintiff that the original instrument cannot be found or produced shall be filed before judgment will be issued.

- B. Application for Judgment.** Where an appearance has been entered for a party, the party requesting a judgment shall file an “Application for Judgment” pursuant to Trial Rule 55(B). The movant will set the application for hearing and give notice of the Application and hearing on the party against whom the Default is sought.
- C. Affidavit of Non-Military Service.** No default judgment shall be entered unless there has been filed an affidavit or other evidence, of non-military service, which is satisfactory to the Court.

*Adopted as Superior Civil Rule 8, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 59-1, and amended effective December 7, 2006. Renumbered as Superior and Circuit Civil Rule TR59-08 effective January 1, 2015.*

## **LR02-TR7-09            Motions**

- A. Setting Motions for Hearing.** Except for the motions described in LR02-TR7-09(D) below, all motions shall be set for hearing. It is the responsibility of the moving party to request a hearing from the Judicial Assistant, or if the case has already been assigned to a Judge, from the Judicial Law Clerk of the assigned Judge.
- B. Motions to Correct Error.** It shall be discretionary with the Judge before whom the case is pending whether a hearing will be set on a motion to correct error.
- C. Motions to Amend Pleadings.** All motions to amend pleadings must contain a written representation of the moving party’s attorney that the attorney has advised opposing counsel of the substance of the motion and that opposing counsel either consents or objects to the motion or that the motion may be submitted for ruling by the Court without hearing or briefing. Upon being advised of opposing counsel’s objection, the moving party’s attorney shall request a date for hearing, as prescribed above in section A of this rule.
- D. Motions Not Likely to Require Hearing.** At the time of filing, the following motions, along with the court packet, shall be brought to the attention of the Judicial Assistant or Law Clerk of the Judge:
- (1) Motion for Enlargement of Time
  - (2) Motion to Dismiss complaint by Plaintiff when no answer has been filed
  - (3) Motion to Dismiss Counterclaim by Defendant when no reply has been filed
  - (4) Motion to Amend any pleading; such motions shall be summarily granted or denied *ex parte* unless the assigned Judge determines that a hearing should be scheduled.
- E. Briefs and Memoranda Regarding Motions.** If a party desires to file a memorandum in support of any motion, the memorandum should be filed simultaneously with the motion, and a copy shall be promptly served upon the adverse party.
- F. Motions to Strike or to Insert New Matter.** Subject to Trial Rule 12(F), every motion to insert new matter or to strike out any part or parts of any pleading, deposition, report, order or other document in a case shall be made in writing and shall set forth the words sought to be inserted or stricken. Each set of words to be inserted or stricken shall be in a separate specification and each specification shall be numbered consecutively.

**G. Motions to Reconsider Rulings.** A motion to reconsider a ruling of the Court on any pleading or motion must be in writing and must be served personally upon the ruling Judge. If a motion to reconsider is set for hearing by the Judicial Assistant or by the Judicial Law Clerk of the Judge, the five (5) day automatic denial time period contained in T.R. 53.4 shall not apply.

**H. Discovery Dispute Motions.**

- (1) The Court will strictly enforce the informal resolution of discovery disputes in accordance with Trial Rule 26(F). The Court may deny any discovery motion filed pursuant to Trial Rule 27 through 37, if the party filing the motion has not complied with the requirements of Trial Rule 26(F).
- (2) Upon strict compliance with Trial Rule 26(F), the Court may compel or limit discovery or enter any appropriate sanction, or may set the matter for hearing.
- (3) Strict compliance with Trial Rule 26(F) means a telephonic or face-to-face meeting. Discovery dispute motions must include the date and time the meeting took place.

**I. Responsibility for Notice.** It shall be the responsibility of the moving party to give notice to all other parties of hearings scheduled on motions.

**J. Enlargement of Time.** An initial written motion for enlargement of time to file an answer or other responsive pleadings shall be automatically allowed for an additional thirty (30) days from the original due date. The motion shall state the original date when the response was due and the date to which time is enlarged. For this rule to be applicable, the motion must be filed on or before the original due date.

*Adopted as Superior Civil Rule 9, September 8, 2000, effective November 1, 2000. Amended and effective October 1, 2003; renumbered as Superior and Circuit Civil Rule 7-1, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule TR7-09 effective January 1, 2015.*

**LR02-TR00-10**

**Proposed Orders**

**A. Matters in which Proposed Orders are Required.** Prior to entry by the Court of orders granting motions or applications, the moving party or applicant (or his or her attorney) shall, unless the Court directs otherwise, furnish the Court with proposed orders in the following matters:

- (1) enlargement of time
- (2) continuance
- (3) default judgment
- (4) compel discovery
- (5) dismissal
- (6) appointment of receiver
- (7) appointment of guardian
- (8) immediate possession of real estate
- (9) immediate possession of personal property
- (10) petition for certification of interlocutory appeals
- (11) staying further proceedings by reason of bankruptcy, appeal, or other grounds
- (12) notice of hearing



- (13) extensions of dispositive motion filing deadlines and resetting the dispositive hearings
- (14) other orders, judgments, or decrees as the Court may direct.

This rule does not apply to judgments on general verdicts of the jury or upon a decision announced by the Court.

**B. Form.** Any proposed order shall be a document that is separate and apart from the motion and shall contain a caption showing the name of the Court, the case number assigned to the case and the title of the case as shown by the complaint. If there are multiple parties, the title may be shortened to include only the first named plaintiff and defendant with appropriate indication that there are additional parties. The proposed order shall be on white paper, 8 ½” x 11” in size, and each page shall be numbered. On the last page of the proposed order there shall be a line for the signature of the judge under which shall be typed “Judge, Allen Superior Court” or “Judge, Allen Circuit Court”, whichever is applicable, and to the left of of the signature line shall be the following: “Dated \_\_\_\_\_”. To allow space for the Clerk to make entries on the proposed order to show compliance with the notice requirements of T.R. 72(D), the lower 4 inches of the last page of the proposed order shall be left blank. The proposed order shall also include a prepared proof of notice, under T.R. 72(D). The proof of notice shall conform to the following format:

NOTICE IS TO BE GIVEN BY:

\_\_\_ COURT \_\_\_ CLERK \_\_\_ PARTY \_\_\_ OTHER

PROOF OF NOTICE UNDER TRIAL RULE 72 (D)

A copy of this entry was served either by mail to the address of record, deposited in the Court’s attorney’s distribution box, distributed personally upon the persons and/or filed as listed below:

Insert Name and address or Court’s attorney distribution box number, of all Pro Se Parties and Attorneys of Record.

Court Packet – 2

DATE OF NOTICE: \_\_\_\_\_

INITIALS OF PERSON WHO NOTIFIED PARTIES:

\_\_\_ COURT \_\_\_ CLERK \_\_\_ PARTY \_\_\_ OTHER

NOTE: When a party provides notice under this section the party shall complete all portions of the prepared proof of notice.

**C. Copies.** All proposed orders shall be submitted in an original plus a number of copies equal to one more than the number of pro se parties and attorneys of record contained in the prepared proof of notice required under T.R. 72 (D).

**D. Proposed Orders on Motions for Summary Judgment.** Proposed orders on motions for summary judgment may contain the language called for in T.R. 56 (C) that there is no just reason for delay and directs entry of final judgment as to less than all the issues, claims or parties.

*Adopted as Superior Civil Rule 10, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule TR00-1, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule TR00-10 effective January 1, 2015.*

**TR02-TR53.1-11 Failure to Rule –Informal Procedure**

If a Judge fails to set a motion or hearing or fails to rule on a motion within the time period specified in Trial Rule 53.1(A), and if no action has been taken as provided in Trial Rule 53.1(D) or (E), an interested party may seek an informal resolution of the Judge’s failure by making an ex parte request to the Administrative Judge of the Civil Division, the Court Executive of the Allen Superior Court, or the Judge or Court Administrator of the Allen Circuit Court.

*Adopted as Superior Civil Rule 11, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 53-1-1, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Renumbered as Superior and Circuit Civil Rule TR53.1-11 effective January 1, 2015.*

**LR02-TR53.5-12 Continuances**

- A. Motion.** A motion for continuance, unless made during trial, shall be a verified writing, stating the grounds with particularity, and stating whether the other parties agree with or object to the motion. Copies of the motion must be served on all other parties.
- B. Party to Suit Signing Requirement.** The Court, in its discretion, may require any written motion or stipulation for continuance to be signed by the party requesting the continuance, in addition to the party’s attorney’s signature.
- C. By Stipulation of Counsel.** The stipulation to continue the hearing of any pending matter shall state, with particularity, the grounds for the continuance and must be signed by all attorneys of record.
- D. Time for Filing.** Motions or Stipulations for Continuance shall be filed as soon after the cause for continuance or delay is discovered, and no later than seven (7) days before date set, unless the reason is shown by affidavit to have occurred within the seven (7) day period.
- E. Court’s Discretion.** The Court in its discretion may grant or deny a motion or stipulation for continuance.
- F. Rescheduling.** All matters continued shall be rescheduled as determined by the Court.

*Adopted as Superior Civil Rule 12, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 53.5-1, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule TR53.5-12 effective January 1, 2015.*

**LR02-AR00-13 Superior Court Assignment of Cases, Duties of Counsel and Parties, and Time Sensitive Matters**

- A. Case Assignment.** Upon filing, all Superior Court cases are assigned to a specific Civil Division Judge.
- B.** All matters pertaining to that case shall be determined by the assigned Superior Court Judge.
- C.** Most, if not all, Superior Court cases are scheduled for a Case Management Conference upon filing. The Order and Notice of Case Management Conference is usually included and served with the Summons and Complaint.
- D. Duties of Counsel and Parties.** All attorneys filing a written appearance in a Superior Court case and all self-represented parties shall immediately acquire knowledge of all previously filed pleadings, motions, and papers, of all previously issued court orders, and of all previously scheduled hearings/trials in the case, including the date and time of the Case Management Conference.
- E. Time Sensitive Matters.** If, upon filing of a case, a party believes immediate attention of the Court is required (e.g., temporary restraining orders, prejudgment writs, injunctive relief, replevin, or when extremely prompt service is otherwise required), that party shall apply to the Administrative Judge for procedural processing with a separate motion setting forth the procedural request. If the Administrative Judge is unavailable, before seeking relief from any other judge, the party must file a verified affirmation stating the Administrative Judge is unavailable.

*Adopted as Superior Civil Rule 13, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil rule AR00-2, and amended effective December 7, 2006. Amended and renumbered as Superior and Circuit Civil Rule AR00-13 effective January 1, 2015.*

**LR02-TR00-14 Admissions, Stipulations and Agreements**

Admissions, stipulations and agreements concerning the proceedings in a case will not be enforced, unless submitted in writing or made of record.

*Adopted as Superior Civil Rule 14, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule TR00-2, and amended effective December 7, 2006. Renumbered as Superior and Circuit Civil Rule TR00-14 effective January 1, 2015.*

**LR02-AR00-15****Retention Periods for Evidence**

The Court shall proceed pursuant to this rule unless the Court directs a longer retention period after motion by any party or on its own motion. All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the Court Reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, four (4) months after the entry of final judgment unless an appeal is taken. If an appeal is taken, all of the exhibits shall be retained by the Court Reporter for two (2) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later. The Court Reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.

*Adopted as Superior Civil Rule 15, September 8, 2000, effective November 1, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule AR00-3, and amended effective December 7, 2006. Amended and renumbered as Superior and Circuit Civil Rule AR00-15 effective January 1, 2015.*

**LR02-TR00-16****Attorney's Fees**

No order granting a request for attorney fees shall be made unless fees are allowable under applicable law and there has been evidence furnished by testimony or affidavit of the attorney. The testimony or affidavit shall describe the services rendered in order to establish to the Court's satisfaction the amount of time expended (or to be expended in the matter), the fact that the services and time were or are reasonably necessary considering the nature and complexity of the matter, the experience or expertise of the attorney seeking an attorney fee award, the usual and customary charges, and the reasonableness of the requested fees.

Judicial notice of reasonable fees shall not be taken. In any event, the award of attorney fees shall be within the sound discretion of the Court.

*Adopted as Superior Civil Rule 16, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule TR00-3, and amended effective December 7, 2006. Amended and renumbered as Superior and Circuit Civil Rule TR00 -16 effective January 1, 2015.*

**LR02-TR69-17****Proceedings Supplemental**

- A. Ten Day Rule.** Except for good cause shown, a motion for proceedings supplemental may not be filed until ten (10) calendar days have elapsed since the date of judgment.
- B. One Year Rule.** Except for good cause shown, no proceedings supplemental may pend for more than a one (1) year period from the date of its filing. At the end of the one (1) year period, the proceedings supplemental shall be dismissed. Except upon good cause shown, no judgment creditor may file more than four (4) proceedings supplemental per year against any individual judgment debtor in a given case.

- C. Bank Interrogatories.** Except by order of the Court for good cause shown, judgment creditors may not submit garnishment interrogatories to more than two (2) banking institutions for each hearing on proceedings supplemental.
- D. Conduct of Hearings.** Unless the judgment creditor is represented by an attorney at the proceedings supplemental hearing, the hearing shall be conducted by an officer of the Court. If no attorney appears on behalf of the judgment creditor after 15 minutes of the scheduled hearing time, the proceedings supplemental shall be dismissed and no garnishment order shall issue.
- E. Proceedings Supplemental During Pendency of Garnishment Order.** If a garnishment order has been issued and remains unsatisfied, additional proceedings supplemental directed to the judgment debtor or to an additional garnishee defendant may be filed only by order of the Court for good cause shown.
- F. Default on Proceedings Supplemental.** The Court shall permit each party a fifteen (15) minute grace period to appear for any proceedings supplemental hearing. After the fifteen (15) minute grace period has elapsed:
- (1) if the judgment debtor has failed to appear, a judgment creditor who appears shall be entitled to apply for appropriate proceedings supplemental sanctions; or
  - (2) if the judgment debtor has appeared within the grace period and the judgment creditor or his/her attorney fails to appear or to commence to conduct the proceedings supplemental interview, the judgment debtor may leave without risk of sanction for failure to appear.

*Adopted as Superior Civil Rule 17, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 69-1, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule TR69-17 effective January 1, 2015.*

## **LR02-TR69-18**

### **Court Orders to Appear (COTA)**

- A. General Use.** Judgment creditors may request the Court to issue a Court Order to Appear (COTA) to judgment debtor(s) only when:
- (1) an active proceedings supplemental is pending against the judgment debtor;
  - (2) the hearing date set for the COTA is within sixty (60) days of the date on which the COTA is issued; and
  - (3) good cause exists for the COTA and is shown on the record at the time the COTA is requested.
- B. Good Cause.** “Good cause” under LR02-TR69-18(A)(3) shall include but not be limited to cases in which:
- (1) the judgment debtor fails to produce documents as previously ordered by the Court;
  - (2) the judgment debtor indicates intended relocation with new address presently unknown;
  - (3) there is a reasonable certainty that the judgment debtor’s financial status will substantially change within sixty (60) days.

- C. COTA's and Garnishment Orders.** When a garnishment order has been issued, no pending COTA will be enforced, and no COTA will issue to the judgment debtor, except by order of the Court for good cause shown.
- D. Failure to Appear on COTA.** Upon proof of service and a judgment debtor's failure to appear on the date and time set by the COTA, the judgment creditor may file contempt proceedings under LR02-TR69-19(A).
- E. Agreements to Appear Without COTA.** In any proceedings supplemental, the parties may agree to reset a hearing without use of a COTA. If after such agreement either party fails to appear at the reset hearing, the underlying proceedings supplemental shall be dismissed and no sanctions shall be available for such failure to appear.

*Adopted as Superior Civil Rule 18, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 69-2, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule TR69-18 effective January 1, 2015.*

## **LR02-TR69-19**

### **Contempt/Rule to Show Cause/Body Attachment**

- A. Contempt.** Upon failure of a judgment, debtor or garnishee defendant to appear as ordered for a scheduled hearing, the judgment creditor may file a contempt citation as to the debtor or garnishee defendant. The contempt citation must be filed within thirty (30) days of the failure to appear.
- B. Body Attachment.** Body attachment shall be requested and issued only when:
  - (1) The judgment debtor or garnishee defendant previously ordered to appear for a scheduled hearing was personally served with notice of a contempt hearing;
  - (2) The judgment debtor fails to appear at the contempt hearing;
  - (3) The request for body attachment is filed within thirty (30) days of the contempt hearing at issue; and
  - (4) The judgment creditor properly completes and files all pleadings and forms required by the Court. The pleadings and forms currently include for each judgment debtor:
    - (a) one (1) Request for Body Attachment;
    - (b) at least three (3) Writs of Attachment which must include a statement setting a bond for release; (The bond amount should be set at the lesser of \$500.00 or the total amount remaining unpaid on the judgment including costs and interest.)
    - (c) and the Warrant Information Card, including the judgment debtor's social security number or date of birth.
- C. Procedure for Contacting Judgment Creditor When Attached Person is in Custody.** When the judgment creditor under requests the issuance of a body attachment, the creditor shall file with the Court any telephone numbers (not to exceed three (3)) where the Court may notify the creditor of the attached person's appearance in custody. The Court, to the best of its ability and consistent with the continued performance of its daily responsibilities shall:
  - (1) Attempt to contact the creditor at the telephone numbers on file with the Court; and
  - (2) Notify the creditor of a time later during the same Court business day when the attached person will be brought before the Court for questioning by-that creditor.

If the judgment creditor does not appear within two (2) hours of having been contacted by the Court, the attached person shall be released and the underlying proceedings supplemental dismissed.

**D. Expiration and Recall of Body Attachments.**

(1) **Expiration.** Body Attachments expire one (1) year after issuance.

(2) **Recall.** If during the pendency of a Body Attachment, the judgment creditor desires to recall the body attachment, the judgment creditor shall:

(a) appear personally or by attorney and move on the record for recall of the Body Attachment; and

(b) state on the record the reason for the desired recall.

Upon the recall of a Body Attachment, the underlying proceedings supplemental shall be dismissed.

