WAYNE COUNTY LOCAL COURT RULES INDEX

ADMINISTRATIVE RULES

LR89-AR15-001	**COURT REPORTER SERVICES**

RULES OF CIVIL PROCEDURE

LR89-TR3.1-001	**WITHDRAWAL OF APPEARANCE**
LR89-TR5-002	**FILING**
LR89-AR12-003	**FACSIMILE FILING**
LR89-TR06-004	**MOTIONS**
LR89-TR33-005	**DISCOVERY, INTERROGATORIES, REQUEST FOR ADMISSIONS, TIME TO SERVE**
LR 89-TR55-006	**DEFAULT JUDGMENT**
LR89-TR56-007	**MOTIONS FOR SUMMARY JUDGMENTS**
LR89-TR37-008	**CONTEMPT**
LR89-TR73-009	**ORAL ARGUMENT**
LR89-TR40-010	**TRIAL READINESS CERTIFICATE**
LR89-TR16-011	**PRE-TRIAL PROCEDURE**
LR89-TR40-012	**CASE MANAGEMENT CONFERENCE & ORDER AND SETTING OF PRE-TRIAL AND TRIAL DATES**
LR89-TR16-013	**MOTIONS IN LIMINE, JURY INSTRUCTIONS, AND JUROR QUESTIONNAIRE**
LR89-AR1-014	**RANDOM FILING OF CIVIL CASES**
LR89-TR79-015	**SPECIAL JUDGE SELECTION IN CIVIL CASES**
LR89-TR00-016	**ATTORNEYS FEES IN CIVIL CASES**
LR89-TR00-017	**SPECIAL RULES FOR TAX SALE CASES**

RULES OF CRIMINAL PROCEDURE

LR89-CR00-001	**SCOPE**
LR89-CR00-002	**RELEASE FROM CUSTODY - PROMISE TO APPEAR**
LR89-CR00-003	**APPOINTED COUNSEL**
LR89-CR00-004	**APPEARANCE OF COUNSEL**
LR89-CR00-005	**WITHDRAWAL OF PRIVATELY RETAINED COUNSEL**
LR89-CR00-006	**INITIAL HEARING CONFERENCE**
LR89-CR00-007	**PRE-TRIAL CONFERENCE**
LR89-CR00-008	**WAIVER OF JURY TRIAL**
LR89-CR00-009	**CRIMINAL DISCOVERY**
LR89-CR00-010	**STIPULATIONS**
LR89-CR00-011	**SELECTION OF JURY PANEL**
LR89-CR00-012	**VOIR DIRE**
LR89-CR00-013	**FILING PROCEDURE FOR CRIMINAL CASES**
LR89-CR00-014	**BAIL**
LR89-CR2.2-015	**SEARCH WARRANTS**
LR 89-CR00-016	**MOTIONS**
LR 89-CR13-017	**SPECIAL JUDGE SELECTION IN CRIMINAL CASES**

FAMILY LAW RULES

LR89-FL00-1	**SCOPE AND TITLE**
LR89-FL00-2	**ADMINISTRATIVE PROCEDURES**
LR89-FL00-3	**SPECIFIC DISCLOSURE REQUIREMENTS**
LR89-FL00-4	**COOPERATION IN FAMILY CASES**
LR89-FL00-5	**PROVISIONAL HEARINGS**
LR89-FL00-6	**ORDERS EXCLUDING A SPOUSE FROM THE RESIDENCE**
LR89-FL00-7	**FINANCIAL DECLARATION FORM**
LR89-FL00-8	**PARENTING CLASS**
LR89-FL00-9	**MEDIATION**
LR89-FL00-10	**PARENTING TIME ORDERS**

LR89-FL00-11 **CHILD CUSTODY AND PARENTING TIME: REFERRALS FOR INVESTIGATION AND REPORT**

LR89-FL00-12 **REQUIREMENTS BEFORE CUSTODIAL EVALUATION (NOT APPLICABLE FOR APPOINTMENT OF GUARDIAN AD LITEM)**

LR89-FL00-13 **CONTACT WITH CUSTODIAL EVALUATORS AND GUARDIANS AD LITEM/COURT APPOINTED SPECIAL ADVOCATES**

LR89-FL00-14 **CHILD SUPPORT GUIDELINES**

LR89-FL00-15 **MODIFICATION OF POST-DECREE CHILD SUPPORT ORDERS**

LR89-FL00-16 **AGREED ENTRIES**

LR89-FL00-17 **EXHIBITS**

LR89-FL00-18 **FEES**

LR89-FL00-19 **TERMINATION OF REPRESENTATIVE CAPACITY**

PROBATE RULES

LR89-PR00-001 **NOTICE**

LR89-PR00-002 **FILING OF PLEADINGS**

LR89-PR00-003 **BOND**

LR89-PR00-004 **INVENTORY**

LR89-PR00-005 **SALE OF REAL ESTATE**

LR89-PR00-006 **SALE OF PERSONAL PROPERTY**

LR89-PR00-007 **CLAIMS**

LR89-PR00-008 **ACCOUNTINGS**

LR89-PR00-009 **FEES OF ATTORNEY AND FIDUCIARY**

LR89-PR00-010 **UNSUPERVISED ADMINISTRATION**

LR89-PR00-011 **GUARDIANSHIPS**

LR89-PR00-012 **MISCELLANEOUS**

WAYNE COUNTY ADMINISTRATIVE RULES

Passed by the Wayne County Bar Association Effective January 1, 2013, Including All Amendments, Approved Effective July 1, 2016

LR89-AR15-001 COURT REPORTER SERVICES

The undersigned Courts comprise all of the Courts of record of Wayne County, Indiana and hereby adopt the following local rule by which Court Reporter services shall be governed.

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 devices 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/or 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 Wayne 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.

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.

(2) The fee a Court Reporter shall charge for the preparation of a *county indigent transcript* shall be as follows:

(a) A minimum fee of $44.00 for any transcript eleven pages or less;

(b) $4.00 per page, including the Index and Table of Contents;

(c) An additional labor charge approximating the hourly rate based upon the Court Reporter's annual Court compensation for the time spent proof reading, binding the transcript and preparing the exhibit binders.

(3) The fee a Court Reporter shall charge for the preparation of a *State indigent transcript* shall be as follows:

(a) A minimum fee of $44.00 for any transcript eleven (11) pages or less;

(b) $4.00 per page, including the Index and Table of Contents;

(c) An additional labor charge approximating the hourly rate based upon the Court Reporter's annual Court compensation for the time spent proof reading, binding the transcript and preparing the exhibit binders.

(4) The fee a Court Reporter shall charge for the preparation of a *private transcript* shall be as follows:

(a) A minimum fee of $44.00 for any transcript eleven (11) pages or less;

(b) $4.00 per page, including the Index and Table of Contents;

(c) An additional labor charge approximating the hourly rate based upon the Court Reporter's annual Court compensation for the time spent proof reading, binding the transcript and preparing the exhibit binders.

(5) The per page fee a Court Reporter shall charge for a COPY of any transcript shall be $1.00.

(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 - Depositions.

(1) With permission of the supervising Court, 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 and 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 the 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.

(2) If a Court Reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

WAYNE COUNTY RULES OF CIVIL PROCEDURE

Adopted By Wayne County Bar Association, Originally Effective October 30, 1997 Including All Amendments, Approved Effective July 1, 2016

LR89-TR3.1-001 WITHDRAWAL OF APPEARANCE

All withdrawals of Appearance shall be in writing and by leave of court. Further, all motions or petitions for withdrawal shall be compliant with the appropriate and applicable Indiana Rule(s) of Trial Procedure. In the event that a motion or petition for withdrawal is not compliant with Indiana Rules of Trial Procedure, the Court may deny such motion or petition. The Court may deny a request for withdrawal of Appearance unless the same has been filed with the Court at least ten (10) days prior to any hearing scheduled in the cause as unreasonable or not consistent with the administration of justice.

LR89-TR5-002 FILING

A. Filing and Submission Only to the Clerk

All papers presented for filing shall be submitted to the Clerk and not to the court.

B. Separate Motions and Order; Order by Chronological Case Summary Entry Form; Service.

Proposed orders shall be prepared and filed separately from the pleadings, petitions, motion or other papers to which they have reference.

All orders shall be accompanied with sufficient copies so that copies may be mailed to all parties.

C. Counsel to Furnish Pleadings to Special Judge

When a Special Judge who is not a Wayne County Judge is selected and qualifies in a case, copies of all filings subsequent to the qualification of such Special Judge shall be delivered in person, by mail, or by facsimile to the office of the Special Judge with certificate of forwarding same made a part of the filing.

LR89-AR12-003 FACSIMILE FILING

Facsimile filing is permitting in the Wayne Circuit and Wayne Superior Courts. If the filing requires immediate attention of the Judge, it shall be so indicated in bold letters in an accompanying transmittal memorandum. Facsimile filing must be through the Clerk's central reception number (765-973-9250). Legibility of documents and timeliness of filing is the responsibility of the sender.

Any documents filed by facsimile which seek an Order of Court must be accompanied by a copy of a proposed order. Such proposed order must contain the requesting party or attorney's facsimile number in the distribution list. If the Court adopts the proposed order and certifies that an emergency exists, the Clerk shall return such Order to sender by facsimile. Upon receipt of the Court's Order, sender shall serve it upon all parties or counsel of record by facsimile or First Class U.S. Mail and file an acknowledgment of receipt and Certificate of Service via facsimile to the Clerk's central reception number on the form below:

Cause No.
Acknowledgment and Certificate of Service:

I acknowledge receipt of the following order or request from the Court: _____ and certify that I have served a copy of the Court's Order or request upon the following parties or counsel of record: _____ via: facsimile transmission; First Class, U.S. Mail

Firm Name
Attorney's Name, Address & Telephone Attorney's Number

LR89-TR06-004 MOTIONS

A. Preparation

All pleadings, motions, briefs, and other papers shall be prepared in accordance with the provisions of the Indiana Rules of Procedure.

B. Continuances and Enlargements of Time

All motions for continuance or enlargement of time (whether 1st, 2nd, 3rd, etc.) shall be made in writing, shall state whether or not opposing counsel objects to the motion, and shall state whether prior continuances or enlargements have been requested by either party and whether such prior request was granted. The Court may require any written motion for continuance or enlargement of time to be signed by the party requesting the continuance.

C. First Enlargement of Time

The first motion for enlargement of time to file a responsive pleading to a Complaint shall be granted summarily for up to forty-five (45) days. Any request for additional time beyond forty-five (45) days or a subsequent request for enlargement of time shall be at the discretion of the Court.

D. Title of Motion

All motions for continuance or enlargement of time shall denominate in the title of such motion whether it is the first, second, third, etc. motion for continuance or enlargement of time; e.g. Defendant's Second Motion For Enlargement Of Time To File Answer.

E. Proposed Orders to Accompany All Motions

All motions seeking an Order of the Court shall be accompanied by a sufficient number of proposed Orders to be executed by the Court in granting the motion. Proposed Orders continuing a matter or granting an enlargement of time shall not set forth the new date but shall leave the date blank for the Court to complete. Proposed Orders submitted to the Court shall include a list of the names and addresses of all parties or their attorneys and persons to whom the proposed Order shall be distributed. Such distribution shall include, at a minimum, the names and addresses of all parties to the action, or their respective attorneys.

F. The Certificate of Service as required by Trial Rule 5 of the Indiana Rules of Trial Procedure shall specifically set forth the names and addresses of the attorney(s), party(ies), or representative(s) to whom the document has been sent.

LR89-TR33-005 DISCOVERY: INTERROGATORIES, REQUEST FOR ADMISSIONS, 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. Interrogatories shall be limited to a total of twenty-five (25) including subparts. For good cause shown and upon leave of Court only additional interrogatories may be propounded to the extent authorized by leave of Court.

C. 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.

D. 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, unless leave of Court directing otherwise is granted prior to the service of such discovery.

E. Limit on Requests for Admissions. Requests for Admissions are limited to thirty (30) in number (not counting requests related to the authenticity of a document). Leave of court may be granted allowing for the service of more than thirty (30) Request for Admissions provided the moving party fully complies with TR 26(F) and files a motion setting forth the proposed additional Requests and why they are necessary.

F. Discovery Disputes. Strict compliance with TR 26 -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 the moving party represents that after personal or telephonic conference in a good faith effort to resolve their discovery differences, the parties are simply unable to reach an agreement.

If a party to the action (including "nonparties") advises the Court, by way of motion or response that the opposing party has refused or delayed resolution of the discovery dispute, the Court may, after hearing, impose appropriate sanctions.

G. Motion to Strike. A Motion to Strike specific interrogatories as excessive, oppressive, or repetitive, may be filed after fully complying with TR 26(F). Such a motion shall not serve to extend the time for answering interrogatories which are not in dispute.

LR89-TR55-006 DEFAULT JUDGMENT

Upon the proper filing of a motion for default judgment pursuant to Trial Rule 55, the Court may enter default and may either: 1) enter default judgment in the amount requested if supported by proper accompanying pleadings (Affidavit of Indebtedness, etc.); or 2) set the matter for damages hearing. In the event the Court sets the matter for damages hearing, the moving party may file any Affidavit (of indebtedness or otherwise) in support of its claim for damages or judgment if said party has not already done so. In the event the Court sets the matter for damages hearing, it is not necessary that the moving party or such party's counsel attend the damages hearing. If the nonmoving party does not appear or appears and does not contest the damage or judgment amount requested, and the amount requested is supported by proper accompanying pleadings filed by the moving party, the Court may enter judgment in the amount requested. If the amount of damages or judgment is contested at the damages hearing the Court will then set the matter for further hearing at a later date and further evidence may be presented.

LR 89-TR56-007 MOTIONS FOR SUMMARY JUDGMENT

All Trial Rule 56 Motions for Summary Judgment shall be filed at least one hundred fifty (150) days prior to trial.

LR89-TR37-008 CONTEMPT

If a party who has been properly served fails to appear at a contempt hearing, the Court shall not proceed but shall, upon request by the moving party, cause to issue a Rule To Show Cause Order ordering the non-moving party into court to answer as to why he/she failed to appear and why he/she should not be held in contempt of court. If the non-moving party again fails to appear in court as ordered after being properly served with the Rule To Show Cause Order, a Writ Of Body Attachment may be issued for the non-moving party.

LR89-TR73-009 ORAL ARGUMENT

The granting of a motion for oral argument, unless required by the Indiana Rules Of Procedure, shall be discretionary with the Court.

LR89-TR40-010 TRIAL READINESS CERTIFICATE (TRC)

This Rule is intentionally left blank.

LR89-TR16-011 PRE-TRIAL PROCEDURE

A. Setting of Pre-Trial Conference

1. *Jury Trials*. In those cases where a jury has been requested, an Agreed Case Management Order is required and hearings will be scheduled consistent with LR89-TR40-011.
2. *Bench Trials*. In those cases to be tried to the court, a preliminary pre-trial conference will not be set unless requested by a party or otherwise ordered by the court. Final pre-trial conference shall be set approximately thirty (30) to forty-five (45) days prior to the trial date as arranged by the Court. Additionally, a court may require an Agreed Case Management Order pursuant to LR89-TR40-011, in which case hearings shall be scheduled consistent with said Rule.

B. Filing of Pre-Trial Statements

At least forty-eight (48) hours prior to both the preliminary and the final pre-trial conferences, counsel for each party shall file Pre-Trial Statements which shall include all matters deemed important to the trial of the cause, but must include all information set forth in Paragraph "C" below.

C. Form of Pre-Trial Statement

The pre-trial statement shall contain the following statements in separate numbered Paragraphs as follows:

1. JURISDICTION. Setting forth the basis of jurisdiction.
2. STATUS OF RECORD. Setting forth the pleadings raising the issues.
3. PENDING MOTIONS AND OUTSTANDING DISCOVERY. Setting forth the motions or other matters requiring action by the Court and a concise statement as to the status of discovery.
4. STATEMENT OF POSITION. Setting forth a concise statement as to each party's position.
5. STIPULATIONS. Setting forth a concise statement of stipulated facts.
6. ISSUES OF FACT. Setting forth a statement of the issues of fact which remain to be litigated at trial.
7. ISSUES OF LAW. Setting forth a concise statement of the issues of law on which there is agreement and which remain to be litigated at trial.
8. EXHIBITS. Setting forth each exhibit which shall be presented at trial.
9. AMENDMENTS TO PLEADINGS. Setting forth a concise statement as to whether or not there are any amendments to the pleadings.
10. PROBABLE SETTLEMENT. Setting forth a concise statement as to settlement negotiations and the likelihood of settlement.
11. PROBABLE TRIAL TIME. Setting forth a concise statement as to the anticipated length of trial.
12. LIST OF WITNESSES. Setting forth a numbered list of trial witnesses which shall include each witness's address. Expert witnesses shall be so designated.

D. Failure to File Pre-Trial Statement

In the event either party should fail to timely file a Pre-Trial Statement as required by this Rule, the Court shall have the right to cancel the pre-trial conference and/or the trial or to enter appropriate sanctions against the party failing to file such Pre-Trial Statement.

E. Preliminary Pre-Trial Conference

The primary purposes of the preliminary pre-trial conference are to determine whether or not the case is ready to proceed to trial by jury as scheduled and to determine the procedure to prepare the case for trial. Once a case is determined at the preliminary pre-trial conference to be ready to proceed to jury trial as scheduled, a continuance of such date will not be granted except for extraordinary circumstances which were not reasonably foreseeable at the preliminary pre-trial conference. Such reasons shall not include the need to file further pleadings or motions, pursuing or completing further discovery, securing attendance of any witness or party, or any other reasonably foreseeable reason.

