

# WHITE COUNTY LOCAL COURT RULES

(Effective January 1, 2007)

The White Circuit Court and the White Superior Court hereby adopt, amend, and re-number all existing local rules for the Courts of White County, Indiana. Pursuant to Trial Rule 81, all Courts are to consolidate local rules into one document with an appropriate numbering system. The local rules to be applied and followed in the White County Courts are specified herein. These local rules may be amended from time to time as necessary and as determined by the Courts. All previous General Orders regarding local rules are hereby set aside and terminated, replaced by these White County Local Rules effective January 1, 2007.

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## **Local Rules 1 through 12 Relating to Indiana Rules of Trial Procedure**

### **LR91-TR1-GEN-1 Scope of the Rules**

Pursuant to Trial Rule 8l of the Indiana Rules of Court, and except as otherwise provided, these rules govern the procedure and practice of the Circuit Court of White County and the Superior Court of White County, including the general jurisdiction docket, the small claims, criminal, infraction, and probate, estate and guardianship dockets.

The rules herein designated as "Criminal" shall apply solely to felony and misdemeanor cases.

The rules herein designated as "Infractions" shall apply solely to both state and local infraction complaints.

The rules herein designated as "Small Claims" shall apply solely to matters pending on the Small Claims Docket of the White Superior Court.

The rules herein designated as "Probate, Estate and Guardianship" shall apply solely to probate, estate and guardianship matters in the White Circuit Court.

The rules herein with no special designation shall govern all suits of a civil nature including small claims, except as otherwise provided in these rules designated "Small Claims" or other Indiana rules governing small claims.

The local rules herein shall be read and applied in a manner not inconsistent with the Indiana Rules of Court.

### **LR91-TR3.1-GEN-2 Appearance and Withdrawal**

(A) GENERAL. An appearance by counsel or by a party, pro se, shall be made in writing and filed with either the Clerk or the Court Reporter. It shall contain the appearing person's name, mailing address, office address, and phone number. A copy thereof must be served on other counsel or other parties, pro se. The Clerk shall note the appearance on the docket sheet of the case.

(B) APPEARANCE PRO SE. A party proceeding pro se is acting as his own attorney and shall be subject to rules of practice and procedure unless, by its nature, a rule does not apply to such party.

(C) WITHDRAWAL. Counsel desiring to withdraw appearance in any action shall file a petition requesting leave to do so. Such petition shall fix a date for such withdrawal, and petitioning counsel shall file with the Court satisfactory evidence of at least ten (10) days written notice to the client in advance of such withdrawal date, or evidence of diligent efforts to contact such client. A withdrawal of appearance when accompanied by the appearance of other counsel shall constitute a waiver of the foregoing requirements.

### **LR91-TR5-GEN-3 Pleadings**

(A) Pleadings shall clearly identify the name of the individual attorney or attorneys filing the same, the firm name, including address and phone number, together with the name of the client represented by such attorney or attorneys.

(B) Pleadings of parties representing themselves shall be signed and shall include the address and telephone number of said party.

(C) Pleadings tendered for filing shall be accompanied by a proposed entry on the Court's minute sheet, or otherwise as the Court may direct, with sufficient copies for all interested parties. The Clerk shall file stamp the minute sheets and upon request, as a matter of courtesy, will cause the copies so prepared to be forwarded to the proper party, provided addressed envelopes with postage affixed are furnished to the Clerk.

(D) Pursuant to Indiana Trial Rule 5(B)(1)(d), the inter-office boxes, located in the 2nd floor office of the White County Clerk, in the White County Building at Monticello, Indiana, are hereby designated as a suitable place for delivery of service upon attorneys, solely in their capacity as attorney of record, for all matters now or hereafter pending on any docket of the White Circuit or Superior Courts, provided said attorney has signed an agreement thereto. A copy of said agreement shall at all times be posted at said boxes.

#### **LR91-TR6-GEN-4 Enlargement of Time to Plead**

In civil cases an initial motion for enlargement of time to file responsive pleadings shall be granted, subject to the following: (a) the motion must be written and must comply with T.R.6(B)(1); (b) the automatic enlargement requested may not exceed thirty (30) days from the original due date; and (c) enlargement will not be automatic in matters denominated in the pleadings as emergency in nature.