*Adopted as Superior Civil Rule 19, September 8, 2000, effective November 1, 2000.*

*Renumbered as Superior and Civil Rule 69-3, and amended effective December 7, 2006.*

*Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule TR69-19 effective January 1, 2015.*

**LR02-TR69-20**

**Garnishment**

**A. General Procedure.** A garnishment order shall not issue with respect to a judgment debtor's wage or other property without:

(1) An active proceedings supplemental as to the judgment debtor or waiver of notice by the judgment debtor;

(2) Service on the garnishee defendant of the proceedings supplemental by

(a) Certified mail,

(b) Sheriff's service, or

(c) Private process server; and

(3) return of answered interrogatories, other verification of employment by the garnishee defendant, or failure to answer interrogatories after notice.

**B. Voluntary Garnishments.** In instances where a judgment debtor has entered a voluntary agreement for periodic payments to satisfy the judgment and has further consented to garnishment upon default, notwithstanding the terms of the agreement, no garnishment order shall issue unless:

(1) an active proceeding supplemental is pending against the judgment debtor and the garnishee defendant;

(2) the judgment debtor's employment by the garnishee defendant has been verified as set forth in LR02-TR69-20(A) on the record within three (3) months prior to the date when the judgment creditor requests issuance of the garnishment order; and

(3) the judgment creditor represents on the record the default of judgment debtor.

**C. Stay.** In instances where a judgment creditor has stayed a garnishment order which has been issued and served on a garnisheed defendant, the judgment creditor shall lose any priority over pending, but later issued, garnishment orders pertaining to the judgment debtor's wages.

- D. Release.** Upon receipt by the judgment creditor or by the Clerk on the judgment creditor's behalf of monies sufficient to fully satisfy the judgment, any accrued interest and costs, the judgment creditor shall immediately obtain a court order releasing the applicable garnishment order and shall forward a copy to the garnishee defendant(s).

*Adopted as Superior Civil Rule 20, September 8, 2000, effective November 1, 2000.  
Renumbered as Superior and Circuit Civil rule 69-4, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule TR69-20 effective January 1, 2015.*

## **LR02-AR00-21**

### **Authority of Attorneys' Employees**

- A. In General.** Generally, attorneys' employees who have not been admitted to practice law in Indiana, but who assist their employers in Courthouse activities (herein called "legal assistants"), shall be limited to the performance of tasks which do not require the exercise of legal discretion or judgment that affects the legal rights of any person.
- B. Trust Account Deposits.** Only one legal assistant per law firm shall have the authority to obtain trust account deposits at the Allen County Clerk's Office in the name of his or her employer firm. The employer law firm shall submit a letter to the Clerk of the Allen Circuit and Superior Courts (See Appendix "B" to these rules) stating that:
- (1) The employee is authorized to obtain trust account deposits at the Allen County Clerk's Office in the name of his or her employer; and
  - (2) The employer fully releases the Clerk of the Allen Circuit and Superior Courts and all employees of the Clerk from any liability for paying any of the funds by check, naming the employer as payee, to any such designated employee, unless the law office has previously provided a written notice to the Clerk of the Allen Circuit and Superior Courts stating that the employee's authority to act on behalf of that law office has been terminated.
- C. Legal Documents.** All pleadings which the legal assistant presents or files at the Courthouse must contain an attorney's signature, as the attorney for a party, or a statement affixed indicating that the documents were prepared by that attorney.
- D. Permitted Acts.** An authorized employee shall be limited to the following acts:
- (1) File, and obtain orders on all motions described in LR02-TR00-10(A).
  - (2) Set Pre-Trial Conferences and all other hearing dates except trials.
  - (3) Examine pleadings and chronological case summary sheets and make copies within the Courthouse.
  - (4) At the discretion of the Court, to obtain approval of orders of the Court from the Judge's Law Clerk for:
    - (a) Notice of hearings;
    - (b) Orders to appear and answer interrogatories on the filing of the Verified Motion for Proceedings Supplemental;
    - (c) Stipulations signed and approved by all parties of record; and
    - (d) Motions to Withdraw Appearance.
- E. Acts Not Permitted.** An employee shall not have the authority to perform any acts not specified in these local rules.



**F. Termination of Authority.** Each employer law firm shall be responsible for providing a written notice to the Law Librarian of the termination or revocation of any legal assistant's authority to act on behalf of the law office as covered by this rule.

*Adopted as Superior Civil Rule 21, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 00-4, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule AR00-21 effective January 1, 2015.*

## **LR02-AR00-22 Conflicts**

The Indiana Rules of Trial Procedure shall govern in the event of any conflict with the Local Rules of the Allen County Courts.

*Adopted as Superior Civil Rule 22, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 00-5, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule AR00-22 effective January 1, 2015.*

## **LR02-AR00-23 Attorney and Personal Representative Fee Guidelines for Decedents' Estates**

Attorney Fees-Estates  
Preamble

The Allen Superior Court, Civil Division has adopted these guidelines in an effort to achieve the following objectives:

- A.** Establish uniformity in determining a fair and reasonable fee for supervised estates;
- B.** Provide a guideline to assist the Court in determining fair and reasonable fees;
- C.** Furnish a guideline to attorneys so they can discuss fees that may be reasonably incurred with their clients at the onset of administration;
- D.** Assist the legal profession to arrive at a fair and reasonable fee for the estate work.

Every attorney and personal representative has an obligation to request a fee which is fair and reasonable for the work performed, taking into account those provisions of the Rules of Professional Conduct applicable to attorneys admitted to practice law in the State of Indiana. Except under extraordinary circumstances, a request for fees should not exceed these guidelines. In an uncomplicated estate, fees should be less than those listed in the schedule, and fees must always bear a reasonable relationship to the services rendered.

**1. Principles applicable to Fee Determinations.** Although fee guidelines have been promulgated by the Court for probate matters, it is important that your attention be directed to certain criteria as they pertain to these guidelines as follows:

- A.** The time and labor required, the novelty, complexity, or difficulty of the questions involved, the skill required to perform the services properly, including a determination as to how much of the attorney's time was devoted to ministerial functions;
- B.** The nature and extent of the responsibilities assumed by the attorney and the results obtained, including the considerations of the identity of the personal representative and the character of the probate and non-probate transferred assets;

- C. The sufficiency of assets properly available to pay for legal services, and whether the attorney's duties are expanded by the existence of non-probate assets because of their inclusion for tax purposes, both federal and state;
- D. The timeliness with which the necessary services are performed consistent with statutory requirements, the Court's rules of procedure and applicable Rules of Professional Conduct.

Attorneys are urged to discuss their fee and that of the personal representative at the time they are retained in all probate matters.

## 2. Attorney Fee Guidelines

**I. Administration:** Gross estate services are considered to normally include: probating the Will, opening of the estate, qualifying the personal representative, preparing and filing the Inventory, paying claims, collecting assets, preparing and filing non-extraordinary petitions, preparing and filing of Fiduciary Income Tax Return, preparing and filling all tax returns and schedules, obtaining Court Orders thereon, and paying the taxes, preparing and filing the Final Report, obtaining Order approving same, distributing assets, obtaining discharge of the personal representative, and serving all notices on interested parties throughout the proceedings. This list shall not be considered to be exclusive.

### A. Gross Estate-Minimum Fee of \$500.00 Plus:

Up to \$100,000. Not to exceed.....	6%
Next \$100,000. Not to exceed.....	4%
Next \$100,000. Not to exceed.....	3%
Next \$100,000. Not to exceed.....	2%
Over \$400,000. Not to exceed.....	1%

### B. Miscellaneous-Extraordinary Services:

(1) Sale of Real Estate.....Hourly Rate.

(2) Indiana Inheritance Tax Schedule-  
(Preparation and filing only).

(To be applied only to non-administered property). One percent (1%) of the first \$100,000 of the non-administered assets of gross estate as determined for Indiana Inheritance Tax purpose, plus  $\frac{3}{4}$  of 1% of the next \$150,000 of non-administered assets of the gross estate.

$\frac{1}{2}$  of one percent (1%) on all non-administered assets of the gross estate in excess of \$250,000.

(3) Federal Estate Tax Returns- (To be applied only if return required because of non-administered property, to be based only on assets not listed on Indiana Inheritance Tax Schedule). A base fee of \$750.00 or one percent (1%) of the first \$100,000. Of the non-administered assets of the gross estate as determined for Federal Estate Tax purposes plus:  $\frac{3}{4}$  of one percent (1%) of the next \$150,000 of non-administered assets of the gross estate, plus  $\frac{1}{2}$  of one percent (1%) on all non-administered assets of the gross estate in excess of \$250,000.

(4) Ex parte Petitions not included under I, above.....\$200.00

(5) Other than as provided above.....Hourly Rate. (Attorney's expertise in probate matters will be considered by the Court in determining the applicable hourly rate).

- II. Wrongful Death Administration:** The Court recognizes that in most instances a retainer or contingent fee agreement is an appropriate method by which legal services can be provided in wrongful death claims. Accordingly, fees shall be allowed under those agreements if, at the time of settlement of the claim, it is shown to the Court's satisfaction:
- A. The personal representative was, prior to entering such agreement, fully informed as to all aspects of the arrangement,
  - B. The agreement is fair and reasonable, and
  - C. The fee sought is fair and reasonable.

**III. In General:**

- A. Extraordinary Fee Requests.** Fee petitions requesting extraordinary fees must set forth services rendered with specificity. Extraordinary service may include: sale of personal property, sale of real property, partial distributions, will contest actions, contesting claims, adjusting tax matters, contested hearings, petitions for instructions, heirship determinations, generating additional income for the estate, etc.

All petitions under this section will be set for hearing, with notice to all interested parties. If all interested parties sign a waiver and consent stating they have been advised that the additional fee request exceeds the Court's guidelines and that the services as detailed are extraordinary, the Court may, in its discretion, determine if a hearing is required.

An acceptable form of waiver is attached.

- B. Unsupervised Estates.** The Court will not determine and allow fees in an unsupervised administration.
- C. Filing of Fee Petition.** Before any fee is paid a petition for allowance of the fee shall be filed and determined by the Court. A request for fees will be considered only under the following circumstances:
- (1) The Inheritance Tax Petition is ready to be filed, or
  - (2) A petition to find no tax due has been approved, or
  - (3) Necessary for purposes of an estate fiduciary income tax deduction, or
  - (4) Under extraordinary circumstances.
- D. Payment of Fees.** Except where payment has been authorized under C.3 or C.4 above, fees are payable one half (1/2) upon approval of fee petition and one half (1/2) upon approval of the Final Report.

**WAIVER AND CONSENT TO ALLOWANCE OF FEES  
IN EXCESS OF GUIDELINES**

The waiver and consent is not to be merely a pro forma waiver and consent, but is to be in substantially the following form:

**IMPORTANT: PLEASE READ BEFORE SIGNING!**

**WAIVER AND CONSENT**

The undersigned, an interested party in the Estate of \_\_\_\_\_  
Understands that:

(A) The maximum fee ordinarily allowed by the Court for legal services in this Estate would amount to \$ \_\_\_\_\_;

(B) The Attorney has requested fees in the amount of \$ \_\_\_\_\_; alleging that extraordinary and unusual services have been performed.

The undersigned, being fully advised, now consents to the allowance of the requested fee, waives any notice of hearing on the Petition and requests that the Court allow fees in the amount of \$ \_\_\_\_\_.

Dated: \_\_\_\_\_  
Devisee/Heir

**3. Personal Representative Fees**

**I. Professional:** The Court will approve their applicable prevailing rate, provided:

- (A) Those rates are on file with and approved by the Court.
- (B) The rate results in a reasonable fee in light of all circumstances.
- (C) A description of services rendered in support of a request for fees is filed.

**II. Non-Professional:** Fees may be allowed not to exceed one half (1/2) the fee allowed the attorney, provided:

- (A) The fee is reasonable in light of all circumstances.
- (B) A description of services rendered, including time spent with hourly rate in support of the request is filed.

**III. Attorney:** The Court recommends that attorneys not assume the dual role of attorney and personal representative in the same estate. When the attorney does serve as the personal representative, an additional amount not to exceed one-third (1/3) of the attorney fee may be allowed, provided:

- (A) The fee is reasonable in light of all circumstances.
- (B) A description of services rendered including time spent with hourly rate in support of the request is filed.

**IV. In General:** The Court will apply the same procedures to the allowance and drawing of fees and to a personal representative's extraordinary fee request as it does to attorney fee requests.

*Adopted as Superior Civil Attorney Fee Guidelines, effective August 15, 1990. Renumbered as Superior and Circuit Civil Rule 6, and amended effective December 7, 2006. Amended and renumbered as Superior and Circuit Civil Rule AR00-23 effective January 1, 2015.*

**LR02-TR79-24                      Selection of a Special Judge Pursuant to TR 79(H)**

- A. Appointment by Clerk.** If a special judge is not appointed pursuant to TR 79(D), the Clerk of the Court shall select a special judge (on a rotating basis) from a list consisting of judicial officers eligible under TR 79(J).
  
- B. Certification to the Supreme Court.** In cases in which no judge is eligible to serve as special judge or the particular circumstances of a case warrant selection of a special judge by the Indiana Supreme Court, the appropriate Allen County Judge may certify the case to the Indiana Supreme Court for appointment of a special judge.

*Reincorporated into the Local Civil Rules of the Allen Superior & Circuit Court effective January 1, 2015.*

**LR02-JR00-25                      Juror Privacy**

All provisions of this rule shall be construed to be consistent with disclosure either permitted or prohibited by Indiana Supreme Court Administrative Rule 9.

- A. Juror Safety and Privacy.** Personal information relating to a juror or prospective juror not disclosed in open court is confidential, other than for the use of the parties and counsel. The Court shall maintain that confidentiality to an extent consistent with the constitutional and statutory rights of the parties.
  
- B. Public Access to Juror Names.** Juror names shall not be used in open court or on the record. During trial proceedings, all prospective and seated jurors shall be referred to only by juror number or seat number. The jury administrator shall compile and maintain a master list consisting of lists approved by the Indiana Supreme Court that may be used to select prospective jurors. Once compiled, the master list of names is open to the public for examination as a public record. However, all other information other than the names contained in the master list is confidential.
  
- C. Access to Juror Information.** The Jury Administration Office shall have exclusive access to juror information and disseminate juror information to parties, attorneys, and the public upon request when authorized to do so by this rule.
  - (1)** The Jury Administration Office shall provide counsel with a copy of Juror Qualification Questionnaires, with the names and addresses redacted, no earlier than two (2) weeks in advance of trial.

(2) Upon request, the Jury Administration Office shall provide counsel with a complete subpanel list and unredacted Juror Qualification Questionnaires no earlier than the day of trial. The subpanel list and Juror Qualification Questionnaires shall be returned to the Court at the completion of the jury selection process. No photocopies or duplicates shall be made without specific Court authorization.

**D. Anonymous Juries.** Consistent with Indiana case law regarding anonymous juries, the Court may, upon the motion of either party, withhold juror names and addresses from parties and counsel only if the Court 1) enters findings to support a conclusion that there is a strong reason to believe the jury needs protection, and 2) takes reasonable precautions to minimize any prejudicial effects on the parties and to ensure that their fundamental rights are protected. If the Court withholds juror information from one party, the information shall be withheld from all parties.

*Adopted as Juror Privacy, effective January 1, 2015.*

**LR02-TR33-26                      Discovery: Interrogatories, Requests for Admission, Time to Serve**

- A. Preparation.** Interrogatories shall be tailored specifically to the cause in which they are served and be numbered consecutively to facilitate response.
- B. Number Limited.** No party shall serve on any other party more than fifty (50) interrogatories including subparagraphs.
- C. Filing in Excess of the Limit.** Any party desiring to serve interrogatories in excess of fifty (50) shall either:
- (1) file a stipulation of the parties, agreeing to the additional interrogatories; or
  - (2) if agreement cannot be obtained, file a written motion requesting leave of the Court to serve more than fifty (50) interrogatories; the motion shall set forth those additional proposed interrogatories, and shall explain their necessity; full compliance with Trial Rule 26(F) is required.
- D. Answers and Objections.** Answers or objections to interrogatories under T.R. 31 or 33 shall set forth in full the interrogatories being answered or objected to immediately preceding the answer or objection.
- E. Time to Serve.** All written discovery, whether directed to a party or nonparty to an action, must be served at least thirty-three (33) days prior to the expiration of any discovery deadline which may be established by the Court.
- F. Limit on Requests for Admission.** Ordinarily, a party may not serve more than 30 requests for admission on another party (not counting requests that relate to the authenticity of a document). A party wanting to serve more requests must fully comply with Trial Rule 26(F), and file a motion setting forth the proposed additional requests and why they are necessary.

**G. Discovery Disputes.** Strict compliance with Trial Rules 26 through 37 is required. The discovery process is intended to be largely self-actuating, with minimal Court supervision. Therefore, the Court will not rule on motions related to discovery disputes unless moving counsel represents that, after personal or telephonic conference in good faith effort to resolve differences, counsel are unable to reach accord. If counsel advises the Court, by way of motion or response thereto, that opposing counsel has refused or delayed resolution of the discovery dispute, the Court may, after hearing, impose appropriate sanctions.

**H. Motion to Strike.** A party who has been served with interrogatories may file a motion to strike specific interrogatories as excessive, oppressive or repetitive, after fully complying with Trial Rule 26(F). The motion shall be set for hearing and does not serve to extend the time for answering interrogatories which are not in dispute.

*Adopted as Discovery: Interrogatories, Requests for Admission, Time to Serve, effective January 1, 2015.*

#### **LR02-TR42- 27 Consolidation of Cases**

Trial Rule 42 permits consolidation of cases for specific purposes, but generally not actual consolidation of the entire cases. Consistent with Trial Rule 42, upon the motion of a party and hearing or stipulation, the Court may enter orders in related cases to consolidate the cases for specific purposes, such as for case management, discovery, mediation, hearings, trial, etc.

*Adopted as Consolidation of Cases, effective January 1, 2015.*

#### **LR02-AR00- 28 Preventing Independent Juror Research**

**A. Preliminary Instructions.** In an effort to reduce the likelihood of a mistrial due to a juror conducting independent research, the Court shall, in its discretion, use a modified version of Indiana Model Civil Jury Instruction 101 upon administering its preliminary jury instructions. A copy of the modified instruction can be found at Appendix D.

**B. Questioning by the Court.** At the conclusion of reading the modified form of Model Civil Jury Instruction 101, the Court may, in its discretion, inquire as to the jurors' use of, and their corresponding ability to refrain from, using the technologies discussed in that instruction during the course of the trial. A sampling of questions aimed at achieving this goal can be found at Appendix E. If the Court concludes that a juror is not able to refrain from such use, the Court shall consider removing that juror from service.