F. Final Pre-Trial Conference

The primary purpose of the final pre-trial conference are to determine the procedure to prepare the case for trial and to discuss these matters set out in Rule 16 of the Indiana Rules of Trial Procedure.

G. Attendance By Trial Counsel Required

The primary purpose of the final pre-trial conference is to determine the procedure to prepare the case for trial and to discuss these matters set out in Rule 16 of the Indiana Rules of Trial Procedure. Therefore, attorneys shall appear in person for such hearings except by leave of court under extreme circumstances. The lead attorney expected to try the case shall be personally present at the pre-trial conference.

H. Pre-Trial Order

Following the pre-trial conference, a pre-trial order shall be entered in compliance with Rule 16 of the Indiana Rules of Trial Procedure.

I. More Than One Pre-Trial Conference

If necessary or advisable, the Court may adjourn the pretrial conference from time to time or may order additional Pre-Trial Conferences as it deems appropriate.

LR89-TR40-012 CASE MANAGEMENT CONFERENCE & ORDER AND SETTING OF PRE-TRIAL AND TRIAL DATES

A. Mandatory Case Management Conference

A case management conference shall be required in all cases where a jury trial is requested and in all cases designated as CT or MI.

B. Discretionary Case Management Conference

A case management conference may be ordered in any other case upon the filing of a motion by any party or on the court's own motion.

C. Conference Procedure

Within one hundred twenty (120) days of the filing of a Complaint in those cases where a case management conference is mandatory, or within thirty (30) days after otherwise being ordered to participate in a case management conference, ~~the~~ Plaintiff shall arrange a meeting of all parties for the following purposes:

1. *List of Witnesses*. Exchange preliminary lists of witnesses known to have knowledge of the facts supporting the pleadings. The parties shall thereafter be under a continuing obligation to advise opposing parties of other witnesses as they become known. The parties shall establish a date by which any testifying expert witness must be disclosed.

2. *Documents*. Exchange all documents which are contemplated to be used in support of the pleadings. Documents later shown to have been reasonably available to a party and not exchanged may be subject to exclusion at the time of trial.

3. *Other Evidence*. Exchange any other evidence reasonably available to obviate the filing of unnecessary discovery motions.

4. *Mediation and Settlement*. Discuss the likelihood of settlement of the action and the date, if any, by which mediation shall occur.

5. *Discovery Schedule*. Agree upon a schedule for all discovery including a date by which discovery shall be finalized and completed.

6. *Complicated Case*. Discuss whether the action is sufficiently complicated so that additional conferences may be required.

7. *Additional Parties*. Discuss the date by which any motion to join additional parties must be filed.

8. *Pre-Trial Motions.* Discuss and agree upon the dates by which any motions to dismiss, motions for summary judgment, and other motions shall be filed. It shall not be necessary to include the date for filing motions in limine as motions in limine are to be filed at least fifteen (15) days prior to trial pursuant to LR89-TR-006.

9. *Anticipated Trial Readiness Date*. Discuss the date by which the parties reasonably anticipate the case will be ready for trial.

10. *Estimated Length of Trial*. Discuss the length of time the parties reasonably anticipate the trial will take to complete.

Commentary

The court views the obligation of reasonably advancing cases on the courts' dockets to be an obligation that is mutually shared among all parties and their counsel. However, when these Rules or an issued court order require or contemplate that the parties or their counsel shall meet and confer prior to a particular court proceeding (such as a case management conference), unless otherwise stated in any such order, the court expects that the plaintiff or petitioner will take the lead in coordinating such meetings.

D. Case Management Plan

Within ten (10) days after meeting but, in any event, within one hundred eighty (180) days of filing the Complaint, the parties to the action shall file an Agreed Case Management Plan setting forth:

1. The likelihood of mediation and settlement;

2. A detailed schedule of discovery for each party, including an agreed upon date by which discovery shall be completed and finalized;

3. A limitation on the time to join additional parties and to amend the pleadings;

4. A limitation on the time to file all pre-trial motions, excluding motions in limine;

5. A preliminary estimate of the time required for trial;

6. The date by which the parties reasonably anticipate the case will be ready for trial;

7. A date by which mediation shall be completed; and,

8. A date by which preliminary witness and exhibit lists shall be exchanged and filed, including the date by which expert and/or skilled witnesses shall be disclosed if different from the date by which other witnesses must be disclosed.

For the dates by which Motions For Summary Judgment, Motions In Limine, Objections to Motions In Limine, proposed Jury Instructions, and Objections to Proposed Jury Instructions, must be filed please refer to these Local Rules of Civil Procedure.

E. Setting of Pre-Trial and Trial Dates in Cases Where Jury Requested

Upon the filing of an Agreed Case Management Order pursuant to this Rule, which is thereafter approved by the court, preliminary pre-trial, pre-trial, and trial dates shall be set by the Court. The preliminary pre-trial conference shall be set approximately six (6) months prior to the scheduled trial date with the final pre-trial conference scheduled approximately thirty (30) to forty-five (45) days prior to the scheduled trial date. At the preliminary pretrial conference, all counsel shall be prepared to discuss whether the case remains ready to proceed to trial.

In the event that a court requires an Agreed Case Management Order in a case to be tried to the court, hearings will also typically be scheduled consistent with this Rule.

LR89-TR16-013 MOTIONS IN LIMINE, JURY INSTRUCTIONS, AND JUROR QUESTIONNAIRE

A. Motions in Limine

Any Motion in Limine shall be filed so that it is actually received by the Court at least fifteen (15) days prior to trial, or longer as the Court may order.

B. Objections to Motions in Limine

Objections to any Motions In Limine shall be submitted to the Court in writing and shall be filed so that they are actually received by the Court at least seven (7) days prior to trial. Written objections shall be numbered and shall specify distinctly and with clarity the objectionable matter to the Motion in Limine. Each objection shall be accompanied by citations of authority.

C. Agreed Upon Fact Instruction

Counsel shall file an agreed upon fact Instruction so that it is actually received by the Court at least fifteen (15) days prior to trial, or longer as the Court may order.

D. Proposed Jury Instructions

Counsel may file proposed jury instructions, provided that such instructions are actually received by the Court at least fifteen (15) days prior to trial, or longer as the Court may order. Instructions covering matters occurring at the trial which could not reasonably be anticipated may be tendered and/or substituted at the conclusion of the trial. Each proposed instruction shall be accompanied by citations of authority.

E. Objections to Proposed Jury Instructions

Written Objections to proposed jury instructions may be filed in writing and shall be filed such that they are actually received by the Court at least seven (7) days prior to trial. Written objections shall be numbered and shall specify distinctly and with clarity the objectionable matter in the proposed instruction. Each objection shall be accompanied by citations of authority.

F. Juror Questionnaires

In all cases to be tried to a jury, the Juror Questionnaire Form utilized by the court shall be used unless all parties consent to a proposed juror questionnaire which shall be tendered jointly and shall actually be received by the Court at least fifteen (15) days prior to trial, or longer as the Court may order. Any such proposed Questionnaire remains subject to approval of the Court. In no cases shall a proposed juror questionnaire be in excess of a single two-sided typed 8½x11 page without leave of the Court.

LR89-AR1-014 RANDOM FILING OF CIVIL CASES

In order to provide for an even distribution of judicial workload and to ensure that the difference in utilization between any two courts of record in Wayne County does not exceed 0.40 points, based on the weighted caseload (WCL) measures system, the Wayne Circuit Court, Wayne Superior Court No. 1, Wayne Superior Court No. 2, and Wayne Superior No. 3 hereby adopt the following filing procedure for civil cases filed in Wayne County as follows:

1. All small claims (SC) cases shall be filed in Wayne Superior Court No. 3.

2. All Child In Need Of Services (JC) cases, Juvenile Delinquent (JD) cases, Termination of Parental Rights (JT) cases, Juvenile Status (JS) cases, and Guardianship cases arising out of a JC or JD (GU), shall be filed in Wayne Superior Court No. 3.

3. Agreed upon adoption (AD) cases arising out of a JC or JT case shall be filed in Wayne Superior Court No. 3.

4. All mental health (MH) cases shall be filed in a random and equal manner in Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2.

5. All Petitions seeking expungement or related relief under I.C. 35-38-5-1 et seq., I.C. 31-39-8-1 et seq. (juvenile expungement), or I.C. 35-38-9-1 et seq. and assigned a Civil Miscellaneous (MI) case number, shall be filed as follows:
   a. Relief sought from conviction/disposition/adjudication in only one (1) prior case shall be filed in the court that originally entered judgment of conviction and entered sentencing or otherwise adjudicated or disposed of the case; and,
   b. Relief sought from conviction/disposition/adjudication in more than one (1) prior case shall be filed in the court that entered the most recent judgment of conviction and entered sentencing or otherwise adjudicated or disposed of the case.

6. All other civil cases including, but not limited to, Civil Plenary (CP before 1/1/2002, now PL), Mortgage Foreclosure (MF), Civil Collections (CC), Civil Tort (CT), Domestic Relations (DR), Reciprocal Support (RS), Adoptions (AD) not otherwise filed in Wayne Superior Court No. 3 pursuant to Paragraph 3 above, Probate Supervised (ES), Probate Unsupervised (EU), Guardianships (GU) not arising out of a JC or JD, Trusts (TR), Protective Orders (PO), and Civil Miscellaneous (MI), excluding expungement related cases which are provided for in Paragraph 5 above, shall be filed in a random and equal manner in Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2. All tax sale cases shall be filed in the Wayne Superior Court No. 2.

7. The judges of the Wayne Circuit Court, Wayne Superior Court No. 1, and Wayne Superior Court No. 2 shall periodically review the filing patterns of civil cases and the Judges of such courts reserve the right to transfer cases in the event of a disproportionate distribution of cases in order to balance the caseload and expedite dispositions of all pending civil cases.

LR89-TR79-015 SPECIAL JUDGE SELECTION IN CIVIL CASES

When the appointment of a special judge is required under Trial Rules 76 or 79 of the Indiana Rules of Trial Procedure, the provisions of this Rule constitute the exclusive local manner for the selection of special judges in circuit and superior courts in all civil and juvenile proceedings in Wayne County. The parties may agree to the selection of a special judge in accordance with the provisions of Trial Rule 79(D) of the Indiana Rules of Trial Procedure. Absent such an agreement, the Clerk of the Wayne Circuit and Superior Courts shall assign a successor judge from the remaining Wayne County judges by random selection until no Wayne County Circuit or Superior Court judge remains. If no Wayne County Circuit or Superior Court judge qualifies as special judge, the Clerk shall assign a special judge, in sequence, from the following list of judges, all of whom are within the administrative district within which Wayne County is a part, as set forth in Administrative Rule 3(A), or are from a contiguous county and have agreed to serve as special judge in the courts of Wayne County where the case is pending:

1. The presiding Judge of the Fayette Circuit Court;
2. The presiding Judge of the Fayette Superior Court;
3. The presiding Judge of the Franklin Circuit Court No. 1;
4. The presiding Judge of the Franklin Circuit Court No. 2;
5. The presiding Judge of the Randolph Circuit Court;
6. The presiding Judge of the Randolph Superior Court;
7. The presiding Judge of the Rush Circuit Court;
8. The presiding Judge of the Rush Superior Court; and
9. The presiding Judge of the Union Circuit Court.

The Clerk shall maintain such records as necessary to assure that selections are rotated in the above sequence.

LR89-TR00-016 ATTORNEYS FEES IN CIVIL CASES

A. General Provisions

RULE 1.5 of the Rules of Professional Conduct adopted by the Supreme Court of Indiana shall govern the awarding of attorneys fees in civil actions. All fees charged by attorneys must be reasonable. Factors which the Wayne Circuit and Superior Courts will consider in determining attorney fee awards in civil cases include:

1. The time and labor required, the novelty and difficulty of questions involved, and the skill requisite to perform the legal service properly;
2. The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
3. The fee customarily charged in the locality for similar legal service;
4. The amount involved and the results obtained;
5. The time limitations imposed by the client or by the circumstances;
6. The nature and length of the professional relationship with the client;
7. The experience, reputation and ability of the lawyer or lawyers performing the services.

Attorneys' fees are to be based upon those factors as set forth above and other relevant factors. At the appropriate time in the proceeding, attorneys shall submit a Verified Affidavit in support of the request for attorneys fees setting forth: facts in support of such request; a detailed list of the services and time expended on the matter to date; the amount of time expected to be expended in the future through to completion, including collection; the attorney's customary and usual hourly fee; and all other relevant facts in support of the request. All fees, if any, shall be awarded at the time of Judgment and not at a future date unless authorized specifically by statute.

B. Mechanics Liens

In cases involving mechanics liens, the Court will find as reasonable attorney fees, unless there is evidence to the contrary, the following:

- to $1,500.00 for the first $10,000.00 of judgment (or any portion thereon);
- to 5% of the next $15,000.00;
- to 3% of the next $25,000.00;
- to 1-1/2% of the next $50,000.00;
- to 1% of the next $150,000.00;
- to 1/2% of everything over $250,000.00.

The above fees shall include conferences with client, preparation of notices, complaint and summons, obtaining judgment, and reasonable collection efforts. In instances where additional fees are requested, the attorney shall file a Verified Petition/Affidavit which details the services and times expended thereon and includes those matters referred to in Rule 1.5 of the Rules of Professional Conduct.

C. Other Written Instruments Including Leases, Notes, and Contracts

In all cases where instruments provide for attorney fees, or such fees are provided for by statute, except real estate mortgage foreclosure and mechanics liens, the Court will find as reasonable attorneys fees, unless there is evidence to the contrary, the following:

Amount of Debt	**% fee to be awarded**
The first $3,000.00	33-1/3%
The next $10,000.00	17%
The next $12,000.00	8%
Excess of $25,000.00	3%

The above fees shall include conferences with client, preparation of notices, complaint and summons, obtaining judgment, and reasonable collection efforts. In instances where additional fees are requested the attorney shall file a Verified Petition/Affidavit which details the services and times expended thereon and includes those matters referred to in Rule 1.5 of the Rules of Professional Conduct.

LR89-TR00-017 SPECIAL RULES FOR TAX SALE CASES

A. Court Where Tax Sale cases To Be Filed

All Wayne County Tax Sale cases shall be filed in Wayne Superior Court No. 2.

B. Tax Sale Appearance.

In addition to that information required by TR 3.1, each person seeking any relief regarding property sold at a tax sale shall provide the following information as to the subject parcel of real estate:

1. Parcel number;
2. Tax sale Certificate number;
3. Street Address and brief legal description of the parcel's location.

C. Title Search Required

Pursuant to I.C. 6-1.1-25-2(e), any person who has purchased property at a Wayne County Tax Sale must obtain a title search from a title insurance company authorized and licensed to do business in the State of Indiana by no later than one hundred eighty (180) days after the tax sale.

D. Copy Provided to the Court

A Petition for Tax Deed shall be accompanied by a copy of the Title Search required above.

E. Documents to County Attorney

Any motion, objection, or petition filed to pursue an interest in land arising from a tax sale shall be provided to the Wayne County Attorney.

F. Administrative Case Number

The Court shall open a Court Business (CB) case number for any proceedings regarding objections, petitions for tax deed, surplus funds, and the like, requested or conducted regarding a specific parcel. The Court shall inform the parties of the Administrative Case Number by way of official court notice. This number shall **be in addition to** the MI case number assigned.

Once the parties are notified of the CB case number as required above, **both** the MI and CB case numbers **shall** be included in the caption of all pleadings and documents filed regarding a particular parcel.

G. Responsibilities of the Purchaser At Tax Sale

1. The relevant statutes that involve Tax Sales can be found online at www.http://iga.in.gov/legislative/laws

2. The Purchaser, whether represented by counsel or as a *pro se* litigant, is solely responsible for compliance with each provision of the Indiana Code, including all required notices to the owner(s) of record.

3. Suggested Forms for Use of Notice of Filing of Petition For Tax Deed

While not required by law, the Wayne County Courts suggest use of the following form of Notice of Filing of Petition For Tax Deed:

(1)

Person Receiving Notice: _____

Address: _____

Notice of Filing of Petition For Tax Deed

Pursuant to the provisions of Indiana Code 6-1.1-25-4.6, as the owner of the real property described below OR a person with a substantial property interest of public record in the real property described below, you are **HEREBY NOTIFIED** of the following information.

This Notice involves the tract or real property described below:

Parcel Number: _____

Tax Sale Certificate Number: _____

Street (Common) Address For Parcel: _____

Brief Legal Description: _____

_____

_____

_____

The above-described tract or real property was sold by the Treasurer of Wayne County on the date of sale which was: Month _____, Date _____, Year _____, for delinquent taxes and/or special assessments, subject to the right of redemption.

The time period for redemption has expired. The tract or real property was **NOT** redeemed from the tax sale before the expiration of the period of redemption.

The Purchaser, _____, on or after the _____ day of _____, 20_____ intends to file a Verified Petition To Issue Tax Deed in the Wayne Superior Court No. 2 under Case Number 89D02-_____-MI- ___requesting that the Wayne County Auditor be ordered to issue a Tax Deed for the following described real property located in Wayne County, Indiana.

Any person owning or having an interest in the tract or real property may file a written objection to the Verified Petition To Issue Tax Deed with the Court not later than thirty (30) days after the date such Petition is filed. If a proper, written objection is timely filed, the Court shall conduct a hearing on the objection.