#### **LR91-TR16-GEN-5 Pre-Trial Motions**

If a party files a motion which requires a ruling by the Court and fails to bring said motion to the attention of the presiding Judge, either by requesting a hearing thereon or by agreeing to submit same without hearing, then the Court, after thirty (30) days from the filing thereof, may dismiss the motion or set the same for hearing.

#### **LR91-TR16-GEN-6 Pre-Trial Conferences**

(A) There shall be a pre-trial conference in every civil case scheduled for jury trial. In other cases, upon motion of any party or upon motion of the Court, a pre-trial conference may be held.

(B) Unless otherwise directed by the Court, all attorneys appearing at the pre-trial conference shall participate in the trial, if one is held. A party shall be required to appear, in person, at the pre-trial conference if said party is proceeding pro se.

(C) It shall be the duty of counsel for the Plaintiff or for the moving party to arrange for a conference of attorneys in advance of the pre-trial conference with the Court.

(D) Both counsel for the Plaintiff and Defendant shall provide the Court, at or before the pre-trial conference, a list setting out the parties' expected witnesses, exhibits, lists of contentions or issues and stipulations. Further, Plaintiff's counsel shall in said document also notify the Court of the date and place of the conference of attorneys.

(E) Following the pre-trial conference, a pre-trial order shall be prepared, signed and filed as directed by the court at the pre-trial conference. When signed by the Court and entered of record, the pre-trial order shall control the course of the trial, and the pleadings will be deemed merged therein.

#### **LR91-TR53.5-GEN-7 Continuances**

Subject to the Court's discretion, a motion for continuance of any hearing or trial, unless made during the hearing of the cause, shall be in writing, with copies of the same first served upon opposing counsel. The attorney's signature on a request for continuance is considered a certification that the client has been notified of the request.

#### **LR91-TR47-JURY-8 Jury Instructions**

(A) In all jury trials, the Court will give standard preliminary and final instructions from the Indiana Pattern Jury Instructions from a file which is available to all counsel for review.

(B) The parties shall provide to the Court proposed written preliminary instructions three (3) days prior to the beginning of trial, and reasonably anticipated proposed final instructions with verdict forms no later than the first day of trial. These need not be exchanged with opposing counsel until date of trial.

(C) Counsel shall give either pattern or case citations with each tendered instruction.

(D) Instructions upon which the attorneys shall disagree shall be argued before commencement of trial.

(E) Counsel may obtain copies of jury questionnaires from the court staff prior to trial date.

(F) Voir dire shall be conducted according to a system provided by the Judge presiding over the trial.

### **LR91-TR79-CIV-9 Appointment of Special Judges in Civil Cases**

Pursuant to Trial Rule 79(H) of the Indiana Rules of Trial Procedure, in the event that a special judge needs to be appointed under local rule in a civil case in either of the two courts of White County, the appointment shall occur from the following: (1) the judge of the other White County court; (2) senior judges assigned to the court; (3) judges from within the Administrative District; and (4) judges from outside the Administrative District but from contiguous counties that have agreed to serve as special judges. In the case of a recusal or disqualification the clerk shall make the appointment.

If a special judge is not obtained pursuant to this local rule, or if the particular circumstances of the case warrant, the case shall be certified to the Supreme Court for the appointment of a special judge.

*(Amended effective July 1, 2011)*

### **LR91-TR76-GEN-10 TRANSFER OF JURISDICTION**

(A) It may, from time to time, be expedient for the Judges of the White Circuit and Superior Courts to transfer cases between those Courts. This shall be done with the consent of the two Judges involved in the transfers, pursuant to I.C. 33-5-49-9. If such transfer is consummated, the time for taking a change of venue from the Judge shall be extended for a period of ten (10) days from the service of notice of such transfer or until such period expires pursuant to T.R.76. This rule shall operate only to enlarge the time for requesting a change of Judge under such circumstances, and it shall not operate to reduce any time period prescribed by T.R. 76 or other applicable law. Change of venue from the county shall not be affected.

(B) It may, from time to time, be expedient for the Judges of the White Circuit and Superior Courts to hear cases pending in the other Court. Pursuant to I.C. 33-5-49-10, both Judges must agree thereto. If the matter proposed to be heard by the non-assigned Judge is not an emergency, and if it is actively contested, any party or counsel of record may make timely objection to the hearing of such matter by the non-assigned Judge, and said objection shall be sustained.

(C) Pursuant to I.C. 33-5-49-10, the Judge of the White Circuit Court authorizes the Judge of the White Superior Court to sit as Judge of the White Circuit Court, at any time, in any case.