**C. Message Concerning Jury Service.** In its discretion, the Court may also inquire as to whether the newly chosen jurors would like a message, furnished by the Court, which would explain to members of the public that jurors are not to discuss the facts of the case or any of the issues, facts, or concepts that are in any manner related to the trial. This message can be found at Appendix F.

- D. Statement of Compliance.** At the closing of jury selection, the Court may, in its discretion, provide each juror with a copy of the Statement of Compliance found at Appendix G. The Court may require each juror to signal his or her acceptance of the Statement of Compliance, thereby indicating his or her intent to refrain from any prohibited activities.
- E. Short Form Admonishment.** When releasing jurors for a short break, the Court shall read the Short Form Admonishment found at Appendix H.
- F. Long Form Admonishment.** When releasing jurors for a longer break, such as for lunch or at the conclusion of each day of trial, the Court shall read the Long Form Admonishment found at Appendix I.
- G. Questioning the Jury Following a Recess.** Upon resuming a trial, the Court may, in its discretion, question jurors so as to determine if those jurors participated in any activities that may result in the declaration of a mistrial. A listing of questions suggested for this purpose can be found at Appendix J.

*Adopted as Preventing Independent Juror Research, effective January 1, 2015.*



**APPENDICES**

**APPENDIX A                      Consent to Alternate Service**

**CONSENT TO ALTERNATE SERVICE**

The undersigned, as an individual practitioner or for and on behalf of the law firm below, hereby consents to service of any notice, pleading, process, order or other communication by deposit of the same in an assigned Courthouse box by:

- a) Allen Superior Court or the Allen Circuit Court;
- b) Clerk, as to matter with Allen Superior Court;
- c) Other Attorneys and law firms.

“Deposit” pursuant to this Consent shall constitute and be accepted as 1<sup>st</sup> class mail under Trial Rule 6(E). Any papers served under this Consent shall be placed in an envelope with the name of receiving attorney and current box number on the outside thereof. The Consent shall remain valid until revoked in writing. The Consent or revocation will be effective upon filing with the Law Librarian of Allen Superior Court.

This Consent shall also apply to any attorneys who become associates with the undersigned law firm after the date of this consent.

The undersigned agree(s) to notify the Law Librarian promptly of any changes in the list of attorneys designated in the Consent.

DATED: \_\_\_\_\_

\_\_\_\_\_  
(Individual Practitioner)

\_\_\_\_\_  
(Firm Name)

By: \_\_\_\_\_  
          Managing or Senior Partner

List of Attorneys in Law Firm Hereby Consenting:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(File with the Law Librarian of the Allen Superior Court in Allen County Courthouse.)

*Adopted Superior Civil Appendix A, September 8, 2000, effective November 1, 2000.  
Renumbered as Superior and Circuit Civil Appendix A, and amended effective December 7, 2006.*

**APPENDIX B Release of Clerk for Payment of Trust Account Deposits to the Clerk of the Allen County Superior and Circuit Courts**

**RELEASE OF CLERK FOR PAYMENT OF TRUST ACCOUNT DEPOSITS TO THE CLERK OF ALLEN COUNTY SUPERIOR AND CIRCUIT COURTS:**

Please be advised that \_\_\_\_\_, an employee of our law firm, is authorized to obtain trust account deposits at the Allen County Clerk’s office in the name of his/her employer. The law firm fully releases the Clerk of the Allen Superior and Circuit Court and all employees, of the Clerk for paying any such funds by check, naming the employer as payee to above named employee, unless we have previously notified you in writing that such employee’s authority to act on behalf of our law office has been terminated.

Law Firm of: \_\_\_\_\_ By \_\_\_\_\_  
Attorney Name and #

STATE OF INDIANA, COUNTY OF ALLEN, SS:

Subscribed and sworn to before me, a Notary Public in and for said County and State,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

*Adopted as Superior Civil Appendix B, September 8, 2000, effective November 1, 2000.  
Renumbered as Superior and Circuit Civil Appendix B, and amended effective December 7,  
2006. Amended effective January 1, 2015.*

**FINAL PRE-TRIAL ORDER**

STATE OF INDIANA	)	IN THE ALLEN CIRCUIT/SUPERIOR COURT
	)	SS:
COUNTY OF ALLEN	)	CASE NUMBER:
	)	
PLAINTIFF __	)	
	)	FINAL
	)	PRE-TRIAL ORDER
vs.	)	
	)	
	)	
DEFENDANT __	)	

The parties submit this FINAL PRE-TRIAL ORDER:

- A. Jurisdiction.
- B. Status of the Record.
- C. Motions.
- D. Discovery.
- E. Contested Issues.
- F. Stipulations. (e.g. facts, liability, damages, admissibility of dispositions, capacity of parties.)
- G. Contentions of the Plaintiff(s).
- H. Contentions of the Defendant(s).
- I. Exhibits.
  - 1) Plaintiff(s) exhibits may include any or all of the following: (which have been numbered and submitted to Defendant(s) for examination):
  - 2) Defendant(s) exhibits may include any or all of the following: (which have been lettered and submitted to Plaintiff(s) for examination):
  - 3) The authenticity of all exhibits has been stipulated except the following:
  - 4) The relevancy and materiality of all exhibits has been stipulated except for the following:
- J. Witnesses.
  - 1) The names, addresses and telephone numbers of Plaintiff(s) witnesses are as follows:
  - 2) The names, addresses and telephone numbers of Defendant(s) witnesses are as follows:
- K. Order.
  - 1) Reasonable opportunity has been afforded counsel for corrections or additions prior to approval and signing by the Court. Subject to any corrections and additions that may be made as a result of the Status Conference with the Court, this Pre-Trial Order when filed with and approved by the Court before the commencement of the trial, shall control the course of the trial and may not be amended except by order of Court to prevent manifest injustice. All pleadings shall be deemed to be merged herein.

L. Settlement.

The parties have discussed settlement and are prepared to discuss the status of settlement negotiations with the Court.

M. Trial.

The trial will be to (Court) a (Jury). Length of the trial is \_\_\_\_ day(s). The Court has set the trial for \_\_\_\_\_.

Plaintiff(s)

By: \_\_\_\_\_

Defendant(s)

By: \_\_\_\_\_

Approved and made an Order of the Court, dated: \_\_\_\_\_.

\_\_\_\_\_  
JUDGE

*Adopted as Superior Civil Appendix C, September 8, 2000, effective November 1, 2000.  
Renumbered as Superior and Circuit Civil Appendix C, and amended effective December 7,  
2006.*

You have been selected as jurors and have taken an oath to well and truly try this case.

Keep an open mind. Do not make a decision about the outcome of this case until you have heard all the evidence, the arguments of counsel, and my final instructions about the law you will apply to the evidence you have heard.

Your decision must be based only on the evidence presented during this trial and my instructions on the law. Therefore, from now until the trial ends, you must not:

- Conduct research on your own or as a group,
- Use dictionaries, the Internet, computers, cell phones, laptops, tablets, or any other resource to gather any information about the issues, facts, or concepts that are in any manner related to this case,
- Investigate the case, conduct any experiments, or attempt to gain any specialized knowledge about the case, or
- Receive assistance in deciding the case from any outside source.

You also must not:

- Use laptops or cell phones in the courtroom or in the jury room while discussing the case,
- Consume any alcohol or drugs that could affect your ability to hear and understand the evidence,
- Read, watch, or listen to anything about this trial from any source whatsoever, including newspapers, radio, television, or the Internet,
- Listen to discussions among, or receive information from, other people about this trial, or
- Visit or view the scene of any event involved in this case, either in person or through the use of Google Maps, Google Earth, or any other internet mapping program. If you happen to pass by the scene, do not stop or investigate.

Finally, you must not:

- Talk to any of the parties, their lawyers, any of the witnesses, or members of the media. If anyone tries to talk to you about this case, you must tell the bailiff or me immediately.

You may discuss the evidence with your fellow jurors during the trial, but only in the jury room, and only when all of you are present. Even though you are permitted to have these discussions, you must not make a decision about the outcome of this case until your final deliberations begin. Until you reach a verdict, do not communicate about this case or your deliberations with anyone else.

In this age of instant electronic communication and research, I want to emphasize that in addition to not talking face to face with anyone else about the case, you must not communicate with anyone or post information about the case, or what you are doing in the case, by any means, including telephone, text messages, email, internet chat rooms, blogs, or social websites, such as Facebook, Twitter, Instagram, LinkedIn, YouTube, and the like.

You also must not Google or otherwise search for any information about the case, or the law that applies to the case, or the people involved in the case, including the parties, witnesses, lawyers, or Judge.

During the trial, you may tell people who need to know that you are a juror, and you may give them information about when you will be required to be in court. But you must not talk with them or others about anything else related to the case. After your service on this jury is concluded, you are free to talk with anyone about the case or do whatever research you wish. If you find it helpful, the Court can provide you with a note that you can furnish to anyone attempting to speak with you about your service here.

The Court recognizes that these rules and restrictions may affect activities that you would consider to be normal and harmless, and I assure you that I am very much aware that I am asking you to refrain from activities that may be very common and very important in your daily lives. That is why I want you to understand why these rules are so important. The law requires these restrictions to ensure the parties have a fair trial based on the evidence that each party has had an opportunity to address. If one or more of you were to get additional information from an outside source, that information might be inaccurate or incomplete, or for some other reason not applicable to this case, and the parties would not have a chance to explain or contradict that information because they would not know about it. That is why it is so important that you base your verdict only on information you receive in this courtroom.

Therefore, our law does not permit jurors to talk about the case with anyone except fellow jurors. The law also does not permit jurors to allow anyone to talk to them about the case. The reason for this is that only jurors are authorized to render a verdict. Only you have been found to be fair, and only you have promised to be fair—no one else has been so qualified.

Our law does not permit you to visit a place discussed in the testimony because you cannot be sure that the place is in the same condition as it was on the day in question. Also, even if it were in the same condition, once you go to a place to evaluate evidence in light of what you see there, you become a witness, not a juror. As a witness, you may now have an erroneous view of the scene that may not be subject to correction by either party. That is not fair.

Finally, our law requires that you not read or listen to any news accounts of the case, and that you not attempt to research any fact, law, or person related to the case. Your decision must be based solely on the testimony and other evidence presented in this courtroom. It would not be fair for you to base your decision on some reporter's view or opinion, or upon information that you acquire outside the courtroom from a source that cannot be challenged or cross-examined by the parties.

These rules are designed to help guarantee a fair trial, and our law accordingly provides for serious consequences if the rules are not followed. Any juror who violates these restrictions I have explained to you jeopardizes the fairness of these proceedings, and a mistrial could result that would require the entire trial process to start over. As you can imagine, a mistrial is a tremendous expense and inconvenience to the parties, the Court, and the taxpayers. If any juror is exposed to any outside information, or has any difficulty whatsoever in following these instructions, please notify the Court immediately. If any juror becomes aware that one of your fellow jurors has done something that violates these instructions, you are obligated to report that to the Court as well.

Additionally, if you hear or observe anything about this case outside this courtroom, whether inadvertently or otherwise, you must immediately inform the Court at the beginning of our next session. Do not discuss any of these things with your fellow jurors at any time.

I trust that you understand and appreciate the importance of following these rules and, in accord with your oath and promise, I know that you will do so.

*Adopted as Appendix D, effective January 1, 2015.*

**APPENDIX E            Questioning by the Court Concerning Use of Technology During Trial**

- Do any of you routinely use any of the following communication devices: cellular phone, PDA or other Blackberry device, laptop computer, iPad, or notebook?
- Do you have an email account?
- Do any of you have a Facebook, LinkedIn, Twitter, Instagram or similar social networking account?
- Would any of you have a problem refraining from using these technologies in any manner directly or remotely associated with this trial until the conclusion of the trial?

*Adopted as Appendix E, effective January 1, 2015.*

**APPENDIX F            Message Concerning Jury Service**

I am sending this message to you as instructed by Judge \_\_\_\_\_. I am now a sworn juror in a trial. I am under a court order not to read or discuss anything having to do with the trial, the parties or lawyers involved, or anything else concerning my jury service. Please do not send me any information about the case or my jury duty, and please do not ask me any questions or make any comments about the case or my jury duty. I will be following these rules for the length of the trial, which is expected to last approximately \_\_\_\_\_. I will send you another note when my jury duty is completed and I am no longer required to follow the court order.

*Adopted as Appendix F, effective January 1, 2015.*



**APPENDIX G          Statement of Compliance**

I agree that during the duration of the trial in \_\_\_\_\_, I will not conduct any independent research into any of the issues, facts, or concepts that are in any manner related to the trial or parties involved in this trial. I will not communicate with anyone about the issues or parties in this trial, and I will not permit anyone to communicate with me. I further agree that I will report any violations of the Court's instructions immediately.

*Adopted as Appendix G, effective January 1, 2015.*

## **APPENDIX H          Short Form Admonishment**

During the recess, you may discuss the case among yourselves only while you are all together in the jury room. Do not discuss the case under any other circumstance. You must not form or express any opinion or conclusion about the outcome of the case until it is finally submitted to you for your deliberations.

*Adopted as Appendix H, effective January 1, 2015.*

## **APPENDIX I            Long Form Admonishment**

During the overnight recess, do not discuss the case under any circumstance. You must not form or express any opinion or conclusion about the outcome of the case until it is finally submitted to you for your deliberations. During the recess, you must not use computers, laptops, cellular telephones, or other electronic communication devices or any other method to:

- investigate, conduct research, or otherwise gather information regarding either the facts of the case or any of the issues, facts, or concepts that are in any manner related to the trial;
- conduct experiments or attempt to gain any specialized knowledge about the trial or any of the issues, facts, or concepts that are in any manner related to the trial;
- receive assistance in deciding the case from any outside sources;
- read, watch, or listen to anything about the case from any source;
- listen to discussions among or receive information from other people about the case; or
- communicate with any of the parties, their lawyers, any of the witnesses, members of the media, or anyone else about the case, including by posting information, text messaging, emailing, or participating in Internet chat rooms, blogs, or social websites which could contain information about the case.

*Adopted as Appendix I, effective January 1, 2015.*

## **APPENDIX J      Questioning the Jury Following a Recess**

- Have you conducted any research into any of the issues, facts, or concepts that are in any manner related to this case?
- Have you listened to or seen any news articles about this case on the radio, television, internet, or in print?
- Did you engage in any independent investigation since the Court last released you?
- Did you talk or communicate with anyone about the case since the Court last released you?
- Have you permitted anyone to communicate about or discuss this case with you?
- Has anybody persisted in attempting to communicate about or discuss this case with you?
- Are you aware of any other jurors who may have either done their own research or communicated or talked with anyone about the case since the Court last released you?

*Adopted as Appendix J, effective January 1, 2015.*

# ALLEN CIRCUIT AND SUPERIOR COURT FAMILY LAW LOCAL RULES

Effective May 1, 2007

Including Amendments Received Through November 1, 2012

LR02-TR1-700	Application
LR02-TR4 -701	Summons
LR02-TR3.1-702	Appearances-Family
LR02-TR3.1-703	Withdrawal of Appearance and Termination of Attorney-Client Relationship
LR02-TR58-704	Preparation of Stipulated Court Orders
LR02-TR34-705	Copying Charges for a Non-Party
LR02-TR7-706	Motions
LR02-TR33-707	Interrogatories
LR02-TR30-708	Opening Filed Depositions
LR02-TR37-709	Resolution of Discovery Disputes
LR02-TR26-710	Financial Declaration Form
LR02-TR26-711	Provisional Orders and Modification of Support
LR02-TR26-712	Exchange of Appraisals: Mandatory Discovery
LR02-TR47-713	Juries
LR02-TR43-714	Exhibits
LR02-TR42-715	Multiplicity of Dissolution of Marriage Actions
LR02-TR58-716	Duties of Attorneys
LR02-TR4-717	Alternate Service
LR02-FL00-718	Attorney Fees
LR02-TR65-719	Temporary Restraining Orders
LR02-TR65-720	Motions Alleging Emergencies
LR02-TR65-721	Orders for Protection
LR02-TR16-722	Case Management
LR02-TR73-723	Hearings
LR02-TR53.5-724	Continuances
LR02-FL00-725	Appointment and Duties Guardian Ad Litem in DR and JP Cases
LR02-TR35-726	Custodial Evaluation
LR02-FL00-727	Adoption of Family Court Rules
LR02-FL00-728	Family Court Definitions
LR02-FL00-729	Exercise of Jurisdiction
LR02-FL00-730	Concurrent Hearings
LR02-FL00-731	Designation of Family Court and Change of Judge for Cause
LR02-FL00-732	Judicial Notice and Access to Records
LR02-FL00-733	Alternative Dispute Resolution
LR02-FL00-734	Pending Criminal Domestic Violence Litigation Disclosure
LR02-FL00-735	Transitional and Problem Solving Parenting Classes
LR02-JV00-736	Children in Need of Services Preliminary Inquiry Hearings Procedure
LR02-JV00-737	Children in Need of Services Facilitation of Initial Hearings and Dispositional Hearings
LR02-DR00-738	Adoptions
LR02-JV00-739	Allen County Juvenile Justice Center Superior Court Paternity Procedures
LR02-JV00-740	Juvenile Delinquency Proceedings

**LR02-TR1-700      Application**

Unless otherwise specifically provided herein, these local rules shall apply to Allen Superior and Circuit Court cases involving family law matters (DR, JP, JD, JC, JS, JM, RS and AD case file types).

*Adopted effective May 1, 2007.*

**LR02-TR4-701      Summons**

In all relevant family law matters, the initiating party shall use a form of summons that includes all required information as set out in Trial Rule 4(C).

*Adopted effective May 1, 2007.*

**LR02-TR3-1-702      Appearances**

In addition to that information required by Trial Rule 3.1 and 11, and specifically pursuant to Trial Rule 3.1(A)(7), all parties are required to provide the following information so that Court personnel may identify those cases that may be suitable for treatment as a Family Court Proceeding: Whether the party, the party's children, or the other parent of the party's children have pending in any jurisdiction a case involving child custody, parenting time (visitation), child support, divorce, paternity, juvenile delinquency, child abuse or neglect, domestic violence or adoption.