Purchaser's Contact Information: _____

Dated: _____

Person Receiving Notice: _____
Address: _____

Notice of Right of Redemption From Tax Sale

Pursuant to the provisions of Indiana Code 6-1.1-25-4.5, as the owner of the real property described below OR a person with a substantial property interest of public record in the real property described below, you are **HEREBY NOTIFIED** of the following information.

This Notice involves the tract or real property described below:

Parcel Number: _____

Tax Sale Certificate Number: _____

Street (Common) Address For Parcel: _____

Brief Legal Description: _____
_____
_____
_____

The above-described tract or real property in Wayne County, Indiana was sold by the Wayne County Treasurer for delinquent taxes and/or special assessments, on the date of sale which was: Month _____, Date _____, Year _____, subject to the right of redemption.

The tract or real property **has not** been redeemed. Any person may redeem the tract or real property by paying the redemption amount to the Wayne County Treasurer. The right to redeem the property expires on the expiration date, the same being the _____ day of **_____,** 2016. The components of the amount required to redeem the tract or real property include:

1. One Hundred Ten percent (110%) of the **minimum bid,** $_____, if the tract or item of real property is redeemed not more than six (6) months after the date of sale; **OR** One Hundred Fifteen percent (115%) of the minimum bid if the tract or item of real property is redeemed more than six (6) months but not more than one year after the date of sale;

2. The amount by which the purchase prices exceeds the **minimum bid,** if any, $_____, on the real property plus Five percent (5%) per annum on the amount by which the purchase price exceeds the minimum bid on the property from the date of sale to the date of redemption;

3. All taxes and special assessments upon the property paid by the purchaser or purchaser's assignee after the sale plus Five percent (5%) interest per annum on those taxes and special assessments;

4. Attorney fees and costs of giving notice under I.C. 6-1.1-25-4.5; and,

5. Costs of a Title Search (reduced by any amounts held in the name of the taxpayer in the tax sale surplus fund).

The purchaser or purchaser's assignee is entitled to reimbursement for additional taxes or special assessments on the tract or real property that were paid by the purchaser or purchaser's assignee subsequent to the sale, lien acquisition, or purchase of the certificate of sale and before redemption, plus interest. The purchaser or purchaser's assignee is entitled to reimbursement for costs described in I.C. 6-1.1-25-2(e). The total amount required for redemption includes all taxes, special assessments, interest, penalties, and fees on the property that accrued and are delinquent after the sale.

The total amount of money required for the redemption of the tract or real property is calculated by the formula set out in I.C. 6-1.1-25-2. You may contact the Wayne County Auditor located in the Wayne County Administration Building, 401 East Main Street, Richmond, Indiana 47374 or by telephone at 765-973-9317 for the exact amount required for redemption, or for further information regarding this sale.

The Purchaser, _____, intends to file a Verified Petition To Issue Tax Deed in the Wayne Superior Court No. 2, on or after the redemption expiration date which is _____ (Month), _____ (Day), _____ (Year) for such tract or real property. The purchaser or purchaser's assignee is entitled to receive a deed for the tract or real property if it is not redeemed before the expiration of the period of redemption. If this tract or real property is not redeemed and a tax deed is issued, YOU, as the owner of record at the time the tax deed will be issued, MAY have a right to the tax sale surplus, if any.

Purchaser's Contact Information: _____
Purchaser's Contact Numbers (Home, Cell, Work): _____
_____
Dated: _____

WAYNE COUNTY RULES OF CRIMINAL PROCEDURE

Adopted By Wayne County Bar Association, Originally Effective October 30, 1997
Including All Amendments, Approved Effective July 1, 2016

LR89-CR00-001 SCOPE

These rules govern the procedure and practice of criminal cases in Wayne Circuit and Superior Courts unless otherwise provided by law or rules of the Supreme Court of Indiana or by other local rules.

LR89-CR00-002 RELEASE FROM CUSTODY - PROMISE TO APPEAR

A. A person arrested and incarcerated without a warrant shall be released from custody within forty-eight (48) hours of arrest unless a judicial determination of probable cause for arrest has been obtained.

B. A person arrested and incarcerated shall be permitted to post bail consistent with the Court's bail schedule unless otherwise ordered or communicated to the Sheriff by a judge.

C. Prior to release of a person pursuant to the 48 hour rule or upon posting bail, the person must complete a verified promise to appear, on a form approved by the courts, indicating his or her full name, date of birth, address, place of employment, home and work telephone numbers, social security number and promise to appear in the Court and at the time designated by the Sheriff. A copy of the Promise to Appear shall be provided to the arrested person and to the Court upon designation. The Promise To Appear is Form 1 in the Appendix.

D. Failure to appear as promised upon release from custody is cause for issuance of an arrest warrant.

E. All persons arrested and incarcerated shall be brought before the Court in which charges are filed within a reasonable period of time.

LR89-CR00-003 APPOINTED COUNSEL

A. A defendant who is financially unable to obtain counsel is entitled to appointed counsel in accordance with this rule, except in misdemeanor cases where the prosecution is not seeking a sentence of incarceration. If the court appoints counsel, the defendant will be notified of the name, address and telephone number of appointed counsel.

B. If a defendant states that he or she is financially unable to obtain counsel, the Court will examine the defendant as to financial circumstances and may require financial statements and/or investigation of the defendant's financial circumstances. If the investigation reveals that the defendant is financially unable to obtain counsel, the Court will appoint counsel.

C. At the time of the initial hearing, a defendant, for whom counsel is not appointed or for whom counsel has not entered an appearance, will be scheduled for a hearing regarding counsel and will be ordered to appear for said hearing. The defendant shall be instructed to contact attorney(s) in order to determine the costs of privately retained counsel and to report back to the Court at the time of the hearing regarding his or her efforts and progress in retaining private counsel. A list of attorneys who have notified the Courts that they may consider representing criminal defendants and receive payment in installments shall be provided to a defendant upon request. Attorneys willing to consider providing representation under such an arrangement shall advise the Court Administrator in writing so as to be included on the list.

D. If the Court finds that the defendant is able to pay part of the cost of representation by appointed counsel, the Court may order the defendant to pay an appropriate sum to the Clerk of the courts to be deposited into the county's supplemental public defender services fund.

E. The Court may order a person for whom a public defender has been appointed to perform community service during pre-trial release to compensate the county for the value of Public Defender services.

F. Notwithstanding the provisions of this rule, the Court may appoint counsel for any person at any stage of the proceedings to prevent a failure of justice.

LR89-CR00-004 APPEARANCE OF COUNSEL

A. Any attorney representing a defendant shall appear for such defendant immediately upon being retained or appointed by signing and filing a written Appearance form containing counsel's name, attorney number, address, telephone number, and a statement indicating whether counsel will accept service by fax and email. A copy of this Appearance form shall be served on the lead counsel of record for the Prosecuting Attorney of Wayne County.

B. Lead counsel for the Prosecuting Attorney of Wayne County shall appear and file an Appearance form, with the same particulars as set forth in subparagraph A above, in each pending criminal case filed with the Clerk of the Wayne Circuit, Superior 1, Superior 2, and Superior 3 Courts.

LR89-CR00-005 WITHDRAWAL OF PRIVATELY RETAINED COUNSEL

A. All withdrawals of Appearance by privately retained counsel shall be in writing and by leave of court. Permission to withdraw shall be given only after the withdrawing attorney has given his or her client ten (10) days written notice of his or her intention to withdraw and has filed a copy of such written notice with the court or upon a simultaneous entering of Appearance by new counsel for said client. The letter of withdrawal shall explain to the client that failure to secure new counsel may have a material adverse effect on the client's constitutional rights and upcoming deadlines, and other pertinent information such as a pending trial date or any other hearing date.

Such letter of withdrawal shall be sent to the client's last known address via both certified mail-return receipt requested and first class mail, postage pre-paid. The certificate of service attached to the required motion for leave to withdraw must indicate compliance with both forms of mail to the client and to all counsel of record or the request shall be denied. The court will not grant a request for withdrawal of appearance unless the same has been filed with the court at least ten (10) days prior to the trial date, except for good cause shown. The Court shall have discretion to grant a Motion To Withdraw if the Court finds that the client was properly notified although by means that are not in strict compliance with this rule.

B. If the motion to withdraw is granted, the Court will determine whether the then existing financial circumstances of the defendant necessitate the appointment of counsel. If so, counsel shall be appointed forthwith so as to obviate delay in the proceedings. If the defendant is not qualified for appointed counsel, the defendant shall be ordered to pursue the retention of alternate counsel and to report back to the Court within not less than fourteen days the results of all efforts made to retain another attorney.

LR89-CR00-006 INITIAL HEARING CONFERENCE

A. Initial hearing shall be conducted in accordance with Indiana Statutes and Criminal Rules.

B. The Court may, upon written motion, grant a defendant's request for waiver of Initial Hearing. Such request for waiver shall be in writing and signed by the defendant's attorney and defendant, if possible, and shall include at a minimum the following:

1. Defendant's counsel has, or will, read and explain to defendant the Information;

2. Defendant's counsel has, or will, advise defendant that defendant has the following rights and will assure the Court that defendant understands such rights:

    a. The right to a public and speedy trial;

    b. The right to a trial by jury; and, in order to preserve the right to a trial by jury for a misdemeanor charge a written demand for trial by jury must be filed at least ten (10) days before the first trial date.

    c. The right to the privilege against self-incrimination;

    d. The right to confront the State's witnesses and to cross-examine those witnesses;

    e. The right to present evidence on defendant's behalf and to subpoena witnesses to testify on defendant's behalf;

    e. The right to require the State to prove defendant's guilt beyond a reasonable doubt;

f. The right to obtain counsel of defendant's choosing at defendant's expense; and,

g. The right to assigned counsel at no expense to defendant if defendant cannot afford an attorney.

3. Defendant's counsel has, or will, also advise defendant regarding the possible penalties for each charge, including the advisory, maximum, and minimum sentences that may be imposed in this cause and sentencing options should defendant be found guilty of the crimes charged and counsel has or will assure the Court that defendant understands such penalties and options.

4. Defendant's counsel has, or will, advise defendant of the defendant's appeal rights and counsel has, or will, assure the Court that defendant understands such rights.

5. Defendant's counsel has advised or will advise defendant that if bail has not yet been set that the Court may require bail, which must be posted at the jail, or the Clerk's office as directed by the Court.

6. Defendant's counsel has advised or will advise defendant of any special conditions of bond as may be required by the Court.

7. For offenses under I.C. 9-30-5, defendant's counsel shall advise defendant of immediate restriction or suspension of driving privileges, and counsel will immediately surrender to the Court all of defendant's driving licenses, permits, and receipts. Counsel has, or will, also advise defendant that operating a motor vehicle in violation of restriction or suspension may result in bond forfeiture and contempt of court determination.

8. Defendant's full name and permanent address and, if different, mailing address. In addition, the defendant's social security number shall be provided on green paper pursuant to Administrative Rule 9.

LR89-CR00-007 PRE-TRIAL CONFERENCE

A pre-trial conference will be scheduled at the initial hearing which shall require personal attendance by the Prosecutor's Office, defense counsel and the defendant. Failure of the defendant to appear may result in revocation of a bond, an increase in bail, and/or the issuance of a warrant.

LR89-CR00-008 WAIVER OF JURY TRIAL

Jury trials shall only be waived by the defendant in open Court and/or by written Waiver signed by Defendant and by defense counsel.

LR89-CR00-009 CRIMINAL DISCOVERY

The Wayne County Courts shall have Discovery consistent with applicable law. Neither the State nor the defense shall be required to file any Discovery documents or pleadings with the Court, but the parties are permitted to do so.

Neither the counsel for the parties nor other prosecution or defense personnel shall advise persons having properly discoverable information (except the accused) to refrain from discussing the case with opposing counsel, nor shall they otherwise impede opposing counsel's investigation of the case.

LR89-CR00-010 STIPULATIONS

All stipulations shall be reduced to writing, signed by counsel and by the defendant personally, unless made during the course of a hearing or trial in open Court.

LR89-CR00-011 SELECTION OF JURY PANEL

A list of the petit jurors called for the trial of a particular case shall be available not less than four business days prior to the trial date.

When jury panels have been drawn, the bailiff shall cause the Court's questionnaire to be sent to each member of such panels to be answered and returned by such persons at least one business day prior to the commencement of jury selection. Such completed jury questionnaires are confidential and may only be obtained or examined by attorneys of record. Requests to supplement the Court's jury questionnaire shall be made in writing, prior to the final pretrial conference and shall include a verbatim proposed questionnaire.

LR89-CR00-012 VOIR DIRE

The prosecutor and defense shall have an opportunity to question each prospective juror and observe questioning of the prospective juror by opposing counsel prior to passing or striking a prospective juror. Peremptory challenges shall be made in writing at the bench. If a prospective juror is stricken by both sides, each side is chargeable for the strike. A juror not stricken may become a member of the trial jury. A challenge for cause can be raised at any time. The Court may put time limitations on jury questioning.

LR89-CR00-013 FILING PROCEDURE FOR CRIMINAL CASES

A. Misdemeanors are filed in Wayne Superior Court 3 unless the misdemeanor accompanies a felony charge filed in Wayne Circuit Court, Wayne Superior Court 1, or Wayne Superior Court 2.

B. The following felonies shall be filed in Wayne Superior Court 3, unless at least one Level 6, 5, 4, 3, 2 or 1 felony (other than those filed under I.C. 9-30-5 or 930-6) or Murder, is also filed against the same defendant in the same Information or Indictment:

1. Battery, a Level 6 Felony, filed under I.C. 35-42-2-1.

2. Domestic Battery, a Level 6 Felony, filed under I.C. 35-42-2- 1.3.

3. Strangulation, a Level 6 Felony, filed under I.C. 35-42-2-9.

4. Possession of Marijuana, Hash Oil, Hashish, salvia, a synthetic cannabinoid or other substance listed at I.C. 35-48-4-11, a Level 6 Felony.

5. All offenses filed under I.C. 9-30-5.

6. All offenses involving the operation of a motor vehicle while driving privileges are suspended, restricted, or forfeited.

C. If the defendant:
1. has at least one pending criminal case, or
2. is on probation

in Circuit Court, Superior Court 1 or Superior Court 2, then any felony charges brought against the same defendant, other than those felony charges listed at (B)(1-6), are to be filed in the court having jurisdiction over the matter referred to at (C)(1) OR (C)(2).

D. If the defendant:
1. has at least one pending felony case, and/or
2. is on formal felony probation

in Superior Court 3, then any Level 6 Felony charge brought against the same defendant shall be filed in Wayne Superior Court 3.

E. Except as otherwise dictated by paragraph (A), (B), (C) or (D), criminal cases shall be filed in a random and equal manner in Circuit Court, Superior Court 1 and Superior Court 2.

F. If the Judge or personnel of a Court are required as witnesses in any case, the case shall not be filed in that Court, and the Clerk shall cause that case to be randomly filed in a different Court, unless otherwise excepted by this rule.

G. When the State of Indiana chooses to re-file a dismissed case, the case shall be assigned to the Court from which the dismissal was taken. This rule applies to all charges arising out of the same offense report, arrest report, or set of operative facts.

H. In order to provide for an appropriately balanced case load and appropriate use of court resources, the Judges of the Wayne County Courts may, from time to time, transfer cases to other courts within Wayne County. Transfer of cases shall be by written order of the forwarding court, and shall be subject to written consent by the Judge of the receiving Court.

I. If unusual and unforeseen circumstances occur, deviation from the provisions of this rule may be obtained for a particular case with the approval of the Courts.

J. The filing of any case in a manner contrary to the rules set out above shall not be considered as grounds to support a motion for transfer or for a change of venue from the court or Judge. The presiding Judge may transfer such a case, at his or her discretion.

K. In the event that a criminal offense is added or significantly modified by statute, including any alternation in the level of misdemeanor or felony, the Judges of the Wayne Circuit and Superior Courts will issue a temporary local rule to address the proper filing of such offense. The temporary local rule will have effect until the local rule can be formally amended.

LR89-CR00-014 BAIL

A. Setting Bail. The Court will set the amount of bail that the accused shall be required to post. Warrant arrests may include the amount of the bail on the face of the warrant or on the order directing the Clerk to issue the Warrant. Prosecution requests for arrest warrants shall include any prosecution's recommendation regarding bail amount and the reasons therefor. Where charges are filed subsequent to arrest, the probable cause affidavit or oral probable cause submission shall include any prosecution's recommendation as to the appropriate bail.

B. Filed motions for re-determination of bail will be given scheduling priority by the Courts.

C. Automatic 10% Cash Bonds: A 10% cash bond is authorized by the Wayne Circuit Court, Wayne Superior Court No. 1, and Wayne Superior Court No. 2 for individuals charged with a non-warrant arrest for Level 3, 4, 5, or 6 Felonies.

A defendant charged with a misdemeanor or a Level 3, 4, 5, or 6 Felony in Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2 for whom bail has been set, may satisfy the requirement of bail by depositing ten percent (10%) of the bail in cash with the clerk of the Court or the Sheriff of Wayne County as security for the full amount of the bail, if authorized by the Wayne Circuit Court, Wayne Superior Court No. 1, or Wayne Superior Court No. 2.