Pursuant to I.C. 33-5-49-10, the Judge of the White Superior Court authorizes the Judge of the White Circuit Court, to sit as Judge of the White Superior Court, at any time, in any case.

This authority shall remain in force until further Order.

### **LR91-TR33-GEN-11 Interrogatories**

(A) A party serving written interrogatories pursuant to the Indiana Rules of Procedure shall provide two (2) copies to each party required to answer the same. The interrogatories shall contain, after each interrogatory, a reasonable amount of space for entry of the response or objection.

(B) If the number of interrogatories, including sub-parts, propounded in any case exceeds twenty-five, then a copy of all interrogatories propounded must be filed with the Court.

(C) Interrogatories shall be used solely for the purpose of discovery in the captioned case.

(D) The answering party may attach an addendum to the copies if the space provided is found to be inadequate. In any event, answers or objections to interrogatories shall, include the interrogatory being answered or objected to immediately preceding the answer or objection.

### **LR91-TR26-GEN-12 Discovery**

Discovery requests and obligations are continuing. All items and information which are the lawful subject of discovery, in any civil case, other than a small claim pending in the White Circuit or Superior Courts, shall be exchanged between the adversary parties without formal request therefore up to the trial or the pre-trial conference, if one is held.

## **Local Rules 13-16 Relating to Miscellaneous Civil Proceedings**

### **LR91-TR69-CIV-13 PROCEEDINGS SUPPLEMENTAL**

Subject to Court discretion, no party shall be permitted to proceed supplementally upon a judgment until thirty (30) days have elapsed from the date the judgment was entered, and then, only upon a showing by the party so proceeding that a good faith effort has been made to collect said judgment.

### **LR91-SC00-CIV-14 JURISDICTION**

The small claims docket of the White Superior Court shall be limited to the following:

(A) Cases in which the amount sought or value of the property sought to be recovered is Six Thousand Dollars (\$6,000.00) or less or in which the party seeking damages is willing to waive the excess of his or her claim over Six Thousand Dollars (\$6,000.00).

(B) Possessory actions between landlord and tenant in which the damages claimed are Six Thousand Dollars (\$6,000.00) or less or in which the party seeking damages is willing to waive the excess of his or her claim over Six Thousand Dollars (\$6,000.00).

(C) All procedures generally applicable to small claims in County Court shall be applicable.

### **LR91-SC00-CIV-15 LANDLORD AND TENANT**

(A) Sheriff's fees shall be tendered upon filing of a claim for possession.

(B) If the defendant has vacated the premises by the time of the hearing on possession, the plaintiff must present evidence of damage to the premises at that time. If the defendant has not vacated by the time of the hearing, the Court will set another hearing date to consider the question of damages.

(C) The Sheriff will assist a party prevailing on a claim for possession only to the extent of obtaining possession of the premises, and said party will be fully responsible for moving and storage of personal property.

(D) It shall be the duty of any party obtaining an order for possession to contact the Sheriff and make arrangements for assistance in obtaining possession of the involved property.

**LR91-TR16-CIV-16 Domestic Relations**

(A) In dissolution, custody, modification, and support cases, petitioners and respondents shall make full and complete disclosure of all assets and liabilities. They shall make disclosure of all income and reasonably anticipated expenses computed on a monthly basis. The disclosure shall be made to opposing party, pro se, or to opposing counsel no later than thirty (30) days before the trial/hearing date. The disclosure requirements shall be enforced pursuant to, but not limited to, the Court's powers under Trial Rules 37 and 60, Contempt, Mandate, Dismissals and any and all other proper relief.

(B) A schedule of assets and liabilities, together with copies of any and all inventories and appraisals, shall be submitted to the court three (3) days prior to the date of trial.

(C) A support schedule adopted by the Court is used as a guideline in domestic relation cases for determining spousal maintenance and child support awards. Copies of this schedule shall be located in the Clerk's office, the office of the Court, and on the Court Bench. A copy thereof may be obtained upon request from the Court staff.