*Adopted effective May 1, 2007.*

**LR02-TR3.1-703      Withdrawal of Appearance and Termination of Attorney-Client Relationship**

**1. Procedure for Withdrawal.** Unless otherwise ordered by the Court, a motion to withdraw appearance shall be in writing and filed with the Court only after the withdrawing attorney has given the client at least ten (10) days written notice of the intention to withdraw. The notice shall be sent to the client by first class mail to the client's last known address. Pursuant to Trial Rule 3.1 € , the attorney shall certify in the motion the last known address and telephone number of the client, subject to the confidentiality provisions of Trial Rule 3.1 (A) (8) and (D). A copy of the written notice shall be filed with the motion unless another attorney has filed a written appearance on behalf of the client. After a case has been assigned to a judicial officer, any motion to withdraw appearance shall only be ruled upon by the judicial officer to whom the case has been assigned.

**2. Contents of Notice.** Any notice of intention to withdraw shall include an explanation to the client as follows:

- (1) the present status of the case;
- (2) the date or dates of scheduled hearings and any other pending matters;
- (3) advice that after withdrawal of counsel, the client must keep the Court advised of the client's mailing address and telephone number.
- (4) the expectation of the Indiana common law that, as an unrepresented party, the client will be held to the same standard of conduct as an attorney licensed to practice in the State of Indiana; and;
- (5) that the client should act promptly to secure new counsel;

**3. Automatic Withdrawal.** After the entry of a final Decree or Order that resolves all pending issues, each attorney shall be deemed to have withdrawn his or her appearance upon the occurrence of one of the following events:

3.1 The expiration of time within which an appeal of such Decree or Order may be preserved or perfected pursuant to the Indiana Rules of Trial Procedure and/or the Indiana Rules of Appellate Procedure if no appeal is filed; or

3.2 The conclusion of any appeal of such Decree or Order commenced pursuant to the Indiana Rules of Trial Procedure and/or the Indiana Rules of Appellate procedure, provided the Trial Court is notified in writing that the appeal is concluded.

**4. Subsequent Filings and Notices.** After withdrawal of an attorney's appearance made in the conformity of these rules, the service of any motion, pleading, or notice of hearing upon any party shall be made upon that party pursuant to Trial Rule 5. A copy of any pleading, motion, or notice of hearing served upon previous counsel who has withdrawn or is deemed to have withdrawn under this Rule shall be considered a matter of professional courtesy only, and represented party.

*Adopted effective May 1, 2007.*

#### **LR02-TR58-704      Preparation of Stipulated Orders**

(1) If the parties reach an agreement on any or all issues, the terms of that agreement shall be set out in a written document signed by the parties and/or their counsel, if any. If the State of Indiana has intervened in a case or if a guardian ad litem has been appointed in a case, the State of Indiana or guardian ad litem are parties for purposes of consistency to any such agreement. The agreement shall conspicuously inform the Court whether the hearing set upon the issue(s) (noting the date and time of the hearing) should or should not be removed from the Court calendar, or that no hearing is set upon the issue(s). The signed agreement shall be filed with the Court, submitted with a separate proposed Order that includes the relevant portions of the signed agreement in imperative form. The proposed Order shall include instructions regarding the distribution and delivery of the Order; pursuant to Trial Rule 72(D).

(2) Any party submitting a proposed Order, Decree, or Marital Settlement Agreement to the Court for approval, must submit an original and at least four (4) copies of each document.

*Adopted effective May 1, 2007.*

#### **LR02-TR34-705.      Copying Charges for a Non-party**

(1) If a non-party to a case provides documents in response to a Trial Rule 34(C) request for production of documents a charge of \$.25 per page shall be presumed reasonable. If the non-party assesses a labor charge under subsection (2), the non-party may not charge for the first ten (10) pages of requested documents.

(2) A non-party may collect a \$15.00 labor charge in addition to per page charge allowed under subsection (1).

*Adopted effective May 1, 2007.*

**LR02-TR7-706      Motions**

(1) It is the responsibility of the party that files a motion to schedule the motion for hearing on the Court's calendar. If the parties agree that the Court should rule on the motion without a hearing, then the parties shall file a stipulation requesting the Court to rule on the motion without a hearing.

(2) If a motion is set for hearing, notice of the hearing shall be given within the time limits provided by Trial Rule 6(D). Any written response to a motion set for hearing shall be filed within the time limits provided in Trial Rule 5(A), unless the hearing is set within ten days or less from the date the motion was filed, in which case the response may be filed at or before the hearing. Any other pending motion or motions may be heard at the same time as the previously scheduled motion, if time permits, and subject to notice of hearing being served on the opposing party or parties pursuant to the provisions of Trial Rule 6(D).

*Adopted effective May 1, 2007.*

**LR02-TR33-707      Interrogatories**

(1) Interrogatories shall be tailored specifically to the cause in which they are served and numbered consecutively to facilitate response.

(2) A party who has been served with interrogatories may file a motion to strike specific interrogatories as excessive, oppressive or repetitive, after fully complying with Trial Rule 26(F). The motion shall be set for hearing and does not serve to extend the time for answering interrogatories which are not in dispute.

(3) Answers and objections to interrogatories under Trial Rule 31 or 33 shall set forth in full the interrogatories being answered or objected.

*Adopted effective May 1, 2007.*

**LR02-TR30-708      Opening Filed Depositions**

Unless otherwise ordered by the Court, the Clerk, at any time after a deposition is filed, shall open such deposition upon request of the Court, a member of the Court's staff, or a party or his attorney, after first endorsing on the back thereof, the name of the person at whose request the deposition is opened and the date of opening.

*Adopted effective May 1, 2007.*

**LR02-TR37-709      Resolution of Discovery Disputes**

(1) The Court will strictly enforce the informal resolution of discovery disputes in accordance with Trial Rule 26(F). The Court may deny any discovery motion filed pursuant to Trial Rule 27 through 37, if the party filing the motion has not complied with the requirements of Trial Rule 26(F).

(2) Upon strict compliance with Trial Rule 26(F), the Court may compel or limit discovery or enter any appropriate sanction, or may set the matter for hearing upon the Court's summary or other appropriate calendar.

*Adopted effective May 1, 2007.*



## **LR02-TR26-710 Financial Declaration Form**

**1. Requirement.** In all relevant family law matters, (except support matters enforced by the State), including dissolution, separation, paternity, post-decree and support proceedings (excepting provisional hearings), the parties shall simultaneously exchange Financial Declaration Forms seven (7) days prior to any hearing. The Financial Declaration Form shall be submitted to the Court during the hearing. The Financial Declaration Forms shall be in a format approved by the Court. These time limits may be amended by the Court for good cause shown.

**2. Exceptions.** The Financial Declaration Form need not be exchanged or filed if:

- 2.1 The Court approves the parties' written agreement to waive the exchange;
- 2.2 The parties have executed a written agreement that settles all financial issues;
- 2.3 The proceeding is one in which the service is by publication and there is not response; or,
- 2.4 The proceeding is post-decree and concerns issues without financial implications.

**3. Admissibility.** Subject to specific evidentiary challenges, the Financial Declaration Form shall be admissible into evidence during the hearing. The submission of the Financial Declaration Form shall not prohibit any other relevant discovery permitted under the Indiana Rules of Trial Procedure.

**4. Financial Declaration – Mandatory Discovery.** The exchange of Financial Declaration Forms constitutes mandatory discovery, and Trial Rule 37 sanctions are applicable. Additionally, pursuant to Trial Rules 26(E) (2) and (3), the Financial Declaration Form shall be supplemented if additional information becomes available.

*Adopted effective May 1, 2007.*

## **LR02-TR26-711 Provisional Orders and Modification of Support**

At least three (3) business days before a scheduled hearing regarding provisional orders of modification of child support (except support matters enforced by the State), each party shall deliver to all parties to the case the following materials:

- (1) Their three (3) most recent pay stubs for all employers;
- (2) Their most recent W-2s, 1099s, and federal income tax returns with all schedules and attachments;
- (3) Documentation regarding work related child care expenses;
- (4) Documentation regarding health insurance premiums;
- (5) Documentation regarding child support orders for other children;
- (6) Proposed Child Support Obligation Worksheets; and
- (7) Any exhibit or document that each party intends to submit to the Court.

*Adopted effective May 1, 2007.*

## **LR02-TR26-712 Exchange of Appraisals: Mandatory Discovery**

At least sixty (60) days prior to the final hearing the parties shall exchange copies of all real estate and personal property appraisals that will be offered into evidence at the final hearing.

*Adopted effective May 1, 2007.*

**LR02-TR47-713      Juries**

If a jury is required in a family law matter, the local rules for civil practice in Allen County regarding jury practice and management shall govern.

*Adopted effective May 1, 2007.*

**LR02-TR43-714.      Exhibits**

- (1) After being marked for identification, exhibits that are offered or admitted into evidence shall be placed in custody of the Court Reporter unless otherwise ordered by the Court.
- (2) After a case is decided and no appeal is taken, or after all appeals are exhausted, an attorney may request in writing the return of the exhibits which are the property of their client. A detailed receipt shall be filed by the Court Reporter evidencing the return of any exhibits. If no request is made within 90 days after the above stated period, the Court Reporter may, with Court approval, dispose of the exhibits.

*Adopted effective May 1, 2007.*

**LR02-TR42-715.      Multiplicity of Dissolution of Marriage Actions**

In its discretion, the Court may continue a hearing in any action for dissolution of marriage until all other cases for dissolution of marriage pending between the same parties in any Court have been dismissed.

*Adopted effective May 1, 2007.*

**LR02-TR58-716.      Duties of Attorneys**

- (1) Counsel shall prepare proposed orders as may be required by the Court, such as orders granting or denying routine motions and agreements.
- (2) Proposed orders and proposed findings of fact and conclusions of law shall be served upon the opposing party or counsel, consistent with Trial Rule 5.
- (3) Counsel of record shall keep themselves informed of all action and filings made in all matters pending before the Court.
- (4) All proposed Qualified Domestic Relations Orders (QDRO) shall be signed by all parties or their attorneys, and when possible pre-approved by the Plan Administrator. Any dispute regarding a proposed QDRO shall be set for hearing upon request of a party.

*Adopted effective May 1, 2007.*

**LR02-TR4-717.      Alternate Service**

- (1) This rule shall apply only to the service of papers regarding matters under the jurisdiction of the Court.
- (2) All notices, orders, pleadings, process, or other communications from the Court or Clerk to attorneys shall be deemed served upon deposit in the box assigned to said attorney, provided a consent to such alternate service is on file with the Court Executive/Administrator.

- (3) All notices, orders, pleadings, process or other communication between attorneys may be served by deposit in the box assigned to the receiving attorney, provided a consent to such alternate service is on file with the Court Executive/Administrator.
- (4) Such alternate service shall constitute and be accepted as personal service.
- (5) Trial Rule 6(E) shall apply to all alternate service allowing the receiving party a three day time extension for response or compliance thereto.

*Adopted effective May 1, 2007.*

**LR02-FL00-718. Attorney Fees**

- (1) All requests for attorney fees shall be presented to the Court by way of affidavit or oral testimony, as the Court allows. The affidavit shall be admitted into evidence subject to cross-examination. In addition the affidavit shall have attached to it a billing statement which includes an itemization of services, the total fee for the services, payments received for the services, and the account balance.
- (2) In assessing preliminary attorney fee awards, the Court may determine the award by comparing the gross incomes of the respective parties and such other financial and non-financial matters as the Court deems appropriate.
- (3) An award of additional preliminary attorney fees, expert witness fees, and similar expenses may be granted upon proof of extensive discovery, significant negotiations, preparation of more than the usual number of documents, the preparation for or the conduct of contested preliminary matters or final hearings, the complexity of the case or other factors necessitating such an award.
- (4) The Court may enter an order making funds available for payment of preliminary attorney fees, while reserving for trial whether such an order represents either an award against a party or advancement in favor of the requesting party.
- (5) In contempt matters where attorney fees are requested, counsel shall provide the Court with appropriate evidence of time, services and value rendered as part of the fee request. Said evidence may be made by affidavit.

*Adopted effective May 1, 2007.*

**LR02-TR65-719. Temporary Restraining Orders**

**(1) Temporary Restraining Order-Marital Property**

Upon the filing of a verified petition for dissolution of marriage or verified petition for legal separation, the Court will issue the following temporary restraining order with respect to marital property:

Petitioner and Respondent are both enjoined from transferring, encumbering, concealing, selling or otherwise disposing of any joint property of the parties or asset of the marriage except in the usual course of business or for the necessities of life, without the written agreement of both parties or the permission of the Court.

**(2) Temporary Restraining Order-Relocation of Children**

Upon the filing of a verified petition for dissolution of marriage or verified petition for legal separation, the Court will issue the following temporary restraining order with respect to the relocation of children from the marriage:

Petitioner and Respondent are both enjoined from removing any child of the parties then residing in the State of Indiana from the State with the intent to deprive the Court of jurisdiction over such child without the prior written consent of all parties or the permission of the Court.

### **(3) Preparation of Temporary Restraining Order**

At the time if the filing of a verified petition for dissolution of marriage or verified petition for legal separation, Petitioner or Petitioner's counsel shall submit to the Court a proposed temporary restraining order for issuance by the Court. The proposed order shall be in a format that has been approved by the Court.

### **(4) Request for Hearing**

Any party may file a motion for modification or termination of a temporary restraining order issued by the Court pursuant to this Rule. A motion for modification or termination of a temporary restraining order will be given an expedited hearing by the Court.

*Adopted effective May 1, 2007.*

## **LR02-TR65-720 Motions Alleging Emergencies**

(1) Trial Rule 65(B)(1) and (2), and current case law, including *In Re: Anonymous*, 726 N.E.2d 566 (Ind.2005), shall govern all motions alleging an emergency where Court action is sought without notice. Strict construction and application of Trial Rule 65(B) shall be required.

(2) Emergency relief may also be sought upon notice. The Court will review such motions and may set them upon summary hearing or other expedited calendar.

*Adopted effective May 1, 2007.*

## **LR02-TR65-721 Orders For Protection**

(1) A Petition For An Order For Protection And Request For A Hearing shall be filed in the Allen Superior Court Small Claims Division.

(2) Pursuant to I.C.34-26-5-6 (4), If a person who petitions for an ex parte order for protection also has a pending case involving:

1. the respondent; or
2. a child of the petitioner and respondent;

the Court that has been petitioned for relief shall immediately consider the ex parte petition and then transfer the Protective Order case to the Court in which the other case is pending.

(3) The Protective Order cause of action shall be maintained with the pending JP, DR, JC, JT, JS, JM, RS or JD cause of action. However, the cases are not consolidated.

(4) All pleadings, hearings, and orders pertaining to a Protective Order shall be in the Protective Order cause of action. An attorney who also represents a party in a related Family Law case must file a separate written appearance in the Protective Order case.

*Adopted effective May 1, 2007.*

## **LR02-TR16-722. Case Management**

(1) An initial Case Management Conference (CMC) shall be set in every case where at least one-half day of trial is sought. When either party requests a Case Management Conference, the CMC shall typically be scheduled to occur within 30 days of the request. Absent leave of Court, trial dates for those matters of at least one-half day will not be assigned until after the CMC is held and after mediation had occurred. Trial dates for such cases will be assigned at a Pre-Trial Conference (PTC).

- (2) At the Case Management Conference, the Court will address and very likely order mediation, discuss family law arbitration, inquire of the matters at issue, discuss discovery, and schedule a Pre-Trial Conference. Absent leave of Court, mediation must occur before the PTC is conducted.
- (3) Should the case not be resolved at mediation, then at the PTC, the Court will inquire of the matters at issue, schedule primary and/or secondary trial dates, schedule a Final PTC, and establish discovery and other deadlines.
- (4) Hearings requiring less than one-half day may be set upon request without a CMC. However, if the case involves matters where mediation is required regardless of the length of the hearing, such as one involving any issue concerning parenting time (e.g., parenting time modification, custody modification, contempt regarding parenting time, child support modification where the number of overnights is an issue) mediation must occur prior to the hearing unless prior leave of Court is otherwise obtained. When mediation is required for hearings of less than one-half day, the moving party shall also file a motion for mediation prior to, or with the notice of hearing.
- (5) Case Management Conferences may be set in any matter and at any procedural phase if helpful to assist the parties and the Court in efficient management of the case. Parties represented by counsel need not personally appear at the CMC or PTC unless otherwise ordered by the Court. The party requesting the CMC shall submit a "Notice of Case Management Conference" (similar to a Notice of Hearing) when requesting the date for the CMC.
- (6) Cooperative Divorce. Parties formally engaging in the Cooperative Divorce process shall be provided priority settings for Case Management Conferences and will be afforded other such procedural assistance as appropriate to assist in expediting their cooperative process.

*Adopted effective May 1, 2007.*

### **LR02-TR73-723. Hearings**

- (1) Hearings will be limited to the time scheduled on the calendar, and it shall be the responsibility of the moving party to ensure adequate time is reserved for the completion of the hearing. Should the parties be unable to complete the hearing within the scheduled time, the hearing will be continued and reset on the calendar, unless otherwise directed by the Court. In the event a party files subsequent motions after the matter is set for hearing, will be heard only if time permits. If time does not permit the subsequent motions to be heard, the motions shall be reset.
- (2) Not all family relations hearings are electronically recorded. It is the parties' responsibility to request an electronic recording if they desire the same. Absent such a request, the recording might not be made.
- (3) At a hearing for provisional orders, a party may elect to present evidence in a summary manner or by direct testimony. If evidence is presented in a summary manner, then the party presenting the evidence shall be sworn under oath and verify the representations made by counsel. The rules of evidence with respect to hearsay shall apply unless waived by the parties. If an attorney makes a representation by an individual who is not a party during a summary presentation of evidence, that individual must be present to verify the statement. At a provisional order hearing each party shall be allotted one-half of the total hearing time, with the initiating party having the right to reserve a portion of their allotted time for rebuttal.
- (4) Protective Order hearings shall not be heard in summary manner absent leave of Court. However, Protective Order hearings must be concluded in the time allotted. The Court may set parameters to ensure the timely conclusion of the hearing.

(5) Subject to approval by the Court, the parties by agreement may present evidence at any hearing in a summary manner consistent with the procedures used for a provisional orders hearing.