D. CRIMINAL BAIL SCHEDULE (if bail is not otherwise set by Court):
The Bail schedule listed below is a presumptive Bail Schedule range that the Wayne Circuit, Wayne Superior Court No. 1 and Wayne Superior Court No. 2 shall use:

Offenses Against Persons: I.C. 35-42 *et seq.*

Murder			**No bail** To
Level 1 Felony			**$75,000.00**
Level 2 Felony	$25,000.00		To**$50,000.00**
Level 3 and 4 Felonies	$15,000.00		**To$25,000.00**
Level 5 and 6 Felonies	$ 7,500.00		**To$15,000.00**
	$ 5,000.00		

Offenses Against Property: I.C. 35-43 *et seq.*

Level 1 Felony	$15,000.00	to	**$50,000.00**
Level 2 Felony	$10,000.00	to	**$35,000.00**
Level 3 and 4 Felonies	$ 5,000.00	to	**$20,000.00**
Level 5 and 6 Felonies	$ 2,500.00	to	**$10,000.00**

Offenses Relating to Controlled Substances: I.C. 35-48-4 *et seq.*

Level 1 Felony	$15,000.00	to	**$40,000.00**
Level 2 Felony	$15,000.00	to	**$30,000.00**
Level 3 and 4 Felonies	$ 7,500.00	to	**$15,000.00**
Level 5 and 6 Felonies	$ 5,000.00	to	**$ 7,500.00**

Other Offenses Not Categorized

Level 1 Felony	Above	$ 6,000.00	**$60,000.00**
Level 2 Felony		$ 4,500.00	**$45,000.00**
Level 3 and 4 Felonies		$ 3,000.00	**$30,000.00**
Level 5 and 6 Felonies		$ 1,500.00	**$25,000.00**

The schedule~~d~~ above is established as a general guide for the Wayne County Courts (except Wayne Superior III) in setting bail for persons charged with bailable offenses.

The Sheriff of Wayne County shall use the maximum amount for non-warrant arrests until the initial hearing, whereupon the Court has discretion to revise the amount of the bail.

Nothing in this schedule shall prevent the Court from setting above or below the range provided in this schedule or from admitting an individual defendant to release upon recognizance.

The Bail Schedule in this paragraph shall apply to all cases filed in Wayne County courts other than Wayne Superior Court 3.

Bonds shall be increased 50% for persons admitted to bail on a separate Felony case or who is charged as a Habitual Offender or with a sentencing enhancement. The Prosecution shall include such fact in its Affidavit of Probable Cause or Charging Information.

E. The Wayne County Superior Court 3 shall post its current bond schedule in the courtroom of Wayne Superior Court 3, shall provide a copy of its current bond schedule to the Wayne County Sheriff, and such bond schedule shall be available for review in the Wayne Superior Court 3 offices. The $5.00 bonding fee (death benefit fee) for cases in Wayne Superior Court 3 is to be added to surety and cash bonds on all misdemeanor and truck violations. The fee is not to be added to felony charges. The Clerk shall retain from the cash bond such administrative fees as are authorized by law.

F. For criminal cases with offense dates prior to July 1, 2014, the Bail Schedule below shall be the presumptive Bail Schedule range that the Wayne Circuit, Wayne Superior Court No. 1 and Wayne Superior Court No. 2 shall use:

Offenses Against Persons: I.C. 35-42 *et seq.*

Murder			**No bail authorized**
Class A Felony	$25,000.00	to	**$75,000.00**
Class B Felony	$15,000.00	to	**$50,000.00**
Class C Felony	$7,500.00	to	**$25,000.00**
Class D Felony	$5,000.00	to	**$15,000.00**

Offenses Against Property: I.C. 35-43 *et seq.*

Class A Felony $15,000.00 to **$50,000.00** Class B Felony $10,000.00 to **$35,000.00** Class C Felony $5,000.00 to **$20,000.00**

Class D Felony	$2,500.00	to	**$10,000.00**

Offenses Relating to Controlled Substances: I.C. 35-48-4 *et seq.*

Class A Felony	$15,000.00	to	**$40,000.00**
Class B Felony	$15,000.00	to	**$30,000.00**
Class C Felony	$ 7,500.00	to	**$15,000.00**
Class D Felony	$ 5,000.00	to	**$7,500.00**

Other Offenses Not Categorized Above

Class A Felony	$6,000.00	to	**$60,000.00**
Class B Felony	$4,500.00	to	**$45,000.00**
Class C Felony	$3,000.00	to	**$30,000.00**
Class D Felony	$1,500.00	to	**$25,000.00**

LR89-CR2.2-015 SEARCH WARRANTS

Criminal cases opened for the purpose of obtaining a Search Warrant shall be assigned a new Miscellaneous Criminal case number. Cases for Search Warrants shall be assigned randomly among the Wayne Circuit, Superior No. 1, Superior No. 2, and Superior No. 3 courts in the same manner as set forth in LR 89-CR00 Rule 013. In the event there is a pending action involving the same criminal defendant for whom, or against whom, a Search Warrant is now requested that is related to such pending proceeding, a Notice of Filing of Request for Search Warrant shall be filed in the underlying pending action within twenty-four (24) hours after execution of the Search Warrant. Such Notice shall advise the court, counsel, and defendant that a request for a Search Warrant has been filed in a miscellaneous criminal case setting forth the caption of the case and the case number. Failure to file such a Notice is grounds for appropriate sanctions. Requests for Search Warrants are *ex parte* proceedings.

LR 89-CR00-016 MOTIONS

A. Preparation

All pleadings, motions, briefs, and other papers shall be prepared in accordance with the provisions of the Indiana Rules of Procedure.

B. Continuances and Enlargements of Time

All motions for continuance or enlargement of time (whether 1st, 2nd, 3rd, etc.) shall be made in writing, shall state whether or not opposing counsel objects to the motion, and shall state whether prior continuances or enlargements have been requested by either party and whether such prior request was granted. The Court may require any written motion for continuance or enlargement of time to be signed by the party requesting the continuance.

C. Title of Motion

All motions for continuance or enlargement of time shall denominate in the title of such motion whether it is the first, second, third, etc. motion for continuance or enlargement of time; e.g. Defendant's Second Motion For Enlargement Of Time To File Answer.

D. Proposed Orders to Accompany All Motions

All motions seeking an Order of the Court shall be accompanied by a sufficient number of proposed Orders to be executed by the Court in granting the motion. Proposed Orders continuing a matter or granting an enlargement of time shall not set forth the new date but shall leave the date blank for the Court to complete. Proposed Orders submitted to the Court shall include a list of the names and addresses of all parties and persons to whom the proposed Order shall be distributed. Such distribution shall include, at a minimum, the names and addresses of all parties to the action.

E. Certificate of Service

The Certificate of Service as required by Trial Rule 5 of the Indiana Rules of Trial Procedure shall specifically set forth the names and addresses of the attorney(s), party(ies), or representative(s) to whom the document has been sent.

LR 89-CR13-017 SPECIAL JUDGE SELECTION IN CRIMINAL CASES

When the appointment of a special judge is required under Criminal Rule 12 of the Indiana Rules of Criminal Procedure or an order of disqualification or recusal is entered in a case, or where a change of judge is granted pursuant to Indiana Post-Conviction Remedy Rule 1(4)(b), the provisions of this Rule constitute the exclusive manner for the selection of special judges in circuit and superior courts in all criminal proceedings in Wayne County. The Clerk of the Wayne Circuit and Superior Courts shall assign a successor judge from the remaining Wayne County judges by random selection until no Wayne County Circuit or Superior Court judge remains. If no Wayne County Circuit or Superior Court judge qualifies as special judge, the Clerk shall assign a special judge, in sequence, from the following list of judges, all of whom are within the administrative district within which Wayne County is a part, as set forth in Administrative Rule 3(A), or are from a contiguous county and have agreed to serve as special judge in the courts of Wayne County where the case is pending:

1. The presiding Judge of the Union Circuit Court;
2. The presiding Judge of the Henry Circuit Court 1;
3. The presiding Judge of the Henry Circuit Court 2;
4. The presiding Judge of the Henry Circuit Court 3;
5. The presiding Judge of the Fayette Circuit Court;
6. The presiding Judge of the Fayette Superior Court;
7. The presiding Judge of the Franklin Circuit Court;
8. The presiding Judge of the Franklin Circuit Court No. 2;
9. The presiding Judge of the Randolph Circuit Court;
10. The presiding Judge of the Randolph Superior Court;
11. The presiding Judge of the Rush Circuit Court; and,
12. The presiding Judge of the Rush Superior Court.

The Clerk shall maintain such records as necessary to assure that selections are rotated in the above sequence.

APPENDIX

Form 1: Promise To Appear

Form 2: Personal Appearance Bond with Percentage Cash Deposit

Form 1

Date & Time Booked In _____

Date & Time Released _____

WAYNE CIRCUIT AND SUPERIOR COURTS

APPEARANCE FORM

Full Name: _____

Present Address: _____
(Street) (Apartment No.)

_____
(City) (State) (Zip)

Phone No.: _____ Social Security No.: _____

DOB: _____ Driver's License No.: _____

Employer's Name and Address: _____

Current Charge: _____

I (am) (am not) presently on bond on another charge (of _____

_____pending in_____).

PROMISE TO APPEAR

The undersigned hereby certifies that the above information is true.

I promise to appear in the Wayne _____ Court (No. _____) on the _____ (A.M.)(P.M.). I understand that a bench warrant for my arrest will be issued if I fail to appear at said time and place.

I affirm under the pains and penalty for perjury that the foregoing information is true.

Dated: _____

_____

Signature

WITNESSES:

_____

_____

FORM 2

STATE OF INDIANA **IN THE WAYNE _____ COURT**

VS.

_____ **CAUSE NO.**

PERSONAL APPEARANCE BOND WITH PERCENTAGE CASH DEPOSIT

I, the undersigned Defendant, understand that the bail has been set to assure my appearance in the above Court when ordered; I accept the option to deposit ten per cent (10%) of the amount of bail in cash with the Clerk.

I understand that I am bound to the State of Indiana in the full amount of the bail set in the sum of _____dollars; ($_____). If I appear in Court as directed and comply with all conditions as ordered by the court until this case is finished, then this bond shall be released; if otherwise, the bond shall remain in full force.

If I do not appear at any time fixed by the Court, the Court may declare this bond forfeited, and notice shall be mailed to me and _____at the addresses given below.

Unless the Court finds there was justification for my failure to appear, the Court may immediately enter judgment against me for the full amount of the bail. The cash deposit, less an administrative fee, shall be applied to the judgment, and the balance of the judgment may be enforced and collected in the same manner as a civil judgment.

If I fail to appear as required, or violate any condition of my release from custody, the release may be revoked and a warrant for my arrest may be issued immediately. I agree that, as conditions for my release from custody, I will:

(a) inform my attorney and the court of any change in address or employment within 72 hours of such change;

(b) personally appear in this cause in any Court in Wayne County at which my appearance is required by the Court. Notice by the court to my attorney of record shall constitute notice to me;

(c) comply with all other conditions of release as ordered by the Court.

When the conditions of the bond have been performed, unless the Court orders otherwise, the Clerk shall retain those fees required by the Court and return the balance of the cash deposit to the undersigned defendant. However, if judgment for fees, fines, costs, restitution or any other obligations is ordered by the court, the remaining cash bond shall be first applied by the Clerk to the payment of the above judgment, upon court order.

I affirm under the pains and penalties that the foregoing information is true and correct.

_____ Defendant's Signature

_____

Printed Name of Defendant

_____

Defendant's Address

Dated: _____

_____

I have read and understand this agreement. I acknowledge that any monies provided by me to the defendant belong to the defendant and shall be applied as set forth above.

_____

Signature of Person Providing Cash Funds to Defendant

_____

Printed Name of Person Providing Cash Funds to Defendant

_____

Address Person Providing Cash Funds to Defendant

Dated: _____

WAYNE COUNTY LOCAL RULES OF FAMILY LAW

Adopted By Wayne County Bar Association, Originally Effective October 30, 1997,
Including All Amendments, Approved Effective July 1, 2016

LR89-FL00-1 SCOPE AND TITLE

A. **Scope.** These Rules shall govern the procedure and practice of all family law and domestic relations matters in the Wayne Circuit and Superior courts unless otherwise provided by law or rules of the Supreme Court of Indiana. These Rules are in addition to and are not intended to replace the Wayne County Local Civil Rules of Court. In the event of a conflict in a family law or domestic relations matter, the Wayne County Family Law Rules shall apply.

B. **Title.** These Rules shall be known as the Wayne County Rules of Family Law and shall be cited as LR89-FL00-1, et. seq.

LR89-FL00-2 ADMINISTRATIVE PROCEDURES

A. Advice of Time Required. Parties shall advise the Court in the text of any preliminary or contempt petition if the matter cannot be heard on the regularly scheduled docket and shall provide an estimate of the time required in the event that more than fifteen minutes is necessary.

B. Summary Hearing. All issues and evidence relevant to a preliminary hearing may be presented in summary fashion by each party, or by counsel, if represented. Summary provisional hearings are set in fifteen minute intervals.

C. Copies of Decree Required. When submitting a Final Decree and Property Settlement, the parties shall submit sufficient copies of each for the Court to retain an original and copy of each and provide copies to all counsel of record.

D. Bench Warrant. In order to obtain a bench warrant from the Court, a party must have personal service on the adverse party and complete a bench warrant on copy service with sworn testimony confirming actual notice to the adverse party.

E. Summons and Notice. In all relevant family law matters, the petitioner shall use the form of Summons and Notice set forth in Appendix A.

F. Notifications. In all relevant family law matters, an instruction sheet on *Parenting Together to Keep Kids First* and a cooperation notice sheet regarding cooperation in family law cases are included with the Summons and Notice set forth in Appendix A and provided to *pro se* filers. The green notice sheet is set forth in Appendix D.

LR89-FL00-3 SPECIFIC DISCLOSURE REQUIREMENTS

Prior to any preliminary hearing or within thirty days after service of any petition seeking relief in any family law matter, whichever shall first occur, each party shall provide the Court and the opposing party with written notice of any other pending legal proceeding in which such person is a party wherein the other pending legal proceeding involves an issue or allegation of domestic violence, spousal abuse, child abuse, protective order, restraining order, Child(ren) in Need of Services, Termination of Parent-Child Relationship, Juvenile Delinquency, or any criminal charges. The written notice should include the cause number of the legal proceeding, identification and location of the Court, names of the parties involved, and a brief summary of the nature of the legal proceeding.

LR89-FL00-4 COOPERATION IN FAMILY CASES

A. Liberal Construction and Application.

1. The Courts of Wayne County are committed to a cooperative model for the handling of family cases by parents, attorneys, and judges. This Rule will be liberally construed and applied to serve the healthy and child-sensitive functioning of families.

2. "Family cases" are defined as all marital dissolution or separation, paternity, and guardianship.

3. The adoption of this Rule is not intended to affect lawyers' duty to act with reasonable diligence and promptness in representing a client. See Indiana Rule of Professional Conduct 1.3 and its commentary.

B. Case Captioning.

1. Parties in marital dissolution and separation and paternity cases shall not be captioned or designated as "petitioner," "respondent," "plaintiff," or "defendant."

2. In marital dissolution and separation cases where the parties have one or more children under the age of nineteen on the date of the initial filing, all pleadings shall be captioned, "In Re The Marriage of _____, Father [or Mother], and _____, Mother [or Father]." The party filing the initial petition shall be named first.

3. In marital dissolution and separation cases without children under the age of nineteen of the initial filing, all pleadings shall be captioned, "In Re The Marriage of _____, Wife [or Husband], and _____, Husband [or Wife]." The party filing the initial petition shall be named first. Following dissolution, parties without children shall be captioned and designated "former husband" and "former wife."

4. Parties in paternity cases shall be captioned and designated as "mother," "putative father," and "father."

C. Duties of Attorneys and Parties in Family Cases.

1. Attorneys and parties in family cases shall be responsible to act with the Courts as co-problem solvers, not mere problem reporters.

2. The Courts expect all parties and attorneys to consistently observe:

   a. personal responsibility by acting on one's own opportunities to solve problems and improve circumstances rather than merely reporting on the alleged fault in others,

   b. cooperation by sensibly defining and pursuing the best interests of all family members,

   c. courtesy by constant observance of respectful language and behavior, and

   d. focused attention on children's needs including an awareness that parent conflict is gravely dangerous to children.

3. Attorneys appearing in family cases shall (a) furnish their family clients with a copy of this Rule and (b) assist them in fully understanding and observing its provisions.

D. Website Work.

1. In marital dissolution and separation cases, parents with one or more children under the age of nineteen (19) years on the date of their initial petition shall complete the website work on www.UpToParents.org and shall take their completed work to the parenting class required under LR89-FL00-8, any and all case-related appointment, court hearing, mediation, or the like. The Judge, in his or her complete discretion, may waive completion of such website work or the class referred to at LR89-FL00-8. Parents open to the possibility of reconciliation may substitute the work from www.WhileWeHeal.org.

2. In actions where the IV-D Prosecutor's Office brings an original action to establish paternity or for child support and/or medical support, and other juvenile paternity original actions involving child support, child custody, or medical, parents shall complete the website work on www.ProudToParent.org and shall take their completed work to any and all case-related appointment, court hearing, parenting class, mediation, or the like. The Judge, in his or her complete discretion, may waive completion of such website work.

3. Parents shall merge their chosen Commitments from their website work into a set of Agreed Commitments, review those Agreed Commitments, and take copies of them to any hearing or other case-related appointment.