## **Local Rule 17 Relating to Indiana Rules on Criminal Procedure**

### **LR91-CR2.2-CRIM-17      Assignment of Criminal Cases**

Pursuant to Criminal Rule 2.2 of the Indiana Rules of Criminal Procedure, the Circuit and Superior Courts of White County, State of Indiana, hereby ORDER by LOCAL RULE that in all felony, misdemeanor, infraction and ordinance violation criminal cases, the assignment of such cases to each Court in the County at the time of filing shall be as follows:

(A) All criminal cases, including felonies, misdemeanors, infractions and ordinance violations, shall be filed in the White Superior Court. All Juvenile cases, including delinquencies, children in need of services and paternities, shall be filed in the White Circuit Court.

(B) In the event that a Change of Judge in a criminal case has been timely filed and granted, pursuant to Criminal Rule 12, the case shall be reassigned to the Judge of the White Circuit Court.

(C) In the event the Judge of the White Circuit Court does not assume jurisdiction of the Criminal case reassigned pursuant to Section (B) above, then a Special Judge shall be selected and named in accordance with Criminal Rule 13 in the following order:

1. The Senior Judge, if one is currently assigned in White County, and if none is assigned then;
2. Appointment of one of the following Judges of the Courts of Record in certain Counties contiguous to White County, all of whom consent to serving as Special Judge herein, being the Judge of the Benton County Circuit Court, the Judge of the Carroll County Circuit Court, the Judge of the Carroll County Superior Court, the Judge of the Pulaski County Circuit Court, the Judge of the Pulaski County Superior Court, the Judge of the Jasper County Circuit Court, the Judge of the Jasper County Superior Court, the Judge of the Cass County Circuit Court, and the Judges of the Cass County Superior Courts, and if said Judge does not qualify then;

3. Appointment by the Indiana Supreme Court.

(D) In the event a Criminal case is dismissed and then refiled, the refiled Criminal case shall be filed in the same Court "from which the case was dismissed, and the same Judge shall resume jurisdiction.

This Local Rule for White County, State of Indiana, shall be effective from and after July 1, 1995.

The foregoing Local Rule on Assignment of Criminal Cases Pursuant to Criminal Rule 2.2, having been formally adopted by the White Circuit and Superior Courts, pursuant to the authority of Trial Rule 81 and Criminal Rule 2.2, the same is hereby promulgated and made effective this 1st day of July, 1995. Two copies of said local rule shall be furnished to the Clerk of the Indiana Supreme Court and Court of Appeals pursuant to Trial Rule 81 of the Indiana Rules of Procedure.

The White County Clerk, as Clerk of the White Circuit Court and White Superior Court, is hereby ordered and directed to provide a copy of this local rule to all White County attorneys and to maintain a copy of this local rule in the Clerk's office for examination by the Bar and general public.

## **Local Rules 18-26 Relating to Miscellaneous Criminal Procedures**

### **LR91-CR00-CRIM-18 Infraction Appearance-Denial of Complaint**

If defendant appears by counsel, the presence of defendant at initial hearing may be dispensed with and counsel may enter an oral or written denial. In that instance the cause will be set for trial at the first available date.

### **LR91-CR00-CRIM-19 Infraction Judgments**

(a) The judgments for all offenses within the jurisdiction of the Traffic Violations Bureau shall be as set by Court Order from time to time and shall be posted in the Clerk's office.

(b) All judgments levied by the Court will be payable in cash, money order or by law firm check. A personal check may not be used for infraction judgments or costs.

### **LR91-CR00-CRIM-20 Initial Hearing**

Defendant shall appear, in person, for the initial hearing in all felony and misdemeanor cases.

### **LR91-CR00-CRIM-21 Withdrawal and Appearance**

In criminal cases, withdrawal of representation of a defendant may not be granted except upon hearing conducted in open court on record in the presence of the defendant. Withdrawal of appearance may be allowed without compliance with requirements of this rule if the reason for withdrawal is the inability to locate and communicate with the defendant. In such event a warrant shall forthwith issue for the arrest of the defendant.

### **LR91-CR00-CRIM-22 Discovery**

All items and information which are the lawful subject of discovery, in any criminal case pending in the White Circuit or Superior Court, shall be exchanged between the adversary parties without formal request therefore up to three (3) days before pre-trial conference. Discovery thereafter shall not be automatic but solely with leave of Court.

### **LR91-CR00-CRIM-23 Pre-Trial Conferences**

(A) At the discretion of the judge in any criminal case, the defendant may be scheduled for a pre-trial conference.