*Adopted effective May 1, 2007.*

#### **LR02-TR53.5-724. Continuances**

A Motion to Continue a hearing, unless made orally at the commencement of a trial, shall be in writing, shall state with particularity the grounds, shall recite whether the other party objects or consents to the motion, and shall be verified, and shall be served upon opposing counsel or pro se party. When opposed, such motion shall be scheduled on the calendar by the moving party for argument. If the verified motion provides that the date of the hearing sought to be continued was not cleared on the calendar of all attorneys of record at the time of scheduling, the motion may be granted without a hearing.

*Adopted effective May 1, 2007.*

#### **LR02-FL00-725. Appointment and Duties of Guardian Ad Litem in DR and JP Cases**

**1. Definition of Guardian Ad Litem.** An individual appointed by the Court pursuant to I.C. 31-15-6-1; I.C. 31-17-6-1 or by Order of the Court. See also I.C. 31-9-2-50.

**2. Appointment.** When the Court is required by statute, or when the Court, in its discretion, finds that it is appropriate to do so, the Court shall appoint a guardian ad litem. The guardian ad litem shall be a party to the proceeding.

**3. Duties.** The guardian ad litem's duties shall include:

3.1 Performance of all duties required by law, which include to represent and protect the best interests of the child(ren); and

3.2 When possible, submit a written report of the guardian ad litem's findings and recommendations to the Court prior to the matter being heard by the Court. The attorneys and pro se litigants shall receive a copy of the report in accordance with Trial Rule 5.

**4. Fees** All guardian ad litem fees must be submitted to the Court for approval. The Court may order the parties to pay a retainer to the guardian ad litem to be held in trust pending approval of guardian ad litem fees. The amount of the retainer and allocation of payment between the parties shall be determined by the Court based upon all relevant factors. The Court may order an additional retainer or fees to be paid by the parties to the guardian ad litem during the pendency of the case, and the Court may reallocate the parties' share of the total guardian ad litem fees at the conclusion of the case or other appropriate time.

**5. Term of Service** The guardian ad litem shall serve until discharged by Court order. The guardian ad litem may at anytime petition for removal from service. The parties may also petition for removal of the guardian ad litem. It shall be within the Court's discretion whether just cause exists for such removal.

*Adopted effective May 1, 2007.*

**LR02-TR35-726. Custodial Evaluation**

(1) When a custodial evaluation is ordered by the Court, the Court shall direct the parties to fully cooperate with the custodial evaluator, and contact the custodial evaluator to arrange for the evaluation appointment(s).

(2) A custodial evaluator shall be deemed to be appointed pursuant to I.C. 31-17-2-10, unless otherwise ordered by the Court.

*Adopted effective May 1, 2007.*

**LR02-FL00-727. Adoption of Family Court Rules**

Adoption of Family Court Rules of the Indiana Supreme Court are adopted as a whole by the Allen Superior Court and the Allen Circuit Court and shall be applicable to all cases designated as a Family Court Proceeding in the Family Court. Cases pending before the Allen Superior Court Criminal Division are not bound by Family Court Rules.

*Adopted effective May 1, 2007.*

**LR02-FL00-728. Family Court Definitions**

**1. Family Court.** “Family Court” is the court or courts before which cases involving a family or household are linked together for purposes of case coordination. The individual cases maintain their separate integrity and separate docket number, but may be given a common Family Court designation. The individual cases may all be transferred to one judge, or may remain in the separate courts in which they were originally filed.

**2. Family Court Proceeding.** A “Family Court Proceeding” is comprised of the individual cases of the family or household which have been assigned to Family Court.

*Adopted effective May 1, 2007.*

**LR02-FL00-729. Exercise of Jurisdiction**

With the consent of the judge presiding over each affected case, the Family Court may exercise jurisdiction over any case involving the family at the same time it exercises jurisdiction over a juvenile case (Child In Need of Services, Delinquency, Status and Paternity) involving the family.

*Adopted effective May 1, 2007.*

**LR02-FL00-730. Concurrent Hearings**

With the consent of the judge presiding over each affected case, the Family Court may, in the Court’s discretion, set hearings on related cases to be heard concurrently, take evidence on the related cases at these hearings, and rule on the admissibility of evidence for each cause separately as needed to adequately preserve the record for appeal. This rule applies only when the cases are pending before the same judicial officer.

*Adopted effective May 1, 2007.*

**LR02-FL00-731. Designation of Family Court and Change of Judge for Cause**

- (1) Once notice is sent to the parties that a case has been selected for Family Court, no motion for change of venue from the judge may be granted except to the extent permitted by Indiana Trial Rule 76.
- (2) Within ten (10) days after notice is sent that a case has been selected for Family Court, a party may object for cause to the Family Court designation.
- (3) A motion for change of venue from the judge in any matters arising in the Family Court proceeding or any future cases joined in the Family Court Proceeding after the initial selection of cases, shall be granted only for cause.
- (4) If a special judge is appointed, all current and future cases in the Family Court Proceeding may be assigned to the special judge.

*Adopted effective May 1, 2007.*

**LR02-FL00-732. Judicial Notice and Access to Records**

- 1. Notice of Case Assignment.** Within a reasonable time after a case is assigned to Family Court the Court shall provide to all parties in the Family Court proceeding a list of all cases that have been assigned to the Family Court proceeding.
- 2. Judicial Notice.** Any Court having jurisdiction over a case assigned to Family Court, may take judicial notice of any relevant orders or Chronological Case Summary (CCS) entry issued by any Indiana Circuit, Superior, County, or Probate Court. If a Court takes judicial notice of: a Court Order, the Court shall provide a copy of that Court order; or a CCS or CCS entry(s), the Court shall provide a copy of the entire CCS. The Court shall provide copies of the order or CCS to the parties to the case at or before the time judicial notice is taken.
- 3. Access to Records.** Parties to a Family Court Proceeding shall have access to all cases within the Family Court Proceeding, with the exception of confidential cases or records to which they are not a party. Parties may seek access to the confidential cases or records in another case within the Family Court Proceeding in which they are not a party, by written petition based on relevancy and need. Confidential records shall retain their confidential status and the Family Court shall direct that confidential records not be included in the public record of the proceedings.

*Adopted effective May 1, 2007.*

**LR02-FL00-733. Alternative Dispute Resolution**

- (1) If a case pending before the Court involves parenting time issues, the Indiana Parenting Time Guidelines require mediation unless otherwise ordered by the Court.
- (2) In all family relations cases the parties shall participate in the mediation prior to scheduling any matter requiring a hearing of one half day or longer, unless otherwise ordered by the Court.
- (3) Consistent with A.D.R. Rule 2.2, any party may file a motion for mediation at any time.
- (4) The parties are encouraged to stipulate to the selection of a mediator. If the parties are unable to do so, the Court shall appoint the mediator, or the Court shall name a panel of three from the Court's approved mediation list, from which the parties shall strike, with the moving party striking first, and the entire selection process to be completed within 30 days.



(5) The Indiana Rules for Alternate Dispute Resolution shall apply in all respects to all family law mediation.

(6) Unless otherwise agreed by the parties, or ordered by the Court, the mediator's fee shall be allocated between the parties on a income shares model basis. In the event of settlement within three (3) days of the scheduled mediation date, the mediator may charge a fee for two (2) hours of time. Each party shall pay their portion of the mediation fees and costs within thirty (30) days after the close of mediation. If a party fails to appear for the mediation or fails to participate in good faith during mediation, the entire cost of the mediation may be assessed against that party.

*Adopted effective May 1, 2007.*

**LR02-FL00-734. Pending Criminal Domestic Violence Litigation Disclosure**

Prior to any hearing or within thirty (30) days after service of a petition seeking relief in a family law matter, whichever shall first occur, each party shall file a written disclosure of any criminal proceedings pending against them as well as any pending civil proceedings in which allegations of spousal abuse, child abuse or domestic violence have been made against either or both parties. The written disclosure shall include the name and location of the Court in which the case is pending, the case number, the names of the parties involved and a brief summary of the nature and procedural status of the other legal proceeding.

*Adopted effective May 1, 2007.*

**LR02-FL00-735. Transitional and Problem Solving Parenting Classes**

It is in the best interest of minor children for the Court to encourage cooperation and conciliation between parents. In all dissolution of marriage and legal separation proceedings involving children under the age of seventeen (17) years, each party shall be ordered to attend Court approved educational programs which are designed to teach effective parenting and parent communication skills unless Court waives the request upon good cause being provided to the Court.

In all paternity proceedings involving children under the age of seventeen (17) years, each party may be ordered to attend Court approved educational programs which are designed to teach effective parenting and parent communication skills. Each party who has been ordered to attend such a program must file a Certificate of Completion with the Court.

Information concerning the name and location of the Court approved organizations providing these classes can be obtained from the Court.

Failure to comply with this rule may subject the non-complying party to Contempt of Court proceedings and other appropriate sanctions.

*Adopted effective May 1, 2007.*

**LR02-JV00-736. Children in Need of Services-Preliminary Inquiry Hearings**

**Procedure** – In all cases in which the court is to determine whether to authorize a petition, the court shall conduct a hearing to consider the preliminary inquiry and evidence of probable cause to believe a child is a child in need of services. If probable cause is found and a petition is authorized, the court shall schedule an Initial Hearing and order the parties to participate in facilitation. From the evidence and reports presented the court shall:

Enter an order for the detention of the child or to release the child to the child's parent, guardian or custodian under the supervision of the Department of Child Services;  
Consider and determine whether to enter a provisional order for the care, treatment and rehabilitation of the child, the parent, guardian, and/or custodian;  
Determine whether the child and/or the parent, guardian, and/or custodian should be ordered to complete a mental health assessment and/or psychological evaluation;  
Determine whether the child and/or the parent guardian, and/or custodian should be referred for services through the court's Mental Health Specialty Track; and,  
Enter findings as to whether the state has made reasonable efforts to prevent the removal of the child from the home or whether exigent circumstances precluded the opportunity to provide services to the parent, guardian or custodian.  
**Facilitation** – At the Court's discretion, the court may order that a preliminary hearing be first addressed in facilitation in the manner as set forth herein.

*Adopted effective May 1, 2007.*

### **LR02-JV00-737. Children in Need of Services – Facilitation of Initial Hearings and Dispositional Hearings**

**Facilitation** – Immediately preceding the Initial Hearing on a petition to adjudicate a child to be a child in need of services, or at a time otherwise directed by the court, a facilitation shall be conducted.

**Facilitation defined** – Facilitation is a confidential process in which a neutral third person, appointed by the court, acts to encourage and to assist the parties in achieving a non-adversarial resolution to the allegations set forth in the petition alleging the child to be a child in need of services. The facilitator assists the parties in problem identification and resolution. During the facilitation process, the parties may agree to orally amend the allegations of the petition and the terms of the proposed plan for parent participation. The facilitator will assist the parties in resolving issues regarding the child's placement; the plan for visitation by the parent, guardian, and/or custodian; the responsibilities, duties and requisite services for the family's care, treatment and rehabilitation; the roles of other individuals in the family's rehabilitation; and other matters relative insuring the child's protection and best interests.

**Participants to the facilitation** – The parent, guardian and/or custodian; the attorney representing the parent, guardian, and or custodian; the guardian ad litem or court appointed special advocate; the county Department of Child Services shall participate in the facilitation process. The child shall attend the facilitation if the child's guardian ad litem or court appointed special advocate believes it is in the child's best interests to attend and believes the child to be of suitable age and maturity to participate. The child's relatives; the foster parent; persons providing support for the parent, guardian or custodian; and/or other persons who have significant or caretaking relationships to the child may be in attendance at the facilitation unless excluded by the court. Facilitations are not otherwise open to the public except as may be approved by the court for the purposes of training or research.

**Facilitation Procedure** – All cases pending an Initial Hearing shall be first submitted for facilitation.

All parties are required to mediate the issues in good faith but are not compelled to reach an agreement.

The facilitator shall first determine whether the parties named in the petition have been apprised of their rights. Any request for the appointment of pauper counsel shall be completed in writing on a form prescribed by the court and submitted to a judge or magistrate for a ruling prior to the start of the facilitation.

The facilitator shall explain the process and identify the issues that are to be discussed in facilitation.

Each allegation of the petition alleging the child to be a child in need of services shall be reviewed. Parties shall be given an opportunity to explain their position with regard to each allegation. Where appropriate and, by agreement of the parties, the allegation may be amended. Once the petition is facilitated, the facilitator shall assist the participants in determining the nature and types of services in which the child or parent, guardian, custodian, or other person should be required to participate. Agreements reported to the court following facilitation must be based on the autonomous decisions of the parties and not the decisions of the facilitator.

The facilitator shall orally present the facilitation report to the court at the Initial Hearing and, if appropriate, the Dispositional Hearing. The report shall include a recitation of the parties' respective admissions and denials to the allegations of the petition, the parties' agreement for provisional orders, parent participation plan and/or dispositional decree and a statement of unresolved issues.

At the Initial Hearing, the court will confirm with the parties and the participants the terms of the facilitated agreement. The Court may adopt the parties' agreement as orders of the court if it determines the agreement is in the best interests of the child. Issues that are not resolved through facilitation or not adopted as an order of the court may be referred back by the court for additional facilitation, may be resolved by order of the court based on a summary presentation, or may be scheduled by the court for a subsequent hearing or fact finding.

The rules of evidence do not apply in facilitation.

**Termination of Facilitation** – The facilitator may terminate facilitation whenever the facilitator believes that continuation of the process would harm or prejudice the child or one or more of the parties. The facilitator may bifurcate the process whenever the facilitator determines that due to a party's history of domestic violence would impede another party's ability to openly discuss issues should the other person be present.

**Confidentiality** – Statements and issues discussed in facilitation are confidential and may not be used as statements against interest or otherwise against a party in any Initial Hearing, fact finding, or pending or impending civil or criminal trial unless consent by the declarant is given. Facilitators shall not be subject to process requiring the disclosure of any matter discussed during the facilitation, but rather, such matter shall be considered confidential and privileged in nature. The confidentiality requirement may not be waived by the parties, and an objection to the obtaining of testimony or physical evidence from facilitation may be made by any party or by the facilitators.

**Qualification of Facilitators** – All facilitators shall be appointed by the court. In determining the appointment of a facilitator, the court may require the following training to be completed: A series of court-approved classes or seminars on the principles of Family Group Decision Making and/or dependency mediation as offered by the court, the American Humane Association, model courts designated by the National Council of Juvenile and Family Court Judges; or dependency mediation courses that may be offered by the Association of Family and Conciliation Courts;

Classes or seminars on the law governing children in need of services;

Classes or seminars on issues related to poverty, racial and cultural diversity, strength based practices, and positive youth development; and,

In addition to the foregoing, the court may require a facilitator to complete Alternative Dispute Resolution training as set forth in Alternative Dispute Resolution Rule 2.5

**Appointment of Pauper Counsel** – Any party requesting appointment of paper counsel in any case shall complete a questionnaire prescribed by the court that requests information regarding the applicant’s employment, earnings, financial resources, education, training, age, family composition, disabilities, or other information necessary for the court to consider the applicant’s eligibility for the appointment of pauper counsel. After considering the complexities of the factual and legal issues in this case, the likelihood of the applicant’s ability to prevail on the merits of the case, the ability of the applicant to investigate and present the applicant’s claims and/or defenses without an attorney, and the opportunity for facilitation/mediation, the court will enter findings and order that determines whether the applicant has sufficient means to defend or prosecute the case. Based on its findings, the court may appoint pauper counsel who will be fully or partially compensated by the court. The court may require the applicant to pay and be responsible for all or part of the pauper counsel’s fees.

**Attorney Guardian ad Litem and Pauper Counsel Fees** – Services by attorneys appointed by the court to serve as paper counsel or as a guardian ad litem shall be deemed quasi pro bono and shall be paid upon submission of a claim for services as restricted by the court’s fee schedule. The fee schedule will be based upon an hourly fee as set forth in the court’s order of appointment. With the exception of costs of copying and postage, any fees or costs not set out in the fee schedule must be pre-approved by the court. By acceptance of appointment the court appointed counsel agrees to abide by the fee schedule established by the court and further agrees to timely submit all claims for payment. Claims for payment should be submitted on the day services are rendered unless other arrangements are made with the court. Any claims for fee not submitted within thirty (30) days from the date the services were rendered will be deemed waived and such services will be regarded as rendered entirely pro bono.

*Adopted effective May 1, 2007.*

**LR02-DR00-738. Adoptions**

- (1) A final hearing shall be scheduled by the court on its own motion or at the requests of any party only after the court has examined the court file and determined that all conditions precedent to finalization have been met.
- (2) All other adoption matters shall be disposed of in accordance with the Indiana Rules of Trial Procedure and the applicable Indiana Code.

*Adopted effective May 1, 2007.*

**LR02-JV00-739 Allen Superior Court Paternity Procedures:**

- (1) All Superior Court paternity filings shall be filed at the Allen County Juvenile Center.
- (2) The Court may order the State of Indiana to file all its paternity pleadings within the existing case management system of the Allen County Juvenile Center.
- (3) The child must always be a party. Each child must be listed on their own Verified Petition and the caption should reflect the child’s full legal name by next friend.
- (4) Prior to a paternity trial, the court may order all parties to submit to DNA testing. In the event of DNA exclusion, the court may assess the costs of DNA testing to the Petitioner.
- (5) In the event that custody or parenting time issues are presented for Court consideration, the Court on its own motion or on the motion of any party, may order a party to submit to a parenting inventory, skill, risk, and/or needs assessment.

*Adopted May 1, 2007.*

**LR02-JV00-740. Juvenile Delinquency Proceedings**

(1) The Court may order the State of Indiana and the Office of the Public Defender to file its pleadings within the existing case management system of the Allen County Juvenile Center.

(2) If a child is detained in secure detention, a Probable Cause and Detention Review shall be conducted within 48 hours, including weekends and holidays.