4. The website work and class shall be completed promptly but within forty-five days of the filing of the Petition, unless leave of court is granted.

5. The Agreed Commitments and other result generated as a result of the website work shall be inadmissible and unenforceable in the event litigation is required. The purpose of the website work is to generate a culture of co-parenting for the long-term benefit of families.

6. The Court for good cause shown may order a waiver of completion of the website work and class.

E. Protocols for Motions and Hearings Involving Minor Children and Cooperation Update

1. In matters involving minor children, parties and counsel shall make every reasonable effort to resolve problems by reaching agreements that serve the best interests of all family members and should appear in court on contested matters only in rare circumstances after every reasonable effort to resolve problems has been made.

2. In matters already pending before the Court, except in instances where it would be dangerous or otherwise unreasonable to do so, counsel and parties without counsel shall use good-faith personal or telephonic consultation to resolve any issue before seeking relief from a court. In that mandatory consultation, counsel shall:

a. attempt to resolve the matter at issue;

b. discuss, and make a list of, the resources they believe the parents could use to resolve current and future issues and to build cooperation (separate lists shall be made if a joint list is not agreed on);

c. if previously ordered by the Court, confirm that the parents (i) have completed the website work referred to in paragraph D, (ii) have merged their chosen Commitments into a set of Agreed Commitments, and (iii) will review and bring their Agreed Commitments and any other website work to any upcoming case related appointment;

d. confirm the date each parent completed the assigned parenting class; and

e. discuss what the Court can do to assist the parents in reaching further agreements.

3. All motions filed by counsel and parties without counsel shall include a Cooperation Update separate and apart from the underlying motion which Cooperation Update shall be in the form and manner as prescribed by Appendix C of these Rules and shall, at a minimum, confirm compliance with each of the requirements in paragraph E(2) in addition to those matters set forth in Appendix C. The Cooperation Update may also include additional matters that a party or counsel believes would be helpful to the Court in acting as a problem solver and generating a culture of co-parenting for the long-term benefit of families.

A Cooperation Update is required in all cases designated as DR (domestic relations), JP (juvenile paternity), or RS (reciprocal support) involving child custody, child support, parenting time, insurance and/or health benefits for a child, tax dependency claims, and mental health and/or counseling for a child, including any request for a modification of such provisions or a finding of contempt with respect to such provisions.

4. To the extent that the filing date of a particular motion triggers certain rights and obligations, strict compliance with subsection E(2) may be excepted so long as the moving party indicates that a Cooperation Update is not included in said motion due to the importance of the filing date. In such cases, the moving party shall be required to comply with subsection E(2) and file a Cooperation Update within seven days of the date of filing.

5. Failure to comply with this section may result in the denial of relief or hearing until compliance is ensured.

6. Parents shall review and bring to every hearing a copy of their Agreed Commitments and current Parenting Planning Worksheet.

F. Status Conferences.

1. A status conference may be requested at any time, and one will ordinarily be scheduled by the Court for approximately sixty days after the filing of the initial petition for dissolution, for separation, for the establishment of paternity, and for modification, approximately sixty days after the finding of paternity. The moving party shall provide with his/her initial pleading a proposed Notice of Status Conference, leaving the date and time blank.

2. Any request for a status conference which is not the automatic sixty-day conference shall comply with subsection E(2) and contain a Cooperation Update. Said request shall further indicate the moving party's proposed agenda for such status conference.

3. The chief purposes of status conferences will be (a) for attorneys (and parties without attorneys) to report on progress in reducing conflict, building cooperation, preserving family relationships, and responding to the needs of the children, (b) for families, where required, to be referred for any necessary help, and (c) for attorneys (and parties without attorneys) to report on discovery issues.

4. Parties or their attorneys shall consult in advance of the status conference and present suggestions for the future course of the case that would serve the best interests of all family members.

5. Additional status conferences should be requested whenever parties or counsel believe they would be helpful in reducing conflict, building cooperation, preserving relationships, or protecting children.

G. Additional Assistance to Families.

1. At any time parties need resources to reduce conflict, build cooperation, preserve family relationships, or respond to the needs of their children, they and their attorneys, if any, should make arrangements to find the resources that could help them.

2. If parents nevertheless continue to have conflict and appear in court without an agreement about the resources they will use, the Court may select the resources the parents will be ordered to use.

H. Requests for Trial Settings.

1. Trial settings must be requested in writing in compliance with Wayne County Rules of Civil Procedure. In addition to complying with the requirements of Wayne County Rule of Civil Procedure, the trial setting request must give a detailed account of (i) all unresolved issues and (ii) what problem-solving resources (including counseling and mediation) the parties have used to reach cooperative agreements. Failure to comply with this section may result in the denial of a trial setting.

I. Enforcement.

1. This Rule and the enforcement thereof appear contradictory. However, the benefits of the overall concepts contained in this Rule, as well as the recognized and hoped long term advantages of implementing such a process, render its enforcement of vital importance, as families in conflict do not always fit well into the mold of the traditional adversary system. Nevertheless, it must be recognized that an attempt to reshape the model within which family law cases have traditionally occurred will require, on occasion, the use of those enforcement mechanisms which do not fall within a model of cooperation.

2. Courts may use, at their discretion, the variety of enforcement mechanisms available, including but not limited to the award of attorney's fees and sanctions, available to them in the traditional system.

J. Effective Date.

1. This Rule shall apply to all filings, in both new and pending cases, as of the effective date of the entirety of these Rules.

Commentary

Family cases of all sorts (see paragraph (A)(2)) must be handled in ways that reduce conflict, build cooperation between parents, and protect children. The Courts of Wayne County will expect parties and attorneys to give consistent attention to those ends and will liberally construe and apply this Rule to serve those ends.

This Rule provides nine measures to promote the cooperation necessary to serve the best interests of all family members involved in family cases.

Cases will be captioned and parties will be designated in ways that better convey everyone's duty of cooperation. Parents will be designated as "mother" and "father" (or in some paternity cases as "putative father"), never as "petitioner or "respondent." See paragraph B.

Attorneys and parties will be expected to consistently observe personal responsibility, cooperation, courtesy, and focused attention on children's needs. See paragraph C.

Parties shall be referred for website work. See paragraph D.

In matters involving minor children, before filing motions or pleadings, attorneys are required to have a personal consultation on five matters: (a) an attempt to resolve by agreement the matter at issue; (b) a discussion of the resources parents could use to resolve current and future issues; (c) if ordered, confirmation that the parents have completed, and will bring to upcoming case-related appointments, their Agreed Commitments from their website work; and (d) confirmation of the parents' attendance at the parenting class. See paragraph E.

Counsel shall including a Cooperation Update on those five matters in their pleadings. See paragraph E.

Parties must bring their Agreed Commitments and Parenting Plan Worksheet to all case-related appointments. See paragraph E.

The Courts will hold status conferences to hear counsel's suggestions for helping families cooperate and function better. Parties without attorneys will also participate in status conferences. See paragraph F.

Requests for trial settings must be in writing and substantially comply with Wayne County Local Rule of Civil Procedure. In addition to the requirements of said rule, the request must account for past and future problem-solving alternatives to trial.

LR89-FL00-5 PROVISIONAL HEARINGS

A. **In Non-Dissolution of Marriage Cases.** The Court shall have the discretion to hold provisional hearings in non-dissolution of marriage cases and may grant relief where appropriate.

B. **Child Support Worksheet.** All Motions for Provisional Order seeking child support or a modification thereof shall be accompanied by a proposed Child Support Obligation Worksheet.

C. **Cooperation.** In provisional motions which involve minor children accompanying an initiating pleading, strict compliance with LR89-FL00-4 is not required; however, the moving party shall make reasonable efforts at resolving all provisional issues with the non-moving party, whether or not represented by Counsel, after service of said initiating pleading and prior to the scheduled hearing.

D. **Time Allotted and Nature of Proceedings.** Provisional hearings shall be held in summary fashion and shall be scheduled in fifteen-minute increments, unless either party has indicated in his/her Motion for Provisional Hearing or Response thereto that additional time is required. Such indication that additional time is required further constitutes a waiver of the three-week scheduling requirement. Said proceedings shall be held in court chambers off the record. Either party may request in his/her Motion for Provisional Order that the proceedings be held on the record, which further constitutes a waiver of the three-week scheduling requirement. The Court shall have the discretion to grant or deny in whole or in part a request for an on-the-record evidentiary hearing exceeding fifteen minutes in length.

E. **Attorney's Fees.** Provisional attorney fees may be awarded based on the following factors:

1. The number and the complexity of the issues (e.g. custody dispute, complex asset valuation).
2. The nature and extent of discovery.
3. The time reasonably necessary for the preparation for or the conduct of contested preliminary matters or final hearings.
4. Other matters requiring substantial expenditure of attorneys' time.
5. The attorney's hourly rate.
6. The amount counsel has received from all sources.
7. The ability of the opposing party to pay the requested fees and the disparity of income between the parties.

F. **Preliminary Appraisal, Evaluator, and Accountant Fees.** Appraisal, evaluator, or accounting fees may be allocated based on the following factors:

1. Itemized list of property to be appraised or valued (e.g., Defined benefit pension, business interests, business real estate, furnishings, vehicles, etc.).
2. An estimate of the cost of the appraisals and the basis therefore.
3. The amount of a retainer required and the reason an expert is necessary.
4. Whether the parties agree to a specific appraiser, evaluator, or accountant.

G. **Provisional Child Support Orders.** There is hereby created a rebuttable presumption that provisional child support orders shall be made retroactive to the first Friday following the date of filing of a written request for a provisional child support order. Such presumption may be rebutted upon a showing that such retroactivity is inappropriate under the facts of a particular case.

H. **Exchange of Necessary Documentation.** At least seven days before the scheduled provisional hearing, the parties shall exchange documentation of all year-to-date income (usually satisfied by the party's three most recent paystubs), whether there are subsequently born children, documentation of an order or duty of support for prior born children, documentation of maintenance paid, documentation of work-related child care expenses, documentation of the weekly cost of health insurance for the minor children, and a proposed child support obligation worksheet.

LR89-FL00-6 ORDERS EXCLUDING A SPOUSE FROM THE RESIDENCE

A. Eviction without Notice. A Restraining Order without notice pursuant to Ind. Trial Rule 65 which would evict a spouse from the marital residence may be issued only upon the following bases:

1. Strict compliance with Ind. Trial Rule 65; and
2. There are alleged specific facts indicating more than a generalized fear of an adverse action; and
3. There is independent, corroborated evidence of actual or threatened physical abuse sufficient to find a risk of imminent danger; and
4. The moving party is physically available to testify unless there is a showing of exceptional circumstances precluding his or her availability; and
5. The moving party certifies to the Court the reasons supporting the claim why notice cannot be given.

In addition to the foregoing criteria, the Court may consider any other relevant social or economic factors including whether either party has a reasonable alternative residence pending hearing on the provisional motion(s). In those circumstances where the Court allows a party to be heard ex parte on the record and finds an emergency exists justifying issuance of an eviction order, the cause shall heard within ten days with notice to all parties. Such an order shall, by its own terms, terminate effective the date and time of the hearing, unless extended by the Court after hearing evidence thereon. Furthermore, such an order shall terminate at the expiration of ten days from the date of said order if no hearing is held prior thereto.

B. Order. If an Order granting exclusive possession of the marital residence to one spouse is entered by the Court without hearing under this Rule, such Order shall contain the following language: "The _____ is hereby restrained from entering marital residence located at _____ and the Wayne County Sheriff's Department, Richmond Police Department, or other appropriate law enforcement agency shall use all reasonable force, including arrest, to remove a party from the premises upon presentation of such an Order."

C. Extraordinary Remedy. Any orders issued ex parte hereunder shall be considered an extraordinary remedy and should be considered only in emergency circumstances.

LR89-FL00-7 FINANCIAL DECLARATION FORM

A. Requirement. In all relevant family law matters, including dissolution of marriage, separations, paternity, post-decree and support proceedings, each party shall prepare and exchange, respectively, within forty-five days of the initial filing of the action or within thirty days of the filing of any post-decree matters, a Financial Declaration Form (see Appendix B). These time limits may be extended or shortened by court order for good cause shown. With respect to post-decree modification actions, only Page 1 need be completed.

B. **Exceptions.** The Financial Declaration Form need not be exchanged if:

1. the parties agree in writing to waive exchange;
2. the parties have executed a written agreement which settles all financial issues;
3. the proceeding is one in which the service is by publication and there is no response; 4. the proceeding is post-decree and concerns issues without financial implications; provided, however, when the proceeding is a post-decree modification which necessarily implicates child support, this Rule shall still apply; or 5. the Court otherwise waives such requirement.

C. **Admissibility.** Subject to specific evidentiary challenges, the Financial Declaration Form shall be admissible into evidence.

D. **Supporting Documents.** For the purpose of providing a full and complete verification of assets, liabilities and values, each party shall attach to the Financial Declaration Form all information reasonably required and reasonably available. This shall include recent bills, wage and tax records, bank records, pension and retirement account information, and mortgage account records. The term "reasonably available" means that material which may be obtained by letter accompanied with an authorization, but such term does not mean material that must be subpoenaed or is in the possession of the other party. Appraisals of real estate or personal property, or pension valuations are not required. However, once an appraisal or valuation is obtained it must be exchanged. Further, the Court may direct than an appraisal or valuation be obtained, just as it may designate the appraiser or valuator. The Court may require either party to supplement the Financial Declaration Form with appraisals, bank records, and other evidence to support the values set forth in the Form.

E. **Financial Declaration – Mandatory Discovery.** The exchange of Financial Declaration Forms constitutes mandatory discovery. However, Indiana Trial Rule 37 sanctions do not automatically apply. In the event that a party does not timely submit his or her fully completed Financial Declaration Form and reasonable efforts have been made to informally resolve any such dispute, the party seeking compliance may file a Motion to Compel and [if desired] for Sanctions. If such Motion is granted, the Order shall set a deadline for compliance and schedule a hearing on potential sanctions. At said hearing, the Court may take into consideration the noncompliant party's compliance with the Order to Compel in determining whether to award sanctions to the moving party. Additionally, pursuant to Indiana Trial Rule 26(E)(2) and (3), the Financial Declaration Form shall be supplemented if information changes or is added or if additional material becomes available.

Any additional discovery such as Requests For Production, Interrogatories, or Depositions of the parties to the action shall not commence until the Financial Declaration Forms has been exchanged; provided, however, that if a party's noncompliance has resulted in the filing of a Motion to Compel, the moving party may move forward with additional discovery reasonably necessary to obtain the information sought. Any further discovery shall not seek to obtain information already obtained by the Financial Declaration Form.

F. **Privacy – Sealing Of Financial Declaration Form.** Whenever the interest of privacy so requires, the Court may, upon proper Motion, direct that the Financial Declaration Form(s) be sealed until further order of the court. However, such request(s) shall not be made as a matter of course. When ordered sealed, the Court Reporter shall place the Financial Declaration Form(s) in a flat manner in an envelope of sufficient size, seal the envelope, and affix a copy of the Order directing that the Financial Declaration Form(s) be placed under seal. Financial Declaration Form(s) may be withdrawn at the conclusion of the case on such terms as the Court may allow.

G. **Clerk To Provide Notice Upon Filing.** Upon the pro se filing of any family law matter referred to in LR89-FL00-7(A), the Clerk shall provide to the moving party upon filing a Notice of the requirement of this Rule. Such Notice shall be in a form substantially as follows: "You are advised that each party is required to provide to the other party or his or her legal counsel, if applicable, a fully completed Financial Declaration Form with all required attachments within forty-five days of the filing of such petition/motion or, in the case of a post-decree petition/motion, within thirty days.

You are further advised that copies of the Financial Declaration form may be obtained at the Clerk's Office, located on the Second Floor of the Wayne County Courthouse, 301 East Main Street, Richmond, Indiana. They may also be found online at http://www.in.gov/judiciary/localrules/current/wayne-circuit-superior-(family)-032305.pdf. Failure to timely provide a fully completed Financial Declaration Form with all required attachments may be result in sanctions being entered against the party failing to comply with this Rule."

LR89-FL00-8 PARENTING CLASS

A. **Attendance at Class.** Before final hearing is scheduled on a petition for Dissolution of Marriage, Petition for Legal Separation, or Petition to Establish Paternity in which the parties have minor children, each party must attend not less than one parenting class session as designated by the Wayne County Circuit and Superior Courts. The Wayne County Clerk of Courts shall distribute an informational flyer, provided to it by the judges, which discloses the name and location of the class, as well as the telephone number to call to schedule the class. Said flyer shall also provide for the cost and any prerequisite rules made by the moderator of such class.

B. **Certificate.** The moderator of each session will provide each attendee with a certificate of attendance, unless waived, which must be filed with the Court's Clerk prior to the Court's granting the Petition for Dissolution of Marriage or Petition for Legal Separation.

C. **Payment.** Each party is responsible for payment of the cost of that party's participation.

D. **Waiver.** In those limited circumstances where it is apparent that a party's compliance with this rule cannot be compelled or is otherwise unnecessary, upon written motion, the Court may grant a waiver of its application.

E. **Motion to Compel Attendance.** If one party has failed to attend the class as required, the complying party may file a Motion to Compel Attendance with the Court requesting that the Court enter an Order requiring the opposing party to attend the class by a date certain or be subject to contempt of Court. Appropriate sanctions may include, but shall not be limited to, attorney's fees, incarceration, or a finding that parenting time by said party might endanger the child(ren)'s physical health or significantly impair the child(ren)'s emotional development justifying a restriction on parenting time in accordance with Ind. Code 31-17-4-1 or Ind. Code 31-14-14-1.