(B) The purpose of this conference is to realistically determine the disposition of each and for:

- (1) Consolidation of hearings on pre-trial motions or requests, pending or anticipated;
- (2) Ruling on any motions or other requests then pending and ascertaining whether any additional motions or requests will be made before commencement of trial;
- (3) Making any other orders appropriate under the circumstances to expedite pre-trial proceedings and trial;

- (4) Simplification of the issues;
- (5) Obtaining admissions of fact and of documents which will avoid unnecessary proof;
- (6) Exchanging the names and addresses of prospective witnesses;
- (7) Examination and identification of proposed exhibits;
- (8) Considering the possibility of disposition of the case without trial.

(C) All genuine questions of law, motions to suppress or dismiss, etc., known by the defense, are deemed waived if not raised at the pre-trial conference. Any new matter may be raised as otherwise provided by the Rules after failure to discover upon diligent inquiry.

(D) Unless otherwise directed by the court, the State of Indiana and one of the defense attorneys appearing at each pre-trial conference shall participate in the trial, if one is held. The defendant shall be required to appear, in person, at any such conference if directed by the Court or if defendant is proceeding pro se.

(E) At the pre-trial conference, the State of Indiana and counsel for the defense must acknowledge their availability for all conferences, hearings, and trials on the dates scheduled in the pre-trial order.

(F) If, following the pre-trial conference, the case remains set for jury trial, a final pre-trial conference shall be scheduled for the following purposes:

- (1) If there is to be a plea of guilty, pursuant to a plea agreement, it shall be submitted and entered at that time.
- (2) If the case, at that time, remains set for trial by jury, the conference shall be held for the purpose of considering the number of jurors to be summoned; reviewing the jury questionnaires; discussing reasonably anticipated and proposed instructions; and considering any other pending or relevant matters.

**LR91-CR00-CRIM-24 Change of Plea**

(A) No change of plea other than "as charged without recommendation" shall be accepted unless presented to the court at the final pre-trial conference before a scheduled jury trial.

(B) The Court may waive this requirement upon a showing of good cause.

(C) In felony cases, no change of plea will be accepted by the Court without a written plea agreement or motion for change of plea.

**LR91-CR00-CRIM-25 Continuances**

Continuances in criminal cases will be granted only in cases where exigent circumstances exist.

**LR91-CR00-CRIM-26 Bail Bond Schedule**

The following amounts shall be the amounts set for bail bonds unless otherwise ordered by the Judge of the White Circuit Court or the Judge of the White Superior Court:

For Offenses allegedly committed committed on or prior to June 30, 2014	Bail Bond Amount	For Offenses allegedly on or after July 1, 2014
OFFENSE CLASS		OFFENSE CLASS
MURDER	NO BOND INITIALLY	MURDER
Class A Felony	\$50,000.00	Level 1 Felony
	\$40,000.00	Level 2 Felony
Class B Felony	\$30,000.00	Level 3 Felony
	\$20,000.00	Level 4 Felony
Class C Felony	\$10,000.00	Level 5 Felony
Class D Felony	\$5,000.00	Level 6 Felony

Exception for certain Sex Offenses: A person charged with CHILD MOLESTING (I.C.35-42-4-3); a person charged with CHILD SOLICITATION (I.C. 35-42-4-6); or a person who is a SEXUALLY VIOLENT OFFENDER under I.C. 35-38-1-7.5 and is arrested for or charged with the commission of an offense that would classify the person as a sex or violent offender (as defined in I.C. 11-8-8-5) shall not be admitted to bail until the Court has conducted a bail hearing in open court. That hearing shall be held within forty-eight (48) hours of the person’s arrest, unless exigent circumstances prevent holding the hearing within forty-eight (48) hours. It shall be the responsibility of the White County Sheriff to promptly notify the Court of the arrest of such a person in order that such a hearing may be held in a timely manner.

Class A Misdemeanor	\$1,500.00	Class A Misdemeanor
Class B Misdemeanor	\$1,000.00	Class B Misdemeanor
Class C Misdemeanor	\$500.00	Class C Misdemeanor

**ADDITIONAL BONDING TERMS:**

- (1) A person charged with a “violent crime” (as defined in I.C. 5-2-6.1-8) shall have no contact, directly or indirectly with the alleged victim(s), and the person shall sign a NO CONTACT ORDER as a condition of being released on bail.
  
- (2) A person charged with a “crime of domestic violence” (as defined in I.C. 35-31.5-2-78), which includes domestic battery, regardless of the class, shall remain in jail for twelve (12) hours following arrest before being eligible for release on bail.
  