*Adopted effective May 1, 2007.*

**LOCAL CRIMINAL RULES OF  
THE ALLEN SUPERIOR & CIRCUIT COURT  
hereinafter referred to as COURTS**

**Effective January 1, 1995  
Including Amendments Received Through February 1, 2016**

Rule	
<b>LR02-TR81-1</b>	Scope of the Rules
<b>LR02-CR2.2-1</b>	Assignment of Criminal Cases
<b>LR02-CR2.1-1</b>	Court Appearances
<b>LR02-CR00-1</b>	Appointed Counsel
<b>LR02-CR2.1-2</b>	Appearance of Counsel
<b>LR02-TR3.1-3</b>	Withdrawal of Counsel
<b>LR02-CR10-1</b>	Initial Hearing and Plea
<b>LR02-TR00-4</b>	Trial Setting
<b>LR02-CR10-2</b>	Trial
<b>LR02-TR51-1</b>	Jury Instructions
<b>LR02-TR7-2</b>	Motions for Criminal Court
<b>LR02-TR53.5-2</b>	Continuances - Criminal
<b>LR02-CR00-2</b>	Failure to Appear
<b>LR02-TR26-1</b>	Pre-Trial Discovery
<b>LR02-CR00-2</b>	Motion to Sequester
<b>LR02-TR00-5</b>	Stipulations
<b>LR02-TR16-1</b>	Pre-Trial Conference
<b>LR02-TR47-1</b>	Selection of a Jury Panel
<b>LR02-CR00-3</b>	Special Procedures for Misdemeanor and Traffic Division
<b>LR02-TR00-6</b>	Procedure not Otherwise Specified
<b>LR02-TR00-7</b>	Service of Notice of Appeal
<b>LR02-TR00-49</b>	Schedule of Fees for Court Alcohol and Drug Program Services
<b>LR02-CR00-19</b>	Search Warrant Procedures

## **LR02-TR81-1. Scope of the Rules**

These rules are adopted pursuant to the authority of Indiana Rules of Trial Procedure, T.R. 81, and are intended to supplement those rules as well as the Indiana Rules of Criminal Procedure. They shall govern the practice and procedure in all cases in the Courts, Criminal Division, and shall be construed to secure the just, speedy and efficient determination of every action.

*Adopted as Superior Criminal Rule 1, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 81-1, and amended effective February 1, 2016*

### **LR02-CR2.2-1 Assignment of Criminal Cases**

Pursuant to CR 2.2 Effective January 1, 2005, Criminal cases filed in Allen County, Indiana shall be before the Court herein designated as follows:

#### **A. Original Assignments-Charged by Information**

1. All Criminal cases filed by information, charging an offense of:

Operating a Motor Vehicle With Lifetime Suspension, a Class C Felony, I.C. 9-30-10-17;

Operating While Intoxicated, a Class D felony, I.C. 9-30-5-3;

Operating Vehicle as Habitual Traffic Violator, a Class D felony I.C. 9-30-10-16;

Criminal Non-Support of Dependents, I.C. 35-46-1-5 through I.C. 35-46-1-7;

shall be filed before the Allen Circuit Court.

2. All other criminal cases, filed by Information, other than those filed before the Allen Circuit Court pursuant to Paragraph 1 above, shall be filed in the Allen Superior Court, Criminal Division.

3. Unless pendent to a felony, all misdemeanors shall be filed in the Misdemeanor and Traffic Division of the Allen Superior Court, Criminal Division.

4. Within the Allen Superior Court, Criminal Division, felony offenses shall be filed as follows:

a) Two (2) Judges shall preside over all Murder, Class A, B and C felonies, excluding Drug cases.

b) One (1) Judge shall preside over all Class D Felonies, and over all Drug cases not assigned to the Drug Court Intervention Program.

5. Designation of Judges to the categories, referred to in Section 4(a) and (b), shall be by Order of the Judges of the Allen Superior Court, Criminal Division, to be made on or before May 1, 1995 and annually prior to January 1 each year thereafter.

**B. Original Assignment-Indictment by Grand Jury.** All criminal prosecutions, investigated and by True Bill returned as a Grand Jury indictment, shall be filed in the respective Criminal Courts of Allen County as provided in Paragraph A above.

**C. Assignment By Transfer.** Transfers of cases may be made between the Allen Circuit Court and the Allen Superior Court, Criminal Division, at the discretion of and with the consent of respective Judges of said Courts to accommodate the respective work load of said judges.

Said transfers shall be made pursuant to I.C. 33-33-2-25 and I.C. 33-33-2-26

Transfers of individual cases may be made among Judges of the Allen Superior Court, Criminal Division, at the discretion of and with the consent of said Judges to accommodate the respective work loads of said Judges.

**D. Special Judge Assignment.** In the event of disqualification, recusal, or other change of Judge, the case shall be reassigned in random order in equal numbers to one of the Judges exercising Felony or Misdemeanor jurisdiction in Allen County. A Judge who previously served in the case is not eligible for reassignment.

If a judge is not available for reassignment from the judges in Allen County, then the Clerk of the Court shall select a special judge (on a rotating basis) from a list of judicial officers from contiguous counties.

In the event no Judge is available for reassignment of a Felony or Misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a Special Judge. In the event the Judge presiding in a Felony or Misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a Special Judge, the presiding Judge may request the Indiana Supreme Court for such appointment.

**E. Miscellaneous.** Cases dismissed and re-filed shall be filed or assigned to the Judge presiding at the time of the dismissal, regardless of the foregoing rules of assignment.

This rule may be modified upon order and notice of a minimum of 30 days by the Allen Circuit Court or the majority of the Judges of the Allen Superior Court, Criminal Division. Following such an order of modification, should the Judges of the Allen Circuit and Allen Superior Court, Criminal Division fail to adopt a new plan pursuant to CR2.2 within 30 days, the Supreme Court of Indiana shall be notified.

*Adopted effective April 11, 1995 Amended September 29, 2004, effective January 1, 2005; amended September 28, 2010, effective January 1, 2011; amended effective February 1, 2016.*

#### **LR02-CR2.1-1. Court Appearances**

(A) If an arrested person is released from custody or admitted to bail prior to his first court appearance, he shall personally appear in court forthwith or at such other time as competent authority may direct.

(B) Upon the first appearance of the defendant, the court shall inform the defendant of the charge pending against him and of his rights as required by IC 35-33-7-5.

(C) The court may allow the defendant reasonable time and opportunity to consult counsel.

(D) The court may admit the defendant to bail as provided by law, or by court rule or order.

(E) The court shall fix a time for the defendant's next court appearance which shall be the omnibus hearing unless otherwise ordered.

(F) In all felony cases, the defendant is required to appear personally for appointment of counsel, waivers of right, initial hearing, omnibus hearing, plea, trial setting, trial, and such other times as the court may direct.

(G) In all misdemeanor cases, the defendant is required to appear personally at the initial hearing, guilty plea, waivers of right, unless a written waiver is provided, and jury verification.

*Adopted as Superior Criminal Rule 2, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 2.1-1 and amended effective December 7, 2006.*



**LR02-CR00-1. Appointed Counsel**

- (A) A defendant, who is financially unable to obtain counsel, and who is not charged with an infraction or ordinance violation, is entitled to appointed counsel in accordance with this rule.
- (B) If a defendant states that he is financially unable to obtain counsel, the court shall cause the defendant's financial circumstances to be investigated.
- (C) If the court's investigation reveals that the defendant is indigent, the court shall appoint the Allen County Public Defender to represent the defendant.
- (D) Notwithstanding the provisions of this rule, the court may, in the interest of justice, appoint counsel for any person at any stage of any proceedings.

*Adopted as Superior Criminal Rule 3, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 00-1, and amended effective December 7, 2006.*

**LR02-CR2.1-2. Appearance of Counsel**

- (A) Any attorney representing a defendant shall appear for such defendant immediately upon being retained or appointed, by signing and filing an appearance in writing with the court containing his name, attorney number, address and telephone number and shall serve a copy of said appearance on the Deputy Prosecuting Attorney assigned to the cause or to the office of the Prosecuting Attorney.
- (B) At such time as the Office of the Prosecuting Attorney assigns a case to a Deputy Prosecuting Attorney, that Deputy Prosecuting Attorney shall file a written appearance in the same form as set out above, and shall serve a copy of the appearance on counsel for the defendant.

*Adopted as Superior Criminal Rule 4, effective January 1, 1995, Renumbered as Superior and Circuit Criminal Rule 2.1-2, and amended effective December 7, 2006.*

**LR02-TR3.1-3. Withdrawal of Counsel**

- (A) Permission of the court is required to withdraw the appearance of counsel for a defendant. IC 35-36-8-2 shall govern the granting of such permission.
- (B) Counsel desiring to withdraw their appearance shall notify the defendant of such intention, in writing, not less than ten (10) days prior to the counsel's filing of such motion. Counsel shall further send notice of the filing of said motion to the defendant, which notice shall indicate the date, time and place of said hearing. It shall be sent by first class mail and shall inform the defendant of the necessity to be present. A copy of said notice shall be attached to counsel's Motion to Withdraw. No withdrawal of appearance shall be granted unless said procedure is followed.

*Adopted as Superior Criminal Rule 5, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 3.1-3, and amended effective December 7, 2006.*

**LR02-CR10-1. Initial Hearing and Plea**

- (A) Initial hearings shall be conducted pursuant to and in accordance with IC 35-33-7-5 et seq.
- (B) Guilty pleas shall be conducted pursuant to and in accordance with IC 35-35-1-1 et seq.
- (C) All guilty pleas with a plea agreement must be finalized and a plea entered not later than 1:30 p.m. of the last business day prior to the jury trial date. No plea agreement will be considered by the court after that date. The court will deny all requests for a continuance based on the need for further plea negotiations.

*Adopted as Superior Criminal Rule 6, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 10-1, and amended effective December 7, 2006.*

**LR02-TR00-4. Trial Setting**

Setting of trials on the same date with different Judges is prohibited. Multiple settings for the same trial date with the same Judge is allowed.

*Adopted as Superior Criminal Rule 7, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 4, and amended effective December 7, 2006.*

**LR02-CR10-2. Trial**

- (A) If the defendant pleads not guilty, the court shall determine whether a jury trial is waived and shall fix a time for the trial. The date of trial shall be fixed at such time as will afford the defendant a reasonable opportunity for preparation and for representation by counsel if desired.
- (B) A verbatim record shall be taken in all trials.

*Adopted as Superior Criminal Rule 8, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 10-2, and amended effective December 7, 2006.*

**LR02-TR51-1. Jury Instructions**

- (A) All requests for jury instructions tendered in accordance with Criminal Rule 8 and Trial Rule 51 of the Indiana Rules of Trial Procedure must be submitted to the court, with citations of authority, not later than the day prior to the trial. Parties are encouraged to utilize the Indiana Pattern Jury Instructions wherever possible.
- (B) Exceptions to this requirement will be made only when the matters on which the instruction is sought could not have been reasonably anticipated in advance of the trial. Proposed instructions need not be exchanged by counsel until after the evidence has been submitted.

*Adopted as Superior Criminal Rule 9, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 51-1, and amended effective December 7, 2006.*

**LR02-TR7-2. Motions for Criminal Court**

- (A) The Court encourages the early filing of motions so that they can be ruled upon prior to the day of trial.

(B) An application to the court for an order shall be by motion. A motion other than one made during the trial or hearing shall be in writing. Unless otherwise provided by law or rule, only the original copy of a motion need be filed. It shall state the grounds upon which it is made and set forth the relief or order sought. It may be supported by affidavit. It shall be accompanied by a memorandum of law in support thereof. It shall be signed by an attorney of record or the defendant personally and shall clearly identify the name, attorney number and address of any attorney filing the same. A rubber stamp or facsimile signature on the original copy shall not be acceptable.

(C) All motions requiring a hearing before the court shall be set on the court calendar by the moving party after first consulting with opposing counsel. Any motion requiring a hearing before the court which is not set for hearing on the court calendar by the moving party shall be summarily denied.

(D) A proposed form of order shall accompany all motions.

*Adopted as Superior Criminal Rule 10, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 7-2, and amended effective December 7, 2006.*

#### **LR02-TR53.5-2. Continuances Criminal**

Upon motion of any party, the court may grant a continuance only upon a showing of good cause and only for so long as necessary, taking into account not only the request or consent of the prosecution or defendant, but also the public interest in the prompt disposition of the case. All motions seeking a continuance shall be heard by the court and shall therefore be set for hearing in accordance with Rule 7-2(C) above.

*Adopted as Superior Criminal Rule 11, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 53.5-2, and amended effective December 7, 2006.*

#### **LR02-CR00-2. Failure to Appear**

If a defendant fails to appear before the court when summoned or otherwise ordered by the court to appear, the court may summarily issue a warrant for his immediate arrest and appearance before the court.

*Adopted as Superior Criminal Rule 12, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 00-2, and amended effective December 7, 2006.*

#### **LR02-TR26-1. Pre-Trial Discovery**

In all felony cases, the court has entered the following General Order concerning pre-trial discovery:

(A) The State shall disclose to the defendant the following material and information on or before thirty (30) days following the Initial Hearing.

(1) The names and last known addresses of persons whom the State may call as witnesses, together with

(a) their relevant written or recorded statements;

(b) memoranda containing substantially verbatim reports of their oral statements (if any memoranda exist);

(c) memoranda reporting or summarizing oral statements (if such memoranda exist);

- (d) a brief statement indicating the nature of each witness' involvement in the case; such statements may be no more than a reference to statements described in paragraphs (A)(1), (a), (b), or (c) above.
- (2) Any written or recorded statements and the substance of any oral statements made by the accused or by a co-defendant, and a list of witnesses to the making and acknowledgement of such statements.
- (3) A transcript of the recorded grand jury testimony of persons whom the prosecuting attorney may call as witnesses at a hearing or trial. A typed transcript of said testimony shall be provided if it is available.
- (4) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons.
- (5) Any books, papers, documents, photographs, or tangible objects which the prosecuting attorney intends to use in the hearing or trial or which were obtained from or belong to the accused, together with the location of such items and an indication of appropriate means for defense counsel's examination of same. Under circumstances where chain of custody issues are readily apparent, such as drug cases, such chain shall be provided to the extent available on the disclosure date provided above and shall be supplemented:
  - (a) upon defendant's written request;
  - (b) by pre-trial conference; and
  - (c) thereafter as ordered to complete such chain.
- (6) Any record of prior criminal convictions which may be used for impeachment of the persons whom the State intends to call as witnesses at the hearing or trial.
- (7) A copy of any written agreement and the complete substance of any oral agreement made by the State with
  - (a) any witnesses to secure their testimony or
  - (b) any co-defendant or other person charged arising out of the same incident.
- (8) Any evidence which tends to negate the guilt of the accused as to the crime charged or tends to reduce the class of the act alleged or which would tend to mitigate his punishment.
- (9) Evidence of other crimes which the State intends to use at trial, pursuant to Rule 404, Indiana Rules of Evidence.
- (10) Newly discovered material within the above categories shall be provided to opposing counsel as soon as reasonably possible following discovery of same.

**(B)**

- (1) The State shall perform these obligations in any manner mutually agreeable to the Prosecutor's Office and to defense counsel. The State shall provide legible copies of existing written statements described in paragraphs (A)(1), (2), (3), and (7). Other items shall be provided for examination, testing, copying, photographing, or other proper use either by agreement or at specified reasonable times and places. Defense counsel shall provide reasonable notice of such examination and shall schedule these examinations in cooperation with the State. An application to the court shall be made to obtain copies of audio or videotape. Said application shall state in specific terms the necessity for such copies.
- (2) The State shall make a record of compliance with this order not more than five (5) days after the date set out in paragraph (A) above by filing with the court:
  - (a) its witness list together with the statement described in (A)(1)(d);
  - (b) a suitable description of memoranda and items provided, but not necessarily by providing copies of all such items to the court; and
  - (c) an indication of arrangements made for inspection, if any.

(C) Subject to constitutional limitations, and not later than thirty (30) days following the date that the State has provided to the defense the information required under this rule, defense counsel shall inform the State of any defense which counsel intends to present at a hearing or trial and shall furnish the State with the following information within counsel's possession and control:

(1) The names, last known addresses, dates of birth and social security numbers of persons defense counsel intends to call as witnesses.

(2) Any books, papers, documents, photographs, or tangible objects which are intended to be used at a hearing or trial.

**(D)**

(1) The defense shall perform these obligations in any manner mutually agreeable to the Prosecutor's Office and to defense counsel. Defense shall provide the same documents in a fashion similar to the State's obligations described in (B)(1).

(2) The defense shall make a record of compliance with this order not more than five (5) days after the date set out in paragraph (C) above by filing with the court:

(a) its witness list together with the statement described in (C)(1)(a);

(b) a suitable description of items provided for examination, etc.; and

(c) the statement of defense described in (C).

(E) The court anticipates that compliance will be deemed satisfactory unless failure to comply is brought to the court's attention by Motion to Compel. Sanctions for failure of compliance or violations of orders on Motion to Compel shall be pursuant to Trial Rule 37. Prior to the filing of a Motion to Compel counsel shall comply with the provisions of Trial Rule 26(F).

(F) Nothing herein shall limit any party's right to seek protective orders to avoid destruction or other loss of evidence, or to seek deposition at such times as they may desire.

(G) The court may deny disclosure upon showing that:

(1) There is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment resulting from such disclosure which outweighs any usefulness of the disclosure to counsel.

(2) There is a paramount interest in non-disclosure of an informant's identity and a failure to disclose will not infringe the constitutional rights of the accused. Disclosure of the identity of witnesses to be produced at a hearing or trial will be required.

(3) Such determination of non-disclosure shall be by the court and shall not be within the discretion of the State or defense. Such non-disclosure shall be sought by motion for protective order.

(H) Disclosure shall not be required of:

(1) Any matter otherwise protected by law (however disclosing the identity of juvenile co-defendants or witnesses shall not be barred because of delinquency non-disclosure statutes).

(2) Work product of counsel including memoranda of opinions, theories, or research for themselves or from their legal or in-house investigative staff.

(I) This discovery order is a continuing order through the trial of this cause and no written motion shall normally be required except to compel discovery, for a protective order, or for an extension of time.

(J) Failure of either party to engage in and comply with discovery shall not be excused by the parties' unsuccessful or incomplete efforts to enter into a plea agreement or other resolution of the case unless both parties waive in writing

(1) compliance with this order for a specified period of time and

(2) any speedy trial requirements.

(K) Any cost for reproduction or transcripts under this order shall be borne by the party to whom the information is provided except that as to pauper counsel defendants the costs shall be borne by the State or County.

- (L) The time limits for providing discovery materials to opposing counsel set out at (A) and (B) herein shall be reduced to fifteen (15) days in the event that the defendant requests a speedy trial.
- (M) Depositions should be scheduled for, and taken at, the Office of the Allen Prosecuting Attorney.
- (N) Nothing in this Order shall be in contravention of case law or statute.