LR89-FL00-9 MEDIATION

No final hearing regarding dissolution of marriage, modification, custody, child support, or parenting time which is anticipated to take more than thirty minutes of court time shall be set without the parties having first submitted a Notice to the Court (which may be incorporated in the Trial Readiness Certificate required under LR89-TR00-009) that they have engaged in mediation, either formal or informal, within the last six months regarding the matters to be set for hearing. "Formal mediation" is such mediation as contemplated by the Rules of Alternative Dispute Resolution.

"Informal mediation" is intended to include any face-to-face meeting between the parties, whether such meeting includes attorneys only or the involvement of the parties who may or may not be separated, depending on the circumstances. In the event the parties cannot agree as to a location for informal mediation, such informal mediation shall be conducted in Wayne County, Indiana. The Court shall have the discretion to order parties to formal mediation even if they have certified to the Court that informal mediation was unsuccessful.

LR89-FL00-10 PARENTING TIME ORDERS

The phrase "reasonable parenting time," if not specifically defined in the Court's order, is defined as the parenting time schedule outlined in the Indiana Parenting Time Guidelines. Parenting time orders may be informally adjusted by agreement of the parties without Court order to accommodate the needs of the family; however, intended long-term formal modifications should, to protect all parties, be reduced to writing and submitted to the Court by Petition or Stipulation and approved by the Court to become binding.

LR89-FL00-11 CHILD CUSTODY AND PARENTING TIME: REFERRALS FOR INVESTIGATION AND REPORT

A. **Motion.** On motion of either party with the approval of the Court, or on the Court's own motion, contested matters involving child custody and parenting time may be referred to appropriate sources for investigation and report to the Court.

B. **Admissibility.** Subject to the provisions of Ind. Code § 31-17-2-12, all custodial evaluator reports or guardian ad litem reports which are court-ordered regarding custody and/or parenting time shall be admissible into evidence on the motion of either party without the evaluator needing to be present at the hearing. No part of this Rule is intended to supplant the right of either party to compel the attendance of the evaluator or other witnesses as set out in Ind. Trial Rule 45.

C. Physical and Mental Examination. In all contested family law matters involving child custody or visitation, the provision of Ind. Trial Rule 35 providing for the physical or mental examinations by a physician shall be extended to include examination and evaluations by a psychologist, therapist or other qualified evaluator upon order of the Court.

D. Parenting Coordinators. At the discretion of the Court and subject to availability, the Court may appoint parenting coordinators when appropriate.

E. Fees. There shall be a rebuttable presumption that the parties shall equally share the cost of any such referral ordered herein. Factors the Court may consider to deviate from an equal split of said fees include but are not limited to income disparity greater than 65%-35%, whether the referral provided the Court with information beneficial to the family as a whole, and whether the referral provided information confirming the moving party's position.

F. Termination of Guardian Ad Litem Appointment. Upon the entry of final Decree of Dissolution of Marriage, Legal Separation, Paternity, or Order of permanent modification of any custody, parenting time, and/or child support Order, the appointment of the Guardian Ad Litem shall be deemed terminated unless otherwise ordered by the Court.

LR89-FL00-12 REQUIREMENTS BEFORE CUSTODIAL EVALUATION (NOT APPLICABLE FOR APPOINTMENT OF GUARDIAN AD LITEM)

All requests for custody evaluations must be (1) in writing, (2) certify that both parties and their counsel, if any, have engaged in at least one good faith attempt to resolve the issues through the use of a settlement conference or mediation.

The court will not grant a request for or otherwise order a custody evaluation except following a Status Conference in the presence of both parties and their attorneys, if any, during which the court has been satisfied that:

A. both parties have completed the mandatory website work;
B. both parents have completed any required co-parenting class;
C. both parties have exchanged Parenting Plan Proposals;
D. both parties and their attorneys, if any, have engaged in at least one good faith attempt to resolve the issues through the use of a settlement conference or consultation; and
E. the court has considered and reviewed with both parties and their attorneys, if any, the use of other resources.

Commentary: Custody evaluations are sometimes divisive and produce less, rather than more, cooperation between parents. As a result, custody evaluations will be reserved for cases where one or both parents lack the capacity to safely resolve the issues they face. No custody evaluation will be ordered or conducted unless reasonable cooperative measures have been attempted, such as co-parenting education, counseling, and mediation.

LR89-FL00-13 CONTACT WITH CUSTODIAL EVALUATORS AND GUARDIANS AD LITEM/COURT APPOINTED SPECIAL ADVOCATES

A. Contact with Custodial Evaluators. In the event a custodial evaluation is ordered by the Court, the Court shall direct the parties to contact the custodial evaluator to arrange for an appointment with the custodial evaluator. Other than making contact with the office of the custodial evaluator to arrange for the client's appointment with the custodial evaluator, counsel shall not initiate contact or otherwise communicate with the custodial evaluator until the custodial evaluator's report has been issued. Prohibited contact or communication shall include the sending of school records, medical records, affidavits, reports, or any other type of written record by the attorney to the custodial evaluator. Information which may be requested by the custodial evaluator shall be delivered or otherwise presented to the evaluator by the party and not counsel.

In the event the custodial evaluator should contact counsel before the evaluator's report has been issued, such fact should be promptly conveyed to opposing counsel indicating the specific dialogue between counsel and the custodial evaluator. Following the issuance of the evaluator's report, the evaluator shall be deemed a witness and counsel shall be permitted ex parte communication with the evaluator at counsel's/client's expense.

Whenever a Court orders a custodial evaluation the Court shall attach a copy of this Rule to its order and shall have the Clerk distribute such order and attached Rule to the designated custodial evaluator.

B. Contact with Guardians Ad Litem/Court Appointed Special Advocates. In the event a Guardian Ad Litem/Court Appointed Special Advocate is appointed by the Court, the parties' attorneys shall not communicate with said Guardian Ad Litem/Court Appointed Special Advocate unless said communication includes all other parties to the cause of action. In the event such inclusion is not feasible, the fact that there was communication and the nature thereof shall be disclosed to all other parties within seven days of such communication.

LR89-FL00-14 CHILD SUPPORT GUIDELINES

A. Worksheet Required. In all proceedings involving child support, each party shall file with any settlement, or submit to the Court at any hearing or trial, an Indiana Child Support Obligation Worksheet(s) – one or more depending upon the facts. In any request for provisional order that contemplates any order for child support, a Child Support Obligation Worksheet - with supporting documentation such as a recent pay stub and/or an explanation in the body of the Motion as to how the figures were computed - shall be attached to either the Motion for Provisional Order or Affidavit in Support. A response Child Support Obligation Worksheet - with supporting documentation such as a recent pay stub and/or an explanation in the body of the Motion as to how the figures were computed - shall be provided to the other party or to opposing counsel, as the case may be, at least forty-eight hours prior to the provisional hearing, unless reasonable circumstances prevent doing so, and then such Child Support Obligation Worksheet shall be provided to the other party or to opposing counsel at the earliest opportunity.
Child Support Obligation Worksheets shall be promptly supplemented if changes occur prior to trial. Child Support Obligation Worksheets intended to be introduced at trial or final hearing shall be exchanged by the parties or counsel, along with supporting documentation, at least seven days prior to trial.

B. Support Settlement Agreements. If an agreement concerning support provides any deviation from the Guidelines, the parties shall present to the Court a written explanation, with supporting documentation, justifying the deviation. The proposed Order shall specifically state that the Court is deviating from the Child Support Guidelines and set forth the reasons for such deviation.

C. Required Language. All Orders requiring the payment of child support shall include the following language:

> "In the event that an Income Withholding Order is in place and has been activated, child support shall be paid to the State Central Unit and sent to: State Central Collection Unit, Post Office Box 6219, Indianapolis, Indiana, 46206-6219. Payments shall include the Cause Number of this case which is _____, the ISETS number which is _____, and the last four digits of the payer's social security number. In the event that an Income Withholding Order is not in place or has not yet been activated and child support is being paid directly, payments shall be paid by Money Order to the State Central Collection Unit, Post Office Box 7130, Indianapolis, Indiana, 46207-7130. Payments shall include the cause number, ISETS number, and last four digits of the payer's social security number, all referenced above. Payment to the Indiana State Central Collection Unit is the preferred method of child support payment and collection. However, the Clerk will accept walk-in payments of cash only. Payments shall include the cause number, ISETS number, and last four digits of the payer's social security number, all referenced above. The payer shall retain a copy of the Clerk's receipt. The payer shall also pay an Annual Support Fee as may be required by law so long as any child support order shall be in effect. The payee shall complete a Child Support Recipient Sheet with the Clerk's Office in order that support may be properly received.

D. Income Withholding Order Required. In all proceedings involving child support, an Income Withholding Order shall be submitted with any Settlement Agreement or Final Decree as may be required by statute or the parties shall:

1. Submit a written agreement providing for an alternative child support arrangement; or,

2. Provide within the proposed Decree that "the Court determines that good cause exists not to require immediate income withholding" and stating the specific reasons therefore.

LR89-FL00-15 MODIFICATION OF POST-DECREE CHILD SUPPORT ORDERS

There is hereby created a rebuttable presumption that modification of post-decree child support orders shall be made retroactive to sixty days following the filing of the petition for modification.

In cases where a change of child custody is involved, there shall be a rebuttable presumption that modification of post-decree child support orders shall be made retroactive to the date of filing of the petition for modification or the date of the de facto change in custody, whichever is later.

LR89-FL00-16 AGREED ENTRIES

An agreed entry shall not be approved by the Court without a Petition or Stipulation having first been filed. A Petition or Stipulation for Agreed Entry shall specifically set forth the basis and reasons for such Petition or Stipulation which meets the statutory requirements for the same.

LR89-FL00-17 EXHIBITS

In all family law cases, trial exhibits for the originally initiating party shall be marked as numbers and trial exhibits for the originally responding party shall be marked as letters.

LR89-FL00-18 FEES

A. Attorney Fees. Attorney fees may be awarded based on evidence presented by way of Affidavit (or oral testimony if the Court shall allow) at the final or other hearing. The Affidavit shall include an itemized statement of the requested fee. Affidavits shall be admissible into evidence by the Court. The following factors may be considered and should be included in any Affidavit submitted to the Court:

1. The number and the complexity of the issues (e.g. custody dispute, complex asset valuation.
2. The nature and extent of discovery and the parties' cooperation therewith (or lack thereof).
3. The time reasonably necessary for the preparation for or the conduct of contested preliminary matters or final hearings.
4. The extent to which either party encouraged or discouraged settlement without protracted litigation.
5. Other matters requiring substantial expenditure of attorney's time.
6. The attorney's hourly rate.
7. The amount counsel has received from all sources.
8. The ability of the opposing party to pay the requested fees and the disparity of income between the parties.

The Court shall have the discretion to award no, partial, or full attorney's fees.

B. Contempt Citation Attorney Fees. There shall be a rebuttable presumption that attorney fees will be awarded to the prevailing party in all matters involving a contempt citation.

LR89-FL00-19 TERMINATION OF REPRESENTATIVE CAPACITY

A. Representative Capacity Terminated. Upon the entry of final Decree of Dissolution of Marriage, Legal Separation, Paternity, or Order of permanent modification of any custody, parenting time and/or child support Order, the representative capacity of all attorneys appearing on behalf of any party shall be deemed terminated upon:

1. An order of withdrawal granted pursuant to local rule;

2. The expiration of time within which an appeal of such Order may be preserved or perfected pursuant to the Indiana Rules of Trial Procedure and/or the Indiana Rules of Appellate Procedure; or

3. The conclusion of any appeal of such Order commenced pursuant to Indiana Rules of Trial Procedure and/or the Indiana Rules of Appellate Procedure.

The failure of the Clerk of Wayne County to remove the appearance of such attorney from the Chronological Case Summary upon the occurrence of one of the above shall not affect the application of this Rule.

B. Post-Decree Service. The service of any post-decree pleadings upon any party not represented by counsel pursuant to paragraph A above, despite the possible mistaken continued appearance of said attorney on the Chronological Case Summary, shall be made upon that person pursuant to Indiana Rules of Trial Procedure.

C. Courtesy Copy. Any copy served upon original counsel will be deemed to be a matter of professional courtesy only; however, such professional courtesy is encouraged, and if a courtesy copy of such petition is sent to a representative, whether terminated or not, such shall be shown on a certificate of service.

D. Termination of Appointment of Guardian Ad Litem. Upon the entry of final Decree of Dissolution of Marriage, Legal Separation, Paternity, or Order of permanent modification of any custody, parenting time and/or child support Order, the appointment of the Guardian Ad Litem shall be deemed terminated. The Guardian Ad Litem shall be under no continuing obligation to continue work on the matter unless otherwise ordered by the Court or reappointed in later proceedings.

APPENDIX

A. SUMMONS AND NOTICE

B. FINANCIAL DECLARATION FORM

C. COOPERATION UPDATE FORM

D. COOPERATION NOTICE SHEET

SUMMONS

IN THE WAYNE COUNTY CIRCUIT AND SUPERIOR COURTS

Cause No. _____

_____
Husband/Father

and

_____
Wife/Mother

TO:_____

Address:_____

_____

You are hereby notified that a proceeding for (Dissolution of Marriage) (Legal Separation) (Paternity) (Modification) has been initiated by (Husband/Father) (Wife/Mother) in the Court indicated above.

You must complete the attached Financial Declaration Form and submit it to the other party within thirty days after receipt of this Summons.

In any proceeding for Dissolution of Marriage with minor children, Legal Separation with minor children, or Paternity, you must register for one session of Helping Children Cope with Divorce within twenty days after receipt of this Summons. Failure to schedule and attend may result in sanctions. Information regarding said class is attached to this Summons.

If this Summons is accompanied by an Order to Appear or Notice of Hearing, you must appear in Court on the date and time stated in the Order to Appear or Notice of Hearing. If you do not appear, evidence may be heard in your absence and a determination made by the Court. If a Temporary Restraining Order is attached, it is effective immediately upon your receipt or knowledge of the Order.

If you wish to retain an attorney to represent you in this matter, it is advisable to do so before the date stated in the Order to Appear or Notice of Hearing. If you take no action in this case after receipt of this Summons, the Court can grant a (Dissolution of Marriage) (Legal Separation) (Decree of Paternity) or make a determination regarding any of the following: paternity, child custody, child support, maintenance, parenting time, real and/or personal property division, and any other distribution of assets and allocation of debts.

Dated: _____ _

Clerk, Wayne County

The following manner of service of summons is designated:

☐ Registered or Certified Mail

☐ Service on Individual

☐ Service at place of employment, to-wit:_____

☐ Private Service

_____

Address: _____

Party/Party's Attorney

_____

Telephone No. _____

Wayne County Circuit and Superior Courts
Wayne County Courthouse
301 East Main Street
Richmond, Indiana 47374 765.973.9220

SHERIFF'S RETURN OF SERVICE OF SUMMONS

I hereby certify that I have served this summons on the _____ day of _____, _____:

(1) By delivering a copy of the Summons and a copy of the Petition.
(2) By leaving a copy of the Summons and a copy of the Petition at the following address:

_____

which is the dwelling place or usual place of abode and by mailing a copy of said Summons to the above address.
(3) Other service or remarks:_____

Sheriff

By: _____
Deputy

CLERK'S CERTIFICATE OF MAILING

I hereby certify that on the _____ day of _____, _____, I mailed a copy of this Summons and a copy of the Petition by _____ mail, requesting a return receipt, at the address furnished by the initiating party.

Clerk, Wayne County

By: _____
Deputy

RETURN OF SERVICE OF SUMMONS BY MAIL

I hereby certify that the attached receipt was received by me showing that the Summons and a copy of the Petition was accepted by the party being served on the _____ day of _____, _____.

I hereby certify that the attached return receipt was received by me showing that the Summons and a copy of the Petition was returned not accepted on the _____ day of _____, _____.

I hereby certify that the attached return receipt was received by me showing that the Summons and a copy of the Petition was accepted by _____ on behalf of the party being served on the _____ day of _____, _____.

Clerk, Wayne County

By: _____
Deputy

ACKNOWLEDGMENT

I hereby acknowledge that I have received this Summons and a copy of the Petition on the _____ day of _____, _____.

_____

Printed: _____

STATE OF INDIANA - COUNTY OF WAYNE

Father/Husband

Mother/Wife

Cause No.

Dated:

FINANCIAL DECLARATION OF:

HUSBAND/FATHER:	MOTHER/WIFE:
Name:	Name:
Address:	Address:
SSN:	SSN:
Occupation:	Occupation:
Employer:	Employer:
Date of Birth:	Date of Birth:
ATTORNEY FOR HUSBAND/FATHER:	ATTORNEY FOR WIFE/MOTHER:
Name/Atty ID:	Name/Atty ID:
Address:	Address:
Phone/Fax:	Phone/Fax:
E-mail:	E-mail:

Date of Marriage:

Date of Filing:

Children of this relationship:

Name	Date of Birth	SSN	Lives With

INCOME AND DEDUCTIONS

1. Please itemize all sources of household income, to include salary, wages, commissions, pension, retirement, social security, child support, dividends, interest, rents, royalties, business, self-employment, bonuses, alimony/maintenance, capital gains, trust income, gifts, prizes, company car, housing, reimbursed meals. DO NOT INCLUDE government benefits. Please attach the last three years' tax returns and the most recent documentation of year-to-date income, including current paystubs, statements, profit/loss statements, and itemization of ordinary and necessary rental/business expenses.