- (3) For any person who, at the time of arrest, is on probation in White County, Indiana, or is out on bond for another offense pending in White County, Indiana, or is on parole anywhere, NO BAIL is to be set except by the Court at a hearing to be held the next available Court day.
  
- (4) For any felony case, where the person charged shall have been previously convicted of a felony offense, but is not on parole or probation; or where the person charged is accused of possessing a firearm or other deadly weapon, the bail bond amount shall be doubled.
  
- (5) In the event of multiple charges as a result of the same incident, the bail shall be the amount scheduled for the highest single offense.
  
- (6) No person shall be released on bond that appears to be under the influence of alcohol, drugs, or a combination of alcohol or drugs until the person has a breath alcohol level of .00% and until the person is sufficiently capable of completing the booking process, and can safely be released because of such condition. The White County Sheriff’s Department may use the chart set out in I.C. 35-33-1-6 to determine the minimum number of hours an impaired person should be detained prior to release pending trial.

- (7) In any case the bail may be posted by any of the following methods:
- (a) Corporate Surety; or
  - (b) Cash in full (except for a misdemeanor offense, cash in an amount equal to 50% of the applicable bail bond amount or \$500.00 cash whichever is greater); or
  - (c) Real Estate Property Bond with prior approval of the Court.

(8) All bail bonds are subject to being adjusted by the Court at a hearing pursuant to statute and application by counsel of record. If there is a difference between the amount of bond posted prior to the issuance of a probable cause order, the order shall govern the amount of bond. However, overpayments may not result in refunds to the defendant. If a defendant is arrested for a separate criminal offense while released on a prior posted bond, the release on the prior posted bond may be revoked by the Court. Any bail bond posted shall be in addition to any administrative fees required to be paid under Indiana law.

*(Amended Effective July 15, 2014)*

## Local Rule 27 Relating to the Indiana Administrative Rules

### LR91-AR15-ADMIN-27 COURT REPORTER SERVICES

The undersigned Courts comprise all of the Courts of record of White 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 the Court to perform the official court reporting services for the Court including preparing a transcript of the record.

(2) Equipment means all physical items owned by the Court or other governmental entity and used by a Court Reporter in performing court reporting services. Equipment shall include, but not be limited to telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.

(3) Work space means that portion of the Court's facilities dedicated to each Court Reporter, including but not limited to actual space in the courtroom and any designated office space.

(4) Page means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 11A.

(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 White 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, Gap time and Overtime Pay**

(1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising Court during any regular fixed work hours. Subject to the approval of the County Council, the amount of the annual salary shall be set by the Court.

(2) The Court Reporter shall, if requested or ordered, prepare any transcript during regular work hours.

(3) In the event that preparing a transcript cannot be completed during regular fixed work hours, the Court Reporter shall be entitled to additional compensation beyond regular salary under one of the two options set forth as follows:

(a) (1) Gap hours shall be paid in the amount equal to the hourly rate of the annual salary; and

(2) Overtime hours shall be paid in the amount of one and one-half (1 1/2) times the hourly rate of the annual salary; or

(b) (1) Compensatory time off from regular fixed work hours shall be given in the amount equal to the number of gap hours worked; and

(2) Compensatory time off from regular fixed work hours shall be given in the amount of one and one-half (1 1/2) times the number of overtime hours worked.

(4) The Court and the Court Reporter shall freely negotiate between the two which of the options set forth in (3) above shall be applicable and the Court and the Court Reporter shall enter into a written agreement which outlines the option utilized for the compensation of gap and overtime hours.

(5) Each Court Reporter shall report, at least on an annual basis, all transcript fees received for the preparation of 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**

(1) 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 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.

## **Section Four: Fees**

(1) The maximum per page fee a Court Reporter may charge for private practice work shall be \$4.00.

(2) The maximum per page fee a Court Reporter may charge for the preparation of a private transcript shall be \$4.00.

This Local Rule for White County, State of Indiana, shall be effective from and after June 1, 1998.

The foregoing Local Rule on Court Reporter Services is hereby promulgated and made effective this 1st day of June, 1998. Two copies of said local rule shall be furnished to the Clerk of the Indiana Supreme Court and Court of Appeals pursuant to Trial Rule 79 of the Indiana Rules of Procedure.