*Adopted as Superior Criminal Rule 13, effective January 1, 1995. Amended effective March 1, 1996; February 22, 1999, effective July 1, 1999; renumbered as Superior and Circuit Criminal Rule 81-1, and amended effective December 7, 2006.*

**LR02-CR00-2. Motion to Sequester**

All motions to sequester a jury shall be filed no later than the 30th day preceding the time fixed for trial or within five (5) days after setting the case for trial, whichever is later.

*Adopted as Superior Criminal Rule 14, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 00-2, and amended effective December 7, 2006.*

**LR02-TR00-5. Stipulations**

All stipulations must be in writing, signed by all parties or their counsel, signed by the defendant personally, and approved by the court.

*Adopted as Superior Criminal Rule 15, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 5, and amended effective December 7, 2006.*

**LR02-TR16-1. Pretrial Conference**

At any time after the filing of the indictment or information, the court upon motion of any party or upon its own motion, may order one or more conferences to consider such matters as will promote a fair and expeditious trial. At the conclusion of a conference the court shall prepare and file a memorandum of the matters agreed upon. No admission made by the defendant or his attorney at the conference shall be used against the defendant unless the admissions are reduced to writing and signed by the defendant and his attorney.

*Adopted as Superior Criminal Rule 16, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 16-1, and amended effective December 7, 2006.*

**LR02-TR47-1. Selection of a Jury Panel**

When jury panels have been drawn, the clerk shall cause a questionnaire to be sent to each member of such panels to be answered and returned by such persons. Such completed jury questionnaires are confidential and may only be removed from the files of the clerk or court by an attorney of record giving a proper receipt for a period of twenty-four (24) hours for inspection and copying the same.

*Adopted as Superior Criminal Rule 17, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 47-1, and amended effective December 7, 2006.*

**LR02-CR00-3. Special Procedures for Misdemeanor and Traffic Division**

- (A) An attorney may enter his appearance on behalf of a defendant prior to the defendant's next court appearance and secure a one (1) week continuance without appearing before the court.
- (B) Defendants requesting counsel (private or public defender) will be granted a continuance of 2 weeks for the purpose of obtaining counsel.
- (C) Upon initial appearance, counsel will be entitled, upon request, to a continuance of 2 to 3 weeks for the purpose of investigating the case, discussing potential settlement with the Prosecuting Attorney, etc.
- (D) At second appearance, counsel and client **MUST** be prepared to enter a plea (guilty or not guilty) in the case.
- (E) Clients **MUST** accompany attorneys at **ALL** court appearances including initial continuances for investigation, trial setting, jury verification, etc.
- (F) The defendant must appear personally, or a written waiver signed by the defendant must be filed in order to waive trial by jury.
- (G) When a jury trial is requested, a jury verification date shall be set not later than six (6) days prior to the date set for the jury trial. The defendant shall appear personally on that date. Failure of the defendant and his attorney to appear shall result in the jury trial being cancelled and reset for a later date, and defendant being remanded to the custody of the Allen County Sheriff pending trial.

*Adopted as Superior Criminal Rule 18, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 00-3, and amended effective December 7, 2006.*

**LR02-TR00-6. Procedure Not Otherwise Specified**

If no procedure is specially prescribed by these rules, the court may proceed in any lawful manner not inconsistent with these rules or with any applicable constitutional provision, statute, rule of the Supreme Court of Indiana, or local civil rules of the Courts.

*Adopted as Superior Criminal Rule 19, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 6, and amended effective December 7, 2006.*

**LR02-TR00-7. Service of Notice of Appeal**

In addition to filing the Notice of Appeal with the Clerk, the Notice of Appeal shall also be hand-delivered to the Court Reporter for the Judicial Officer from which the appeal is taken. The Court Reporter shall make a CCS entry acknowledging receipt of the Notice of Appeal.

*Adopted as Superior Criminal Rule 20, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 7, and amended effective December 7, 2006.*

**LR02-TR00-49. The Assessment of Court Drug and Alcohol Program Fees and Problem-Solving Court Program Fees**

The Criminal Division of this Court, having previously determined that assessment of fees for services provided by the Court's Criminal Division Services (Alcohol Countermeasures program, Drug Court/Problem-Solving Court Program, Pre-Trial Services Program) for clients enrolled in these programs is appropriate; the Court now adopts a SCHEDULE OF FEES pursuant to the authority granted by statute in I.C. 12-23-14, I.C. 33-23-16-20 and I.C. 33-23-16-23.

(1) The SCHEDULE OF PROGRAM FEES set forth under Indiana code for Court Drug and Alcohol Programs and Problem-Solving Courts shall be applicable.

Fees payable to the Clerk of the Courts for deposit with the Auditor of Allen County into the designated County User Fee Fund.

(2) Criminal Division Services urine drug screen fees (UDS) shall be reasonably assessed utilizing Problem-Solving Court sanctions/incentives as appropriate and based upon specific lab costs and administrative processing fees.

Fees payable to Criminal Division Services for deposit with the Auditor of Allen County into the designated County User Fee Fund.

*Adopted effective January 1, 2012.*

#### **LR02-CR00-19. Search Warrant Procedures**

(A) The law enforcement officer requesting the search warrant will present an Affidavit of Probable Cause and proposed Search Warrant to the Judge for consideration. The affidavit will be sworn before the Judge.

-OR-

The law enforcement officer requesting the search warrant may give sworn testimony pursuant to the requirements of I.C. 35-33-5-2 (orally) and 35-33-5-8 (by fax).

(B) If the Judge determines that probable cause exists, the search warrant will be issued by the Judge and will include the date and time of the issuance of the warrant. Proceedings shall be closed, confidential and sealed.

(C) The Court shall retain the original and a copy of the affidavit and a copy of the warrant. They shall all be time stamped.

(D) The Search warrant proceeding shall be assigned an MC number and shall be placed in the Confidential Order Book and indexed by name and address.

(E) Within 72 hours of the execution of the search warrant the law enforcement officer shall file with the Court the duplicate original of the search warrant together with a completed Return, all of which shall be dated, time stamped and duly recorded on the Chronological Case Summary and in the Confidential Order Book of the assigned Miscellaneous Criminal proceedings.

The law enforcement officer shall file within 10 days any unexecuted search warrant in the same manner as set out above.

(F) The filing of the executed or unexecuted search warrant shall close the case for statistical purposes.

*Adopted effective March 22, 2000*



## JOINT LOCAL RULE #2

### PURSUANT TO ADMINISTRATIVE RULE 15

#### LR02-AR00-1. Rule for Court Reporter Services

**Section One. Definitions.** The following definitions shall apply under this local rule:

- (1) A *Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
- (2) *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
- (3) *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
- (4) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- (5) *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
- (6) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
- (7) *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
- (8) *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.
- (9) *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- (10) *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts in Allen County.
- (11) *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- (12) *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(13) *Private transcript* means a transcript, including but not limited to a deposition transcript that is paid for by a private party.

(14) *Expedited transcript* means a transcript which is requested to be prepared within five (5) working days or less.

## **Section Two. Salaries and Per Page Fees**

(1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. monetary compensation or compensatory time off regular work hours.

(2) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript, state indigent transcript and private practice transcript shall be \$4.75; and an expedited rate of \$7.00 per page for expedited transcripts. The court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.

(3) The maximum fee that a court reporter may charge for copies shall be \$1.00 per page.

(4) The minimum fee that a court reporter may charge for transcripts is \$35.00.

(5) An additional labor charge approximating the hourly rate based upon the court reporter's annual court compensation may be charged for the time spent binding the transcript and exhibits.

(6) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

## **Section Three. Private Practice.**

If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

(a) The reasonable market rate for the use of equipment, work space and supplies;

(b) The method by which records are to be kept for the use of equipment, work space and supplies; and

(c) The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.

*Adopted as Rule 2, June 16, 1998, effective October 30, 1998. Amended March 15, 2002, effective January 1, 2002; renumbered as Rule 1, and amended effective December 7, 2006; amended and adopted effective March 1, 2014. Amended effective May 27, 2016 and adopted effective July 1, 2016.*

**LR02-AR1E-1          Allen County Caseload Allocation Plan**

**(A) Domestic Relations (DR) cases with self-represented litigants**

New cases filed with the Clerk of the Allen Superior and Circuit Court on a Verified Petition for Dissolution of Marriage without legal representation shall be assigned on an alternating basis (every other case) to Superior Court 8 and Circuit Court respectively.

**(B) Mortgage Foreclosures (MF)**

- (1) 10% shall be filed in Circuit Court, and
- (2) 90% shall be filed in Superior Court, divided evenly among the four judges of the Civil Division (Superior 1, Superior 2, Superior 3, and Superior 9).

**(C) Civil Collections (CC)**

Civil Collection (CC) cases shall be assigned in the proportion of 100% in Superior Court, divided evenly among the four judges of the Civil Division (Superior 1, Superior 2, Superior 3 and Superior 9).

**(D) Criminal Cases**

- (1) All MR, F1, F2, F3, F4, F5, F6, PC, OV and IF cases except as provided in (D)(3) herein below, shall be divided evenly among Superior 4, Superior 5 and Superior 6.
- (2) All CM cases shall be divided as follows: 40% in Superior 4, 30% in Superior 5 and 30% in Superior 6.
- (3) All Criminal cases filed by information, charging an offense of:
  - (a) Operating a Motor Vehicle With Lifetime Suspension, a Level 5 Felony, I.C. 35-30-10-17.
  - (b) Operating While Intoxicated, a Level 6 Felony, I.C. 9-30-5-3.
  - (c) Operating Vehicle as Habitual Traffic Violator, a Level 6 Felony, I.C. 9-30-10-16.
  - (d) Criminal Non-support of Dependents, a Level 6 Felony, I.C. 35-46-1-5 through I.C. 35-46-1-6.

Shall be filed in the Allen Circuit Court.

**(E) Other Civil Cases**

- (1) All small claims (SC), mental health (MH), guardianships (GU), estates (EU/ES), trusts (TR), and protection orders (PO) shall be filed in Superior Court divided evenly among Superior Court 1, 2, 3 and 9.
- (2) Civil plenary (PL) cases may be filed in Circuit Court or Superior Court. Superior Court PL cases shall be divided evenly among Superior 1, Superior 2, Superior 3 and Superior 9.
- (3) All MH cases shall be divided evenly among Superior 1, Superior 2, Superior 3 and Superior 9.

**(F) Civil Tort (CT)**

100% civil tort claims (CT) will be filed in the Superior Court, divided evenly among Superior 1, Superior 2, Superior 3 and Superior 9.

**(G) Civil Miscellaneous (MI)**

Property tax cases, property forfeiture cases, expungement cases originating in Circuit Court and name change cases shall be filed in Circuit Court. All other civil miscellaneous (MI) cases shall be filed in Superior Court, Civil Division and divided among Superior 1, 2, 3, and 9.

Expungement (MI) filings originating in Superior shall be divided equally among Superior 4, 5, and 6. All MI Hardship/Conditional Licenses should be filed in Superior Court and divided equally between Superior 7 and 8.

**(H) Juvenile Cases**

(1) All juvenile CHINS (JC), juvenile termination (JT), juvenile miscellaneous (JM), and adoptions (AD) shall be filed in Superior Court 8, and juvenile delinquency (JD) and juvenile status (JS) shall be filed in Superior Court 7.

(2) Juvenile Paternity (JP) cases may be filed in Circuit Court or Superior Court.

**(I) Other Family Cases**

(1) Domestic relations (DR) may be filed in Circuit Court or Superior Court.

(2) Of the DR cases filed in Superior Court 68% shall be filed in Superior 7 and 32% in Superior 8.

(3) All Reciprocal support (RS) cases shall be filed in Superior Court and divided evenly between Superior 7 and 8.

*Amended effective January 1, 2015*

**LOCAL RULES**  
**OF THE**  
**SMALL CLAIMS DIVISION**  
**OF ALLEN SUPERIOR COURT---**  
**CIVIL DIVISION**

Adopted Effective January 1, 1988

Including Amendments Received Through November 15, 2006

Rule	
<i>LR02-SC01-1</i>	Scope
<i>LR02-SC00-2</i>	General Procedure
<i>LR02-SC00-3</i>	Forms
<i>LR02-AR00-4</i>	Hearing Calendars
<i>LR02-TR76-5</i>	Change of Judge
<i>LR02-SC5-6</i>	Counterclaims Outside Small Claims Division Jurisdiction
<i>LR2-TR53.5-7</i>	Continuances
<i>LR02-TR41-8</i>	Dismissal of Actions
<i>LR02-TR60-9</i>	Default
<i>LR02-TR00-10</i>	Attorney Fees
<i>LR02-TR00-11</i>	Judgments for Payment of Money
<i>LR02-SC2-12</i>	Judgments for Possession of Real Estate or Personal Property
<i>LR02-SC11-13</i>	Release of Judgment
<i>LR02-TR69-14</i>	Proceedings Supplemental
<i>LR02-TR69-15</i>	Court Orders to Appear
<i>LR02-TR00-16</i>	Contempt/Rule to Show Cause/Body Attachment
<i>LR02-TR69-17</i>	Garnishment
<i>LR02-TR69-18</i>	Post-Judgment Orders to Self-Employed and Other Judgment Debtor(s)
<i>LR02-TR70-19</i>	Writs
<i>LR02-SC00-20</i>	Bankruptcy

**LR02-SC01-1      Scope**

- (A)      **Scope.** These rules shall govern the procedure and practice of the Small Claims Division, Allen Superior Court – Civil Division.
- (B)      **Citation.** These rules may be cited as LR02-SC \_\_\_\_\_. The small claims rules promulgated by the Indiana Supreme Court are hereinafter referred to as S.C.\_\_\_\_\_; and the Indiana Rules of Trial Procedure are hereinafter referred to as T.R.\_\_\_\_\_.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007.*

**LR02-SC00-2      General Procedure**

- (A)      **Conflict of Rules.** All proceedings in the Allen Superior Court, Small Claims Division shall be governed by the Small Claims Rules promulgated from time to time by the Indiana Supreme Court, and the local rules set forth herein. In instances where these local rules conflict with the rules promulgated by the Indiana Supreme Court, the latter shall control.
- (B)      **Tender of Completed Documents and Proper Costs.** Parties or their attorneys are solely responsible to tender to the Court any documents desired to be filed in complete and correct form, together with proper costs, as determined by the Clerk. Neither the Court nor the Clerk will be responsible for delays or deadlines missed due to the tender of incomplete or incorrect documents, or improper costs.
- (C)      **Entries.** Parties or their attorneys are solely responsible to secure entries on their packets from the law clerk, scheduling clerk, or Judicial Officer on the scheduled date of hearing or other activity. Packets remaining after the scheduled time for hearing or other activity will receive the entry, “No one appears”, unless dismissal or judgment LR02-TR41-8 or LR02-TR60-9 is appropriate.
- (D)      **Misplaced Packets.** If parties or their attorneys are unable, after receiving assistance from the Clerk and/or Court, to locate a packet for an entry to be made, said parties or attorneys shall tender the document(s) sought to be filed or make a written record of the entry desired, which shall be initialed and dated for said purpose by any Court employee except the receptionist. No later request for a *nunc pro tunc* or other corrective entry will be considered without such supporting record.

- (E) **Notice Required to Obtain Court's Packets.** The Clerk shall retrieve as many as three (3) packets per party or per attorney per day. Any party or attorney desiring to review more than three (3) packets in one day shall submit to the Clerk a written list of the cause numbers of the packets desired, or a completed Clerk's pull card for each packet desired, in chronological order to the Clerk at least one (1) full business day prior to the date upon which the packets are to be reviewed.
- (F) **Appearance by Husband or Wife.** Except for hearings on proceedings supplemental or by contrary order of the Court, appearance in any cause by a party's spouse shall be considered the appearance of the party upon said spouse's representation on the record that the party and the appearing spouse are currently married and living together.
- (G) **Parties' Current Addresses.** Notices from the Court will be sent to the parties at the most recent addresses contained in the Court's packet. The parties are therefore solely responsible to maintain their current address in all packets concerning them.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007.*

**LR02-SC00-3      Forms**

- (A) **Court's Forms.** The Court shall from time to time, and with the consultation of the Clerk, draft forms for use of litigants, the Clerk, and the Court in small claims actions.
- (B) **No Other Forms.** Originals or photocopies of the forms described in LR02-SC00-3 (A) shall be acceptable for filing. Any other form or photocopy thereof presented to the Clerk shall be accepted for filing only if such form receives prior approval of the Judicial Officer and the Civil Division of the Allen Superior Court, and in such instance, blank forms identical to that submitted and approved shall be immediately provided to the Clerk and to the Judicial Officer for future reference and comparison.

*Adopted effective Jan. 1, 1988.    Amended effective Jan. 1, 2007.*

**LR02-AR00-4      Hearing Calendars**

- (A)      **General Procedure.** Upon the filing of the notice of claim, the plaintiff may schedule the first hearing of said claim on the accounts calendar or Judicial Officer's calendar.
- (B)      **Accounts Calendar.** If the notice of claim is set for first hearing on the accounts calendar, no party is expected to be prepared for trial on the merits at the first hearing, and the setting shall serve as an opportunity for the parties to meet and informally resolve their dispute. However, a party's failure to appear for first hearing on the accounts calendar may be cause for entry of default judgment or dismissal against said party.
- (C)      **Judicial Officer's Calendars.** If the notice of claim is set for first hearing on the Judicial Officer's calendar, all parties are expected to be prepared for trial on the merits at the first hearing. The parties are responsible for reserving the appropriate amount of time for trial on the Judicial Officer's calendar.
- (D)      **Change of Calendar.** At the time any continuance is granted, hearing on the cause may be rescheduled to a calendar different than the calendar on which it was originally set. However, if such a calendar change is made, the party making the calendar change shall notify the opposing party of the change.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007.*

**LR02-TR76-5      Change of Judge**

- (A)      **General Procedure.** A change of Judicial Officer shall be granted as provided by statute and by the Indiana Rules of Trial Procedure, except that the Judicial Officer of the Small Claims Division may be included on the panel named. The Court shall set a time within which the parties are to strike that does not exceed fourteen (14) days.
- (B)      **Striking.** The party filing the motion shall strike first. After the non-moving party strikes, the remaining judicial officer shall be appointed to hear the case. The case shall then be set on that officer's calendar. If a party fails to strike within the time set, said party shall not be entitled to a change of judge, or shall be subject to the Court's arbitrary assignment of the case to one of the two remaining judicial officers, as appropriate.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007*



**LR02-SC5-6 Counterclaims Outside Small Claims Division Jurisdiction**

- (A) **Counterclaims in Excess of the Court's Monetary Jurisdiction.** A defendant who has a counterclaim in excess of the monetary jurisdiction of the Small Claims Division who does not wish to waive the excess of the claim, must file this claim in a timely fashion as a separate action on the plenary docket of the Allen Superior Court, Civil Division, or in any other Court of competent jurisdiction. Either party may then file a motion for consolidation pursuant to T.R. 21(B) in both pending actions.
- (B) **Counterclaims Outside the Court's Subject Matter Jurisdiction.** A defendant who has a counterclaim outside the subject matter jurisdiction of the Small Claims Division must file his claim in a timely fashion as a separate action on the plenary docket of the Allen Superior Court, Civil Division, or in any other Court of competent jurisdiction. Either party may then file a motion for consolidation pursuant to T.R. 21(B) in both pending actions.