2. If you pay child support for prior born children, please attach the child support worksheet and/or court order along with proof of payment.

3. If you have a legal duty of child support for prior born children, please attach the child support worksheet.

4. If you pay health insurance for children of this relationship, please attach the notice of premiums established by your insurance provider.

5. If you pay alimony/maintenance to prior spouses, please attach the court order along with proof of payment.

6. If you have work-related child care costs for children of this relationship, please attach documentation of that cost.

7. If you have extraordinary uninsured health care expenses for children of this relationship, please attach documentation of those expenses.

8. If you have extraordinary educational expenses for children of this relationship, please attach documentation of those expenses.

STOP if this is a post-decree modification or paternity action.

ASSETS

Disclose all assets known to you, even if you do not know the value. Under ownership, H = Husband; W = Wife; J = Joint. Lien amount includes only those debts secured by an item, such as a mortgage against a house, debts shown on title to vehicle, loans against life insurance policies or loans where an item is pledged as collateral. Value assets as of the date the Petition for Dissolution of Marriage was filed.

DESCRIPTION	GROSS VALUE	LESS: LIENS/MORTGAGES	NET VALUE	TITLE		
				H	W	J
A. HOUSEHOLD FURNISHINGS/FURNITURE/APPLIANCES						
In possession of Husband						
In possession of Wife						
B. AUTOMOBILES, TRUCKS, RECREATIONAL VEHICLES Include Make, Model, Year, and Lienholder						
C. SECURITIES - STOCKS, BONDS, AND STOCK OPTIONS						
D. CASH, CHECKING, SAVINGS, DEPOSIT ACCTS, CDS (Include name of bank/credit union and type of account)						
E. REAL ESTATE (including sales contracts)						
Marital residence (show address) Basis of Valuation: Name of lender first mortgage: Name of lender second mortgage:						
Other (show address) Basis of Valuation: Name of lender first mortgage: Name of lender second mortgage:						
Other (show address) Basis of Valuation: Name of lender first mortgage: Name of lender second mortgage:						

ASSETS (CONTINUED)

DESCRIPTION	GROSS VALUE	LESS: LIENS/MORTGAGES	NET VALUE	TITLE H	TITLE W	TITLE J
F. CASH RETIREMENT ACCOUNTS (IRAs, SEPs, KEOUGHS, 401(k), employee savings plans, stock ownership/profit sharing plans, etc.)						
G. RETIREMENT BENEFITS, DEFERRED COMPENSATION PLANS AND PENSIONS (Include information available on benefits, whether benefits are vested or in pay status)						
H. BUSINESS INTERESTS						
I. LIFE INSURANCE (show company name and death benefit)						
Term and Group						
Named beneficiary:						
Named beneficiary:						
Named beneficiary:						
Named beneficiary:						
Whole Life and Others (show cash value under gross value)						
Named beneficiary:						
Named beneficiary:						
Named beneficiary:						
Named beneficiary:						
J. OTHER ASSETS Include any type of assets having value, including jewelry, personal property, assets located in safety deposit boxes, accrued bonuses, etc.						

UNSECURED DEBTS (PERSONAL LOANS/CHARGE CARD EXPENSES, ETC.)

COMPANY	FOR	BALANCE	H	W	J

ASSETS ACQUIRED BY YOU PRIOR TO THE MARRIAGE OR THROUGH INHERITANCE OR GIFT

(Whether now owned or not)

DESCRIPTION	GROSS VALUE	LESS: LIENS/MORTGAGES	NET VALUE	VALUATION DATE
ASSETS OWNED BY YOU PRIOR TO MARRIAGE (value as of date of marriage)				
THROUGH INHERITANCE OR GIFTS (value as of date of acquisition)				
Description: Acquired from whom:				
Description: Acquired from whom:				
Description: Acquired from whom:				

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT, THAT THIS DECLARATION WAS EXECUTED ON _____.

_____

Party

YOU MUST ATTACH DOCUMENTATION VERIFYING ALL DATA. YOU ARE UNDER A DUTY TO SUPPLEMENT OR AMEND THIS FINANCIAL DECLARATION FORM PRIOR TO TRIAL IF YOU LEARN THE INFORMATION PROVIDED IS INCORRECT OR NO LONGER TRUE.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was provided to the following by U.S. mail, postage prepaid, on _____:

_____

_____

_____

_____

_____

Attorney/Pro Se Party

APPENDIX C COOPERATION UPDATE

COOPERATION UPDATE FORM

COMES NOW Mother/Father, pro se/by Counsel, and respectfully submits his/her Cooperation Update Form and advises the Court as follows:

1. The parties attempted to resolve the matters at issue and met in person in an attempt to resolve the matters as issue on the following dates:_____by doing the following:.

2. The parties attempted to resolve the matters at issue and had telephone contact in an attempt to resolve the matters at issue on the following dates:_____ by doing the following:.

3. The legal issues that we were able to resolve are:

4. The legal issues that we were not able to resolve and that remain are:

5. The factual issues that we were able to resolve are:

6. The factual issues that we were not able to resolve and that remain are:

7. The documents that we discussed and reviewed are:

8. If the parties did not meet in person or by telephone in an attempt to resolve the issues, the reasons we did not do so are:

9. The Mother/Father completed the appropriate website work required under LR89-FL00-4(D), if applicable, on: .

10. The Mother/Father exchanged the appropriate website work required under LR89-FL00-4(D), if applicable, on: .

11. The Mother/Father merged the appropriate website work required under LR89-FL00-4(D), if applicable, on: .

12. The Mother/Father completed attendance of the co-parenting class entitled *Parenting Together to Keep Kids* First required under LR89-FL00-8, if applicable, on: .

13. It is believed that these parents could use the following resources to assist them in resolving current and future issues and to build cooperation: .

14. It is believed that it would assist these parents if the Court would do the following:

15. As attorney for Mother/Father, I have taken the following action to resolve the issues, either temporary issues, final issues, or both, by doing the following:_____.

16. As attorney for Mother/Father, I hereby certify that I have reviewed and discussed the Wayne County Rules of Family Law with Mother/Father, and have advised Mother/Father of the requirement of cooperation pursuant to the Wayne County Rules of Family Law. I further certify that I have either provided Mother/Father with a copy of the Wayne County Rules Of Family Law or, in lieu thereof, have had Mother/Father certify in writing, under oath, that I have reviewed and thoroughly discussed the Wayne County Rules Of Family Law with them, with particular reference to the requirements of cooperation and what is required as a part of that Rule. If a certification is obtained in lieu of providing a copy of such Rules to Mother and Father, I further certify that I will bring such certification to every court hearing.

Respectfully submitted,

_____
Attorney for Mother/Father

_____
Mother/Father

_____
Date This Sheet Prepared

NOTICE

Wayne County has launched a new initiative for families that find themselves with cases in our courts. As judges responsible for these cases, we are committed to making them about ensuring safety, reducing conflict, building cooperation, and protecting children. These cases call for problem-solving in families, not more conflict. **Parents win together** or lose together. If the parents build safety and cooperation and, together, give their children a good place to live, then everyone wins. If the parents make a childhood a painful or dangerous place by remaining in conflict, then everyone loses.

If you have minor children, you are required to attend the class *Parenting Together To Keep Kids First.* Please refer to the yellow sheet for Instructions on completing the required web-site work and how to sign up for the class.

The Wayne County Local Rules require cooperation in family law cases. Except where it would be dangerous to do so, before **any** hearing, whether you have children or not, both parties are required to meet to discuss the matter and to try to reach an agreement. The Court will **not** hear the matter and your hearing will be cancelled unless there has been a prior, good-faith meeting to try to reach an agreement. The Wayne County Local Rules can be found at http://www.in.gov/judiciary/2882.htm.

If your case involves children and there is a request for child support, both parents are **required** to prepare an Indiana Child Support Obligation Worksheet (CSOW). In order to prepare the CSOW, please go to the child support calculator found at https://mycourts.in.gov/csc/parents/. Both parents shall bring the completed CSOW to any hearings. Failure to prepare the CSOW and to bring it with you to a child support hearing may result in the hearing being cancelled or other sanctions being entered.

With regard to parenting time, except in extraordinary circumstances, the Indiana Parenting Time Guidelines are considered the **minimum** a noncustodial parent should be awarded. You can find the Guidelines at http://www.in.gov/judiciary/rules/parenting/.

We trust that you will join us in making Wayne County a leader in protecting children and helping them to become well-adjusted, productive adults.

David A. Kolger, Judge Wayne County Circuit Court
Charles K. Todd, Jr., Judge Wayne County Superior Court I
Gregory A Horn, Judge Wayne County Superior Court II

WAYNE COUNTY RULES OF PROBATE

Adopted by Wayne County Bar Association, Originally *Effective October 30, 1997 Including All Amendments, Approved Effective July 1, 2016*

LR89-PR00-001 Notice

1.1 Notices required at the outset of a probate estate are currently being prepared by the Clerk.

1.2 Copies of petitions shall be sent with all notices where the hearing involved arises from the matters contained in the petition.

1.3 On the filing with the Clerk by the personal representative or guardian of any petition, application, complaint, partial report, final report, or any report that requires fixing of date and place of hearing of same by the Court and giving notice thereof to any or all interested persons as required by law or order of the Court, the Clerk shall forthwith fix the date and place of hearing, by endorsement on the same, and shall give, for such personal representative or guardian, the required notice. The Clerk shall then also make and record on the proper order book on the date of the filing of such petition or report, an order by the court fixing the date and place of hearing of such petition or report, the same as fixed thereon by the Clerk, and directing the Clerk to give for the personal representative or guardian the required notice.

1.4 The Wayne County Scheduling Clerk will accept calendaring responsibilities concerning notification to all personal representatives and guardians of the due date of any statutorily required inventory or accounting. A copy of such notice of due date will be mailed to the attorney of record for the personal representative or guardian.

LR89-PR00-002 Filing of Pleadings

2.1 Routine pleadings, such as Inventories and Final Reports shall be filed with the Clerk for transmittal to the Court.

Commentary

The Inheritance tax is repealed. The word "shall" seems more appropriate than "may."

2.2 All attorneys are required to prepare orders for all proceedings except when expressly directed otherwise by the Court.

2.3 Every pleading, including Inventories, Petitions, and Accountings, filed in an Estate or Guardianship, shall be signed and verified by the fiduciary and signed by the attorney for the fiduciary. Pleadings of a procedural nature only may be signed by only the attorney.

2.4 All pleadings filed shall contain the attorney's name, address, telephone number, and attorney's Registration Number.

2.5 The initial petition to open an Estate or Guardianship shall contain the name and address of the fiduciary.

2.6 Every person seeking appointment of personal representative or guardian of the estate shall file with the petition a signed acknowledgment of court's instructions to the fiduciary. The instructions shall be in the form of the instructions as set out in Appendix B.

Commentary

The requirement of filing of instructions is designed to ensure that fiduciaries are fully aware of their responsibilities and duties.

LR89-PR00-003 Bond

3.1 The filing of any bond for a Personal Representative shall be governed by Indiana Code 29- 1-11-1 (or any subsequent recodification thereof).

3.2 The filing of any bond for a guardian shall be governed by Indiana Code 29-1-7-1 and 29-1- 7-2 (or any subsequent recodification thereof).

3.3 In the event that a bond is requested or anticipated, the petition to open an estate or guardianship shall set forth the probable value of the personal property plus the estimated annual rents and profits to be derived from the property in the estate or guardianship.

3.4 The Court may, in making a determination of bond, consider whether the Personal Representative has committed to the attorney for the estate that the attorney will control the administration of the bank account and/or other accounts of the estate in cooperation with the Personal Representative or Guardian (i.e.: the attorney is controlling the issuance of any disbursements from any account of the estate, including having physical possession of all checks or other methods of disbursement). If the Personal Representative has committed that the attorney will have such control, such fact should be included in the petition.

LR89-PR00-004 Inventory

4.1 An inventory shall be filed by the fiduciary in all estates and guardianships, except unsupervised estates, within sixty (60) days; Guardianships within ninety (90) days for permanent guardians; and, within thirty (30) days for temporary guardians. All times relate to the appointment of the fiduciary.
4.2 In the event a partial inventory is filed, all subsequent inventories must contain a recapitulation of prior inventories.

LR89-PR00-005 Sale of Real Estate

5.1 When a Petition to Sell Real Estate is filed in a supervised estate or guardianship, it shall be accompanied by a written appraisal prepared by a person qualified to appraise such property, setting forth the fair market value of said real estate, unless such an appraisal was previously filed with the Inventory.

5.2 All appraisals required by Rule 5.1 shall be made within one (1) year of the date of a Petition to Sell Real Estate.

5.3 In a supervised estate, whenever a Final Decree contains real estate located in any county other than Wayne County, the Decree or a Personal Representative's Deed shall be recorded with the Recorder of the County in which any such real estate is located.

LR89-PR00-006 Sale of Personal Property

6.1 In all supervised estates and guardianships, no Petition to Sell Personal Property at private sale shall be granted unless a written appraisal prepared by a person competent to appraise such property and setting forth the Fair Market Value thereof, is filed with the Court at the time of the filing of the Petition to Sell, unless such appraisal was filed with the Inventory. In the case of a motor vehicle, a valuation obtained from a nationally recognized vehicle valuation service, such as NADA or Kelly Blue Book, may, in the discretion of the court, be substituted for a written appraisal.

6.2 All appraisals required by Rule 6.1 shall be made within one (1) year of the date of the Petition to Sell.

6.3 No written appraisal shall be required for the sale of assets which are traded in a market and the value of which is readily ascertainable. Such assets include, but are not limited to, stocks, bonds, mutual funds, commodities, and precious metals.

LR89-PR00-007 Claims

7.1 On or before three (3) months and fifteen (15) days after the date of the first published notice to creditors, the personal representative or the personal representative's attorney shall file a pleading with the court showing the personal representative's determination of either allowing a claim, or disallowing a claim, in whole or in part, as to those claims filed within three (3) months after the date of the first published notice to creditors. A copy of this pleading shall be served upon each creditor whose claim has been disallowed in full or in part. The Clerk shall give immediate written notice to a creditor if its claim has been disallowed in full or in part. Such pleading shall also be filed within thirty (30) days after the filing of any subsequent claim made by other creditors beyond the initial time period of three (3) months following the first published notice of creditors, with the same service of copy and notice. In the absence of a pleading from the personal representative during these time periods, the claim shall be deemed disallowed. Compliance with this rule shall be deemed compliance with I.C. 29-1-14-10.

7.2 If the personal representative files a notice of disallowance of claim and request for pre-trial conference, the court shall set the claim for a pre-trial conference. If the creditor appears for the pre-trial conference, the court shall set the claim for trial. If the creditor fails to appear for the pre-trial conference, the disallowance of claim shall be affirmed by the court. In lieu of appearing at the pre-trial conference, the creditor may request the court to schedule the matter for trial. Notwithstanding such request, the Court may require the parties to appear at a pretrial conference.

Commentary

Rule 7.2 is designed to clarify the procedure for handling disallowed claims and to provide for an efficient means of disposing of claims while ensuring due process for the creditor.

LR89-PR00-008 Accountings

8.1 Accountings for estates must comply with Indiana Code 29-1-16.

8.2 All guardianship accounts shall contain a certification of an officer of any financial institution in which guardianship assets are held, verifying the account balance.

8.3 All Social Security or Medicare benefits received on behalf of an incapacitated person shall be included and accounted for in the guardianship accountings unless Court approval has been previously granted to allow said funds to be paid directly to a residential or health care facility.

8.4 In all supervised estate and guardianship accountings, vouchers_ canceled checks, bank statements, check images provided by the financial institution, or other evidence of expenditures acceptable to the Court for the expenditures claimed shall be filed with the accounting.

8.5 In all supervised estate and guardianship accountings, a notation shall be placed by each expenditure indicating the reason for or nature of the expenditure.

EXAMPLE:
Bogata Drugs - Prescription drugs
Dr. John Jones - Medical services
Sam Smith - repair roof of home at 162 Maple Street, Anytown, Indiana
Tendercare Nursing Home - Nursing home care

8.6 All accountings to the Court shall contain an
itemized statement of the assets on hand.

8.7 Receipts_ canceled checks, bank statements, check images provided by the financial institution, or other evidence acceptable to the Court for all final distributions shall be filed either in the final report, or a supplemental report, before discharge will be granted by the Court.

8.8 All accountings shall follow the prescribed statutory format. Informal, handwritten, or transactional accountings will not be accepted.

8.9 All Court costs shall be paid and all claims satisfied and released before the hearing on the Final Account and a Clerk's Certification thereof shall be filed with the Court before such Final Account shall be approved.

8.10 In those estates where no Indiana inheritance tax is due, the Affidavit required to be filed with the local Assessor's Office shall also be filed under the estate's caption and cause number with the Clerk of the Court.

LR89-PR00-009 Fees of Attorney and Fiduciary

9.1 No fees for fiduciaries or attorneys shall be approved in any supervised estate or guardianship until the Court has approved a fee petition filed by the attorney for the estate.

9.2 No attorney or fiduciary fees will be determined and authorized for payment by the Court in any Unsupervised Administration of a decedent's estate.

9.3 Where contracts for legal services have been entered into prior or subsequent to the opening of an estate or guardianship, the Court reserves the right to approve or disapprove the fee contracts consistent with this Court's fee guidelines.