The White County Clerk, as Clerk of the White Circuit Court and White Superior Court, is hereby ordered and directed to provide a copy of this local rule to all White County attorneys and to maintain a copy of this local rule in the Clerk's Office for examination by the Bar and general public.

## **Local Rule 28-29      Relating to Miscellaneous Administrative Procedures**

### **LR91-TR77-ADMIN-28 Documents and Files**

(A) No person shall withdraw any original pleading, paper, record, model, or exhibit from the custody of the clerk or other officer of this court having custody thereof, except upon the order of a judge of the court and after giving a proper receipt therefore.

(B) No person shall remove any books from the Court or Judge's chambers or the county law library, except upon the order of a Judge of the Court, and after giving a proper receipt therefore.

(C) Unless otherwise ordered by the Court, any time after a deposition is filed, the Clerk shall open such deposition only upon request of the Judge, or a party or his attorney. The Clerk shall first endorse on the back thereof, at the time of opening, the name of the person at whose request the deposition is opened and the date of opening.

## **LR91-TR77-ADMN-29 FILING GUIDELINES**

The following guidelines for filings in the White Circuit and Superior Courts shall become effective January 1, 1987. From said date, all cases shall be numbered in the manner prescribed by the Indiana Supreme Court.

### **I. FELONY**

A. Felony cases for Circuit Court shall be filed with the Clerk's office on the 2nd floor.

B. Felony cases for Superior Court shall be filed with the Clerk's office on the 3rd floor and shall be placed by the Clerk into a blue file folder.

### **II. MISDEMEANOR**

A. Misdemeanor cases for Circuit Court shall be filed with the Clerk's office on the 2nd floor.

B. Misdemeanor cases for Superior Court shall be filed with the Clerk's office on the 3rd floor and shall be placed by the Clerk into a pink file folder.

### **III. STATE INFRACTION**

Any state Infraction shall be filed with the Clerk's office on the 3rd floor and shall be docketed to Superior Court.

### **IV. ORDINANCE INFRACTION**

Any Municipal Ordinance Infraction shall be filed with the Clerk's office on the 3rd floor and shall be docket to Superior Court.



## **Local Rule 30 Relating to Probate Procedure**

### **LR91-TR81-PROB-30 PROBATE ESTATES AND GUARDIANSHIPS**

All probate, estate and guardianship matters are assigned to the Probate Division of the White Circuit Court wherein the following local rules and practices shall be followed:

(1) Upon the opening of each estate, the Clerk may be directed, in the Court's discretion, to send file-marked copies of the Petition for Appointment to all heirs and legatees along with the Notice of the opening of the estate, which is required by law to be sent to such persons.

(2) In all supervised estates and guardianships the personal representative or fiduciary shall file a bond in an amount not less than the value of the personal property to be administered plus the annual rents and profits from real estate except as hereinafter provided:

- (a) At the Court's discretion, no bond will be required of a personal representative if the will requests that the bond be waived; or
- (b) If the personal representative is, individually, an heir or legatee of the decedent, the bond may be reduced by an amount equal to the personal representative's proportionate share of the estate; or
- (c) If all of the heirs or legatees have filed written requests that the personal representative serve without bond, then the bond will be set in an amount adequate to protect the rights of creditors and taxing authorities; or
- (d) At the Court's discretion, no bond shall be required in any estate in which a corporate fiduciary qualified by law to serve as such is either the personal representative or one of several co-personal representatives.

(e) In lieu of a bond as required by this rule, a personal representative or guardian may restrict transfer of all or part of the estate or guardianship liquid assets by placing those assets in a federally insured financial institution with the following restriction placed on the face of the account or document: NO PRINCIPAL OR INTEREST SHALL BE WITHDRAWN WITHOUT WRITTEN ORDER OF WHITE CIRCUIT COURT. Proof of the restriction shall be provided to the Court within seven (7) days of the appointment of the personal representative or guardian. The bond requirement shall be reduced by the amount of the funds restricted pursuant to this rule. Not more than one (1) week shall be permitted following the appointment of the personal representative for posting of the bond required herein where the personal representative desires to obtain waivers from the other heirs or legatees of the decedent.

(3) In all supervised estates the personal representative shall file with the court within two (2) months of his appointment a verified Inventory prepared in conformity with the requirements of I.C. Sec. 29-1-12-1. Unless the personal representative determines otherwise, such Inventory need not be a formal appraisal of estate assets.