*Adopted effective Jan. 1, 1988.*

**LR2-TR53.5-7 Continuances**

- (A) **General Rule.** Except as provided in LR2-TR53.5-7 (B) and (D) below, each party to an action may be granted one (1) continuance of right and without showing good cause. A continuance under this subsection shall not be granted within seven (7) days of the trial, unless approved by a Judicial Officer. All motions for continuances must be made in person or by the party's attorney who has filed a written appearance on behalf of said party. The party or attorney obtaining the continuance shall notify any opposing party in a timely fashion.
- (B) **Possession of Real Estate or Personal Property.** No continuance will be granted to a defendant where the action involves the issue of possession of real estate or personal property, except on good cause shown and upon approval by a Judicial Officer.
- (C) **Agreed Continuance.** Any action may be continued by agreement of the parties.
- (D) **Proceedings Supplemental.** No motion for continuance of a proceedings supplemental hearing will be granted, except by agreement of the parties, or on good cause shown and upon approval by a Judicial Officer.

- (E) **Sanctions for Failure to Notify.** Where notice of a continuance has not been timely given, the Court may assess sanctions which may include, but are not limited to, reasonable attorney's fees, lost wages and other costs for each party and necessary witness appearing due to lack of notice. Motions for sanctions shall be heard as a part of the trial on the merits.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007.*

**LR02-TR41-8 Dismissal of Actions**

- (A) **Dismissal by Plaintiff.** Any claim may be dismissed by the plaintiff at any time before judgment has been entered unless a counterclaim or motion for summary judgment has been filed by a defendant.
- (B) **Dismissal by Stipulation.** Any claim may be dismissed by filing a stipulation of dismissal signed by all parties to the claim.
- (C) **Dismissal by Court.** The cause or any pending pleadings in the cause may be dismissed with or without prejudice upon order of the Court, including by way of illustration and not of limitation, as follows:
- (1) the cause has not been reduced to judgment and where there has been no action on the case for a period of sixty (60) days; provided however, that no such cause shall be dismissed without notice and hearing; or
  - (2) a proceedings supplemental pleading has been filed and there is no action on the day on which the proceedings supplemental is set for hearing, or for sixty (60) days thereafter.

*Adopted effective Jan. 1, 1988.*

**LR02-TR60-9 Default**

- (A) **Pre-Judgment Grace Period.** The Court shall permit each party a twenty (20) minute grace period to appear for any prejudgment accounts or trial calendar setting, or for any other matter not pertaining to a proceeding supplemental hearing.
- (B) **Default of Defendant and Default Affidavit.** Upon the failure of a defendant to appear at the initial hearing or at a trial on the merits, the plaintiff(s) shall be entitled to judgment on the merits against said defendant. In addition to any other applicable requirements of Indiana law, the plaintiff or plaintiff's(s') attorney shall sign and file a completed "Affidavit for Judgment by Default" form furnished by the Court.

- (C) **Default of Plaintiff.** Upon the failure of a plaintiff to appear at the initial hearing or at a trial on the merits, the cause shall be dismissed without prejudice and default judgment shall be entered for the defendant against the plaintiff on any timely-filed counterclaim. Upon plaintiff's failure to appear at the initial hearing or at a trial on the merits in a subsequent cause based on the same facts as the cause earlier dismissed without prejudice, said subsequent cause shall be dismissed with prejudice and default judgment shall be entered for the defendant against the plaintiff on any timely-filed counterclaim.
- (D) **Letter Notice for Inadequate Service.** Where a plaintiff has received return of service which discloses less than ten (10) days notice to a defendant of a hearing on the Accounts Calendar or a Trial Calendar, and said defendant fails to appear for said hearing, the plaintiff shall not be entitled to entry of default. If the plaintiff wishes to proceed, the plaintiff shall notify the defendant of a new calendar setting by first class mail to the address at which service was obtained. Such notice is sufficient if said notice is sent and the hearing set so as to comply with T.R. 6 and S.C. 2.
- (E) **Setting Aside Default Judgment.** A default judgment may be set aside according to the procedures set forth in S.C. 10(C) and T.R. 60(B). Forms for this purpose are available from the Court upon request.
- (1) *Expedited Hearing.* An expedited hearing on such a motion to set aside default judgment shall be set on the Judicial Officer's calendar.
- (2) *Stay of Collection Proceedings.* In any cause in which a motion to set aside default judgment has been filed, collection proceedings as to the judgment debtor filing the motion will not be stayed unless a motion to stay such proceedings is filed and granted pursuant to T.R. 62(B).
- (F) **Default on Proceedings Supplemental.** The Court shall permit each party a thirty (30) minute grace period to appear for any proceedings supplemental hearing. After the thirty (30) minute grace period has elapsed:
- (1) a judgment creditor shall be entitled to apply for appropriate proceedings supplemental sanctions; or
- (2) a judgment debtor appearing for the proceedings supplemental hearing shall be entitled to leave without risk of sanction for failure to appear.

A judgment debtor so appearing is entitled to leave without risk of sanction for failure to appear even if the judgment creditor or its attorney is present for the proceedings supplemental hearing, if said judgment debtor has not been called for the proceedings supplemental interview within the grace period. However, a judgment creditor's failure to conduct the proceedings supplemental interview within the grace period shall not bar the judgment creditor from filing a garnishment order against the judgment debtor's wages if appropriate under LR02-TR69-17. For this purpose, the grace period shall begin at the time of the scheduled hearing or trial or at the time the judgment debtor registers with the Court's receptionist, whichever is later.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007.*

**LR02-TR00-10      Attorney Fees**

**Evidence Required to Support Award.** The amount of attorney fees awarded shall be within the sound discretion of the Court. No attorney fees shall be awarded unless:

- (1)            provided for by written agreement(s) between the parties; or
- (2)            according to applicable statute(s) or common law. Proof of such fees shall be in the form of sworn testimony from, or the affidavit of, the attorney(s) whose services are being proved.

*Adopted effective Jan. 1, 1988.*

**LR02-TR00-11      Judgments for Payment of Money**

**In General.** Judgments for payment of money shall be enforceable according to the Indiana Rules of Trial Procedure and applicable statutes.

*Adopted effective Jan. 1, 1988.*

**Judgments for Possession of Real Estate or Personal Property**

- (A) **Bifurcated Judgment and Expedited Hearing on Possession.** Judgments in actions involving the issue of possession of real estate or personal property shall be bifurcated. The initial hearing on possession issues shall be set in an expedited setting on the Judicial Officer's calendar. A final judgment for possession of the real estate or personal property shall be entered at the initial hearing and a judgment for back rent and/or other damages, if any, shall be entered at a subsequent hearing.
- (B) **Notice to Tenant.** Unless the landlord shall file the pleadings and bond set forth in I.C. § 32-6-1.5-1, *et seq.*, notice to a tenant shall be ten (10) days as required by S.C. 2.
- (C) **Disposition of Tenant's(s') Remaining Personal Property.** If a tenant leaves personal property of value in or about the demised premises under circumstances which reasonably show abandonment of said personal property, the landlord may dispose of said property by:
- (1) removing said property from the premises using reasonable care and storing it in a location reasonably secure from damage of any kind; and
  - (2) immediately notifying tenant by first class mail to tenant's last known address, with a copy thereof retained by the landlord, that the property is so stored, that storage charges (if any, but not to exceed \$3.00 per day) are accruing, and that the property is available to tenant upon reasonable notice to landlord at a reasonable time for a period at least two (2) weeks from the date said letter notice is mailed to tenant. Said notice shall also contain landlord's telephone number, and an address at which, and reasonable time during which, landlord can be contacted during the two (2) week time period.
  - (3) If at the expiration of the two (2) week retrieval period, tenant has not contacted landlord to arrange an imminent and mutually convenient date and time for retrieval of tenant's personal property, landlord may dispose of said property in a reasonable manner, including the destruction of apparently valueless property and the private sale or donation of property of value. Proceeds from any sale and credit for any donation shall first be applied to reduce any accrued storage charges and then to reduce any alleged back rent or damages beyond normal wear and

tear established by the Court.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007.*

**LR02-SC11-13      Release of Judgment**

- (A)      **Release of Judgment.** When any judgment has been fully paid and satisfied, including any interest and all costs, and the judgment creditor has received all of said monies or they are available in the Clerk's office, said judgment creditor shall immediately release the judgment against the debtor by personally executing such release on the judgment record of the Clerk, or by causing such release to be filed with the Clerk.
- (B)      **Failure to Release Judgment.** Upon a judgment creditor's failure to release a judgment allegedly fully paid and satisfied, the affected debtor may:
  - (1)      proceed to notify the judgment creditor and file suit for penalties as set forth in I.C. § 32-8-1-2; or
  - (2)      move on the record of the cause in which the judgment was entered to have said judgment deemed satisfied pursuant to T.R. 13(M), upon which motion notice shall issue and hearing shall be held by the Court.
- (C)      **Release of Judgment.** Upon payment in full, including accrued interest, the Clerk shall notify the judgment creditor and shall require him or her to file a Release of Judgment. If the judgment creditor fails to file a Release of Judgment within thirty (30) days of the issuance of the notice, the Clerk shall enter on the Chronological Case Summary that the judgment has been satisfied, the Plaintiff has failed to release judgment pursuant to Court directive, and the Clerk shall enter a Release of Judgment in the judgment docket.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007.*

**LR02-TR69-14      Proceedings Supplemental**

- (A)      **General Procedure.** Proceedings supplemental to execution shall be governed by T.R. 69(E) of the Indiana Rules of Trial Procedure and applicable statutes.
- (B)      **Ten Day Rule.** A motion for proceedings supplemental may not be filed until ten (10) calendar days have elapsed since the date of judgment except by order of the Court for good cause shown.

- (C) **One Year Rule.** Except by order of the Court for good cause shown, no proceedings supplemental may pend for more than six (6) months from the date of its filing, and no judgment creditor may file more than four (4) proceedings supplemental per year against any individual judgment debtor in a given cause. At the end of said six (6) month period, any pending proceedings supplemental shall be dismissed.
- (D) **Hearing.** Unless a party specifically requests otherwise and sets the hearing accordingly, all hearings on proceedings supplemental will be set on the accounts calendar.
- (E) **Bank Interrogatories.** Except by order of the Court for good cause shown, judgment creditors may not submit garnishment interrogatories to more than two (2) banking institutions for each hearing on proceedings supplemental.
- (F) **Conduct of Hearings.** Unless the judgment creditor is represented by an attorney at the proceedings supplemental hearing, said hearing shall be conducted by an officer of the Court.
- (G) **Completion of Interview Forms.** At each proceedings supplemental hearing, the attorney or the Court's officer conducting the hearing shall complete and file with the Court a proceedings supplemental interview form provided by the Court based on the judgment debtor's testimony at said hearing. At its completion and prior to its filing, the judgment debtor shall be given the opportunity to review and sign said form in acknowledgment of its accuracy.
- (H) **Proceedings Supplemental During Pendency of Garnishment Order.** If a garnishment order has been issued and remains unsatisfied, additional proceedings supplemental directed to the judgment debtor or to an additional garnishee defendant may be filed only by order of the Court for good cause shown.

*Adopted effective Jan. 1, 1988.*

**LR02-TR69-15 Court Orders to Appear**

- (A) **General Use.** Judgment creditors may request the Court to issue an order to appear (COTA) to judgment debtor(s) only when:
- (1) an active proceedings supplemental is pending against the judgment debtor;

- (2) the hearing date set for the COTA is within sixty (60) days of the date on which the COTA is issued; and
  - (3) good cause exists for the COTA and is shown on the record at the time the COTA is requested.
- (B) **Good Cause.** “Good cause” under LR02-TR69-15 (A)(3) shall include but not be limited to:
- (1) the judgment debtor failed to produce documents as previously ordered by the Court;
  - (2) the judgment debtor has indicated intended relocation with new address presently unknown;
  - (3) there is a reasonable certainty that the judgment debtor’s financial status will substantially change within sixty (60) days.
- (C) **COTAs and Garnishment Orders.** When a garnishment order has issued, no pending COTA will be enforced, and no COTA will issue to the judgment debtor, except by order of the Court for good cause shown.
- (D) **Failure to Appear on COTA.** Upon a judgment debtor’s failure to appear on the date and time set by the COTA, the judgment creditor may file contempt proceedings under LR02-TR00-16.
- (E) **Agreements to Appear Without COTA.** In any proceedings supplemental, the parties may agree to reset a hearing without use of a COTA. If after such agreement either party fails to appear at the reset hearing, the underlying proceedings supplemental shall be dismissed and no sanctions shall be available for such failure to appear.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007*

**LR02-TR00-16 Contempt/Rule to Show Cause/Body Attachment**

- (A) **Contempt.** Upon failure of a judgment, debtor or garnishee defendant to appear as ordered for a scheduled hearing, the judgment creditor may file a contempt citation as to said person. Said contempt citation must be filed within thirty (30) days of the failure to appear.
- (B) **Body Attachment.** Body attachment shall be requested and issued only when:
- (1) the judgment debtor or garnishee defendant previously ordered to appear for a scheduled hearing was personally served with a contempt citation and failed to appear for the contempt hearing;



- (2) the request for body attachment is filed within thirty (30) days of the contempt hearing at issue; and
- (3) the judgment creditor properly completes and files all pleadings and forms from time to time required by the Court. Said pleadings and forms currently include for each judgment debtor:
  - (a) one (1) Request for Body Attachment;
  - (b) at least three (3) Writs of Attachment which must include a statement setting a bond for release; (The bond amount should be set at the lesser of \$500.00 or the total amount remaining unpaid on the judgment including costs and interest.)
  - (c) and the Warrant Information Card, including the judgment debtor's social security number or date of birth.

*Adopted effective Jan. 1, 1988. Amended Aug. 29, 1997, effective Oct. 1, 1997.*

**LR02-TR69-17      Garnishment**

- (A) **General Procedure.** All garnishment proceedings shall comply with T.R. 69(E) and applicable statutes.
- (B) **Requirements for Garnishment Order to Issue.** A garnishment order shall not issue with respect to a judgment debtor's wage or other property without:
  - (1) an active proceedings supplemental as to the judgment debtor or waiver of notice by said judgment debtor;
  - (2) service on the garnishee-defendant of the proceedings supplemental by
    - (a) certified mail, or refusal thereof,
    - (b) Sheriff's service, or
    - (c) private process server; and
  - (3) return of answered interrogatories, other verification of employment by the garnishee-defendant, or failure to answer interrogatories after notice.
- (C) **Voluntary Garnishments.** In instances where a judgment debtor has entered a voluntary agreement for periodic payments to satisfy judgment and has further consented to garnishment upon default, notwithstanding the terms of the agreement, no garnishment order shall issue unless:

- (1) an active proceeding supplemental is pending against the judgment debtor and the garnishee-defendant;
  - (2) the judgment debtor's employment by said garnishee-defendant has been verified as set forth in LR02-TR69-17 (A) and (B) on the record within three (3) months prior to the date on which judgment creditor requests issuance of the garnishment order; and
  - (3) the judgment creditor represents on the record the default of judgment debtor.
- (D) **Stay.** In instances where a garnishment order has been issued and served on a garnishee-defendant, if the judgment creditor then stays said order, said judgment creditor shall lose any priority over pending but later garnishment orders pertaining to the judgment debtor's wages.
- (E) **Release.** Upon receipt by the judgment creditor or by the Clerk on the judgment creditor's behalf of monies sufficient to fully satisfy the judgment, and accrued interest and costs, the judgment creditor shall immediately obtain a court order releasing the applicable garnishment order and shall forward a copy to the garnishee-defendant(s).

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007*

**LR02-TR69-18 Post-Judgment Orders to Self-Employed and Other Judgment Debtor(s)**

- (A) **General Procedure.** Post-judgment orders to self-employed and other judgment debtors are available pursuant to T.R. 69(E) and I.C. § 34-1-44-7 upon the filing of a verified motion for proceedings supplemental by the judgment creditor.
- (B) **Hearing Before Judicial Officer.** All motions for a court order requiring the judgment debtor(s) to apply specified or unspecified property towards the satisfaction of the judgment pursuant to T.R. 69(E)(3) or I.C. § 34-1-44-7 shall be set for hearing before the Judicial Officer.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007.*

**LR02-TR70-19 Writs**

- (A) **General Procedure.** Writs to enforce the Court's orders or in aid of its jurisdiction are generally available as set forth in T.R. 70(A) and Title 34 of Indiana Code.

- (B) **Writs of Execution for Delivery of Possession of Real Estate.** Except by order of the Court for good cause shown, no writ of execution for delivery of possession of real estate shall issue before one (1) calendar week has expired after entry of the underlying judgment by the Court.

*Adopted effective Jan. 1, 1988.*

**LR02-SC00-20 Bankruptcy**

- (A) **Bankruptcy of Judgment Debtor.** All Court action, including pending collection proceedings, will be stayed as to any judgment debtor:
- (1) who files with the Court in each relevant action one (1) copy of the bankruptcy court's notice of relief; or
  - (2) whose attorney files with the Court in each relevant action a motion for stay reciting the prior filing of bankruptcy by the judgment debtor and resultant stay of all proceedings by the bankruptcy court, including the cause number and court of the bankruptcy.

*Adopted effective Jan. 1, 1988.*