9.4 Rule 1.5 of the Rule of Professional Conduct has been adopted by the Supreme Court of Indiana to govern attorney fees. All fees charged by attorneys shall be reasonable. The rule further enumerates the factors to be considered, which are as follows:

(1) the time and labor required, the novelty and difficulty of questions involved, and the skills requisite to perform the legal service properly;
(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
(3) the fee customarily charged in the locality for similar legal services;
(4) the amount involved and the results obtained;
(5) the time limitations imposed by the client or by the circumstances;
(6) the nature and length of the professional relationship with the client;
(7) the experience, reputation and ability of the lawyer or lawyers performing the services.

The guidelines set forth in Appendix A to these rules are not to be used as a substitution for the attorney's determination of what a reasonable fee would be in a given situation. Rather, the guidelines are established to assist attorneys and fiduciaries by outlining what the Court will deem to be reasonable based upon the factors contained in Rule of Professional Conduct 1.5.

The basic guideline amounts are based upon usual and ordinary services. The guidelines also will assist in calculations of fees generated by the provisions of extraordinary services.

9.5 Unjustified delays in carrying out duties by the fiduciary and/or attorney may result in a reduction of fees.

LR89-PR00-010 Unsupervised Administration

10.1 Any petition for unsupervised administration of an estate must comply with Indiana Code 29-1-7.5.

10.2 A verified Closing Statement filed in unsupervised administrations must comply with Indiana Code § 29-1-7.5-4, and must contain statements that the Personal Representative has completed the items set forth therein.

10.3 No Orders as to attorneys fees, compliance regarding notice of administration to decedent's creditor's, or other orders shall be entered by the Court in unsupervised estates except that the Court shall enter an Order approving the verified closing statement as required by Indiana Code and any orders or scheduling of hearings regarding claims under Rules 7.1 and 7.2.

Commentary

The claims procedure under Rules 7.1 and 7.2 is intended to apply to unsupervised estates as well as supervised estates.

LR89-PR00-011 Guardianships

11.1 In all guardianship matters seeking to declare an adult incapacitated for any reason, the incapacitated person shall be present at the hearing or sufficient evidence is presented to excuse the absence of the incapacitated person pursuant to Indiana Code 29-3-5-1.

11.2 In all guardianship matters seeking to declare an adult incapacitated for any reason, a Physician's Report by the doctor treating the alleged incapacitated person, or such evidence as the Court shall require, shall be presented to the Court at the time the petition is filed or on the hearing date.

11.3 In every petition for the appointment of a guardian of the person of a minor child or an incapacitated adult, the petition shall contain the information required by Indiana Code 29-3-5.

11.4 Nothing herein shall be deemed as amending, superseding or altering the Probate Rules and Regulations promulgated by the Veteran's Administration of the United States of America, and every fiduciary and attorney shall comply with same, if applicable.

11.5 In all estate and guardianship matters involving either a claim for wrongful death or personal injury, the civil case and the corresponding guardianship or probate proceedings will be filed in the same Court without regard to the usual computer filing system which governs the filing of all other actions.

LR89-PR00-012 Miscellaneous

12.1 (a) In those matters for which the Court has authority to grant an extension of time, the Court shall automatically grant one forty-five (45) day extension upon the filing of a written petition on or before the otherwise applicable deadline.

(b) Any additional extension of time may be granted only upon the filing of an additional petition setting forth such good cause.

12.2 Procedure for past-due filings and reports:

(A) First Notice: A notice will be mailed to the attorney when the matter becomes past due.

(B) Second Notice: If there is no response within thirty (30) days of the mailing of the First Notice, a letter notice from the Court will be mailed requesting compliance within fifteen (15) days.

(C) Court Order: If there is no response within fifteen (15) days of the mailing of the Second Notice, a Court order to show cause will be issued. Both the attorney and fiduciary must appear at the date and time specified in the Court Order.

(Note: Rule 9.5 may be invoked in any of the above circumstances.)

12.3 In all probate matters, two (2) original orders shall be presented to the Clerk at the time of filing.

12.4 Given the potential complexity involved in the administration of probate and guardianship estates, the Court may require that probate and guardianship estates be opened and administered with the assistance of legal counsel.

APPENDIX A. Computation of Fees

PROBATE EXHIBIT A

COMPUTATION OF FEES

ESTATE OF _____

PROBATE NO._____

1. Inventories Value of Estate $ _____

4. Total Gross Estate - Federal Estate Tax $

2. Income During

PERSONAL REPRESENTATIVE

ATTORNEY

First $100,000 - 5% $

6% $

Administration $ __

3. Assets Omitted from Inventory $ _____

TOTAL $ _____

_____

Next $200,000 - 4% $

5% $ _____

3% $ _____

Next $700,000 - 2% $

2% $ _____

Excess of $1,000,000 - 1% $

$ _____

ADDITIONAL FEES CLAIMED

Personal Representative $

_____

Attorney $

Total $

EXPLANATION OF ADDITIONAL FEES CLAIMED:

If additional fees are claimed, attach a detailed statement showing the nature of the services rendered, the time involved and the reasons why the same should generate additional fees. Please provide such additional information and supportive evidence as you think will enable the Court to weigh the claim for fees.

ATTORNEY & PERSONAL REPRESENTATIVE FEE GUIDELINES

I. Estate Administration:

Gross estate services are considered to normally include: probating the Will, opening the estate, qualifying the personal representative, preparing and filing the Inventory, paying claims, collecting assets, preparing and filing non-extraordinary petitions, assisting with and/or preparing and filing of Fiduciary Income Tax Return, assisting with and/or preparing and filing 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 preparing and serving all notices on interested parties throughout the proceedings. The list shall not be considered to be exclusive.

A. Gross Estate - Minimum Fee of $1,500.00

Attorney:

First $100.000.00, not to exceed 6%
Next $200.000.00, not to exceed 5%
Next $700,000,00, not to exceed 3%
Excess of $1,000,000.00, not to exceed.2%

Fiduciary:

First $100,000.00, not to exceed 5%
Next $200,000.00, not to exceed 4%
Next $700,000.00, not to exceed 2%
Excess of $1,000,000.00, not to exceed 1%

B. Miscellaneous – Extraordinary Services:

1. Indiana Inheritance Tax Scheduled - (preparation and filing only) (To be applied only to non-administered property):

Attorney fees shall be three percent (3%) of the first $100,000.00 of the non-administered assets of gross estate as determined for Indiana Inheritance Tax purposes plus two percent (2%) of the next $100,000.00 of the non-administered assets of the gross estate, plus one and one-half percent (1 ½%) of the next $200,000.00 of the non-administered assets of the gross estate, plus one percent (1%) of all non-administered assets of the gross estate in excess of $400,000.00. Personal Representative's fees for non-administered assets of the gross estate as determined for Indiana Inheritance Tax purposes shall be one-third (1/3) of the attorney fees for such non- administered assets.

2. Federal Estate Tax Returns - (To be applied only to non-administered property, to be based only on assets not listed on Indiana Inheritance Tax Schedule).

A base attorney fee of .....$750.00 or

One percent (1%) of the first $100,000.00 of the non-administered assets of the said gross estate as determined for Federal Estate Tax purposes,

PLUS, 3/4 of one percent (1%) of the next $150,000.00 of non-administered assets of said gross estate,

PLUS, 1/2 of one percent (1%) on all non-administered assets of said gross estate in excess of $250,000.0
0.

Personal Representative's fees shall be one-third (1/3) of attorney fees.

3. 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 such agreements if, at the time of settlement of the claim, it is shown to the Court's satisfaction:

1. That the Personal Representative was, prior to entering into such agreement, fully informed as to all aspects of the arrangement.
2. That the agreement is fair and reasonable.
3. That 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 services may include: sale of personal property, sale of real property, partial distribution, will contest actions, contesting claims, adjusting tax matters, contested hearings, petition for instructions, heirship determinations, generating additional income for the estate, etc. All such petitions 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 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 fees in an unsupervised administration.

IV. Guardianship Administration:

Fees for the administration of guardianships shall be based on an hourly rate to be approved by the Court for both the attorney and the guardian. The Court will consider the attorney's and guardian's expertise in approving the hourly rate.

APPENDIX B. Instructions to Personal Representative or Guardian

I. Instructions to Guardian of Estate

IN THE WAYNE _____ COURT

CAPTION: IN RE THE GUARDIANSHIP OF: _____

_____, Guardian

CAUSE NO. 89____-_____-GU-_____

COURT'S INSTRUCTIONS TO GUARDIAN

Please read carefully before you date and sign. One copy of this form must be filed with the Court before your appointment as guardian is confirmed by the Court. Keep one copy for your records.

Introduction:

You have been appointed as the guardian of an incapacitated person. By your appointment, the Court has placed in you the highest trust that you will perform your duties in the best interest of the incapacitated person. It is important that you fully realize your duties and responsibilities. Listed below are some, but not all of them.

You must be represented at all times by an attorney of record approved to so act by written order of the Court. Your attorney is required to reasonably supervise and guide your actions as guardian unless and until that attorney is permitted by order of the Court to withdraw from representing you.

Your attorney is required to notify the Court in the event that you are not timely performing or improperly performing your fiduciary duties to the incapacitated person and by signing these Instructions, you agree that the filing of that notice does not violate the attorneyclient privilege. If the Court receives such notice, it will set the matter for hearing and require you to personally appear and account to the Court for all actions taken or not taken by you as guardian. You are required to notify the Court in writing in the event that your attorney is not timely performing or improperly performing their duties to reasonably supervise and guide your actions as guardian. Upon receipt of the notice, the Court will set the matter for hearing and require you and your attorney to personally appear and account to the Court for all actions taken or not taken by the attorney.

The Instructions which follow are to be considered by you as Orders of the Court which require you to perform as directed. Although your attorney will file all papers with the Court, you, as guardian, are ultimately responsible to see that the incapacitated person's assets are properly and promptly administered, and you are personally liable for incorrect distributions, payments or acts, as well as any unpaid taxes or costs of administration. The Court appreciates your efforts on behalf of the incapacitated person.

Judge, Wayne _____ Court

As guardian, you are required to:

1. Locate, collect and maintain all property owned by the incapacitated person.
2. Keep motor vehicles and real estate insured and protected.
3. Immediately fill out a change of address at the post office to have the incapacitated person's mail forwarded to you.
4. Within ninety days of your appointment, you must file with the Court an Inventory conforming to the requirements of I.C. 29-3-9-5.

5. **Guardianship Checking Account**

A. Open a separate checking account in your name "as guardian for (the incapacitated person)."

B. DO NOT put any of your funds or anyone else's funds in this account; only funds of the guardianship.

C. Always pay for guardianship expenses by checks from this account. DO NOT pay for any expenses with cash.

D. Make sure that the bank is willing to return cancelled checks or electronic copies or digital images of the paid checks issued on the guardianship account.

E. Keep records of all deposits, including the identity of each person or entity paying the money into the guardianship.

6. Determine all debts that the incapacitated person owes. Look through the incapacitated person's tax returns and other papers. Talk to anyone who knew of the incapacitated person's business. Consult your attorney as to payment of debts. Some debts may be unenforceable.

Some may have priority over others.

7. **NEVER** borrow guardianship property or put it to your own personal use.
8. Prepare and file income tax returns for the incapacitated person.
9. You must file an accounting every two years as required under the Indiana Code.
10. Notify the Court and your attorney of any change in your address or telephone number.
11. Keep a record of the time you spend working on the guardianship. You are entitled to a reasonable fee, unless you waive a fee. Time records will help the Court determine your fee.
12. Always contact your attorney for advice if you are unsure as to any act as guardian. Have your attorney counsel you in relation to the guardianship and explain anything that you do not fully understand.

I authorize my attorney to notify the Court in the event that he has reason to believe that I am not timely performing or improperly performing my fiduciary duties to the beneficiaries and creditors of the guardianship even if such information would be otherwise confidential.

I acknowledge that I have carefully and completely read the above instructions and received a copy for my records. I agree to properly carry out my duties.

Dated this _____ day of _____, _____ (year).

_____ (Signature of Guardian)
_____ (Printed name of Guardian)

I acknowledge that I have carefully and completely discussed the above instruction with my client before this form was signed and believe that he or she is fully aware of and capable of performing the duties required of a guardian.

_____ (Signature of Attorney)
_____ (Printed name of Attorney)

II. Instructions to Personal Representative of Estate
IN THE WAYNE _____ COURT
CAPTION:
IN RE THE ESTATE OF: _____, Deceased
_____, Personal Representative CAUSE
NO. 89____-_____-ES/EU-_____

COURT'S INSTRUCTIONS TO PERSONAL REPRESENTATIVE
Please read carefully before you date and sign. One copy of this form must be filed with the Court before your appointment as personal representative is confirmed by the Court. Keep one copy for your records.

Introduction:

You have been appointed as the personal representative of the estate of a deceased person. By your appointment, the Court has placed in you the highest trust that you will perform your duties in the best interest of all beneficiaries and creditors of the estate. It is important that you fully realize your duties and responsibilities. Listed below are some, but not all of them.

You must be represented at all times by an attorney of record approved to so act by written order of the Court. Your attorney is required to reasonably supervise and guide your actions as personal representative unless and until that attorney is permitted by order of the Court to withdraw from representing you.

Your attorney is required to notify the Court in the event that you are not timely performing or improperly performing your fiduciary duties to the beneficiaries and creditors of the state and by signing these Instructions, you agree that the filing of that notice does not violate the attorney-client privilege. If the Court receives such notice, it will set the matter for hearing and require you to personally appear and account to the Court for all actions taken or not taken by you as personal representative. You are required to notify the Court in writing in the event that your attorney is not timely performing or improperly performing their duties to reasonably supervise and guide your actions as personal representative. Upon receipt of the notice, the Court will set the matter for hearing and require you and your attorney to personally appear and account to the Court for all actions taken or not taken by the attorney.

The Instructions which follow are to be considered by you as Orders of the Court which require you to perform as directed. Although your attorney will file all papers with the Court, you, as personal representative, are ultimately responsible to see that the estate is properly and promptly administered, and you are personally liable for incorrect distributions, payments or acts, as well as any unpaid taxes or costs of administration. The Court appreciates your efforts on behalf of the estate.

Judge, Wayne _____ Court

As personal representative, you are required to:

1. Locate, collect and maintain all property owned by the decedent.
2. Keep motor vehicles and real estate insured and protected.
3. Immediately fill out a change of address at the post office to have the decedent's mail forwarded to you.
4. Within two (2) months of your appointment, you must either:

A. In a supervised estate, file with the Court an Inventory conforming to the requirements of I.C. 29-1-12-1,

B. In an unsupervised estate, prepare and file with the Court a verified certification that an Inventory conforming with the requirements of I.C. 29-1-7.5-3.2 has been prepared, that it is available to be furnished to distributees on request and that notice of preparation of the inventory and its availability has been forthwith served on all known heirs, beneficiaries or distributees.

5. **Estate Checking Account**

A. Open a separate checking account in your name "as personal representative for the estate of (the decedent)." Obtain a federal tax ID number for the checking account. Do not use your Social Security number or decedent's Social Security number.

B. DO NOT put any of your funds or anyone else's funds in this account; only funds of the estate.

C. Always pay for estate expenses by checks from this account. DO NOT pay for any expenses with cash.

D. Make sure the bank is willing to return to you cancelled checks or electronic copies or digital images of the paid checks issued on the estate checking account.

E. Keep records of all deposits, including the identity of each person or entity paying the money into the estate.

6. Determine all debts the decedent owed. Look through decedent's tax returns and other papers. Talk to anyone who knew decedent's business. Consult your attorney as to payment of debts, costs of administration, bond premiums and funeral bills. Some debts may be unenforceable. Some may have priority over others.
7. Have your attorney provide written notice of the administration of the estate to all known creditors of the estate.
8. **NEVER** borrow estate property or put it to your own personal use.
9. DO NOT distribute any estate assets until assets (including personal property) are appraised, the court has approved the distribution from the estate, and consult with your attorney prior to making any distribution.
10. Prepare and file income tax returns for the tax year in which the decedent died and any returns for prior years if needed. Timely prepare and file any estate fiduciary tax returns and pay taxes as they come due.
11. After you fully complete the estate administration, you must file a final accounting in a supervised estate or a closing statement in an unsupervised estate with the Court as required under the Indiana Code. All canceled checking or photocopies from the estate checking account must be filed with the court as part of the final accounting.
12. Notify the Court and your attorney of any change in your address or telephone number.
13. Keep a record of the time you spend working on the estate. You are entitled to a reasonable fee, unless you waive a fee. Time records will help the Court determine your fee.
14. Always contact your attorney for advice if you are unsure as to any act as personal representative. Have your attorney counsel you in relation to the estate and explain anything that you do not fully understand.

I authorize my attorney to notify the Court in the event that he has reason to believe that I am not timely performing or improperly performing my fiduciary duties to the beneficiaries and creditors of the estate even if such information would be otherwise confidential.

I acknowledge that I have carefully and completely read the above instructions and received a copy for my records. I agree to properly carry out my duties.

Dated this _____ day of _____, _____ (year).

_____ (Signature of Personal Representative)

_____(Printed name of Personal Representative) **I acknowledge that I have carefully and completely discussed the above instruction with my client before this form was signed and believe that he or she is fully aware of and capable of performing the duties required of a personal representative of an estate of this type and character.**

_____ (Signature of Attorney)

_____ (Printed name of Attorney)