(4) No petition for administration without Court supervision will be granted unless the consent requirement of I.C. 29-1-7.5-2(a) (4) is met, along with all of the other requirements of I.C. 29-1-7.5-2(a).

(5) In accordance with the provisions of I.C. 29-1-16-2, all estates shall be closed within one (1) year after the appointment of the personal representative except for good cause shown. In any estate which cannot be closed within one (1) year the personal representative, on the first anniversary of his appointment, shall file a report with the court setting forth in reasonable detail the reasons why the estate cannot be promptly closed and the personal representative's estimate as to when the estate may reasonably be closed. The court, after review of the personal representative's report, may either extend the time for the filing of a Final Account and Report or otherwise appropriately instruct the personal representative concerning continuing obligations to the court and to the heirs and legatees.

(6) No fees of a personal representative or attorney for an estate shall be paid except upon written order of the Court. Approval of fees of personal representatives and of their attorneys may be given by the court in connection with the filing of the Schedule of All Property for Inheritance Tax Purposes or by ex parte court order. Fifty percent (50%) of total tentative fees so determined may be paid upon the filing of the schedule, and the remainder may be paid upon the filing of the Personal Representative's Final Account. Deviations from this rule shall only be made on the basis of a prior written order of the court.

(7) All of the heirs-at-law of a decedent dying intestate and all of the residuary devisees of a decedent dying testate may, in the Court's discretion, be required to be served with copies of the personal representative's report required by paragraph 5 herein, and/or the Personal Representative's Final Account, at the time of the filing thereof. Service upon such persons of such pleadings shall be in accordance with the Indiana Trial Rules and the Rules of this court relating to service of pleadings on attorneys of record.

(8) Failure to comply with any Rule shall be grounds for the removal of the personal representative pursuant to I.C. 29-1-10-6 and a reduction or forfeiture of the fees otherwise payable to the personal representative and his attorney.

(9) The personal representative or the attorney of record for an estate shall provide to the White County Auditor an original or certified copy of any decree of distribution involving the transfer of real property in White County, Indiana, in accordance with I.C. 6-1.1-5-6, for transfer on the tax transfer records in the Auditor's Office. Any decree of distribution, which includes the transfer of real property, shall be recorded in accordance with I.C. 29-1-17-2.

(10) A form entitled Instructions to Personal Representative of Supervised Estate shall be obtained from the Clerk of the Court and shall be executed by the Personal Representative and attached to the Petition for Administration when the estate is opened.

(11) A standing general order of Court shall be entered allowing White County banks to permit an attorney for, a personal representative of, or an heir of a decedent, to gain access to a lock box of a decedent, in the presence of a representative of the bank, to determine if a Will for the decedent can be found in said lock box. If such a will is found, the bank shall make a copy of the will for its records, and upon a receipt being given, which shall bear the name, address and phone number of the recipient, the bank shall furnish such original Will to the appropriate attorney, named personal representative or heir of the decedent. The bank shall then furnish a copy of the Will, together with a copy of the receipt, to the Clerk of the White Circuit Court within two (2) business days.

When received, the Clerk shall file-mark the copy of the Will, shall notify the Judge of its receipt, and then shall file the copy of the Will with the receipt affixed in a file designated as "Unprobated Wills", where copies of such wills shall remain until the original will is filed with the Court pursuant to I.C. 29-1-7-3, or until further Order of the Court.

(12) The following rules are applicable in wrongful death estates:

(a) When an estate is pending at the expiration of one (1) year, a report shall be made to the Court, showing the status of the proceedings for recovery. If an action is pending, the report shall show the cause number and the court in which it is pending.

(b) All proposed wrongful death settlements must be approved by the Court, whether the estate is supervised, unsupervised, or a special administration for the sole purpose of prosecuting the wrongful death claim. When a petition for approval of a proposed settlement is filed, the petition for approval of such settlement shall be filed showing a proposed distribution, in accordance with Indiana Code.

Such petition shall show the amounts of proposed distribution to the following:

1. Surviving spouse;
2. Dependant children;
3. Dependant next kin;
4. Provider of medical expenses in connection with last illness of decedent;
5. Provider of funeral and burial expenses;
6. Costs and expenses of administration.

(c) A form of order shall be presented to the Court, ordering that distribution be made in accordance with Indiana Code and a final report filed within ten (10) days.

(13) In addition to the above probate rules, the following rules are applicable to guardianships:

(a) In all petitions seeking guardianship of an adult alleged incapable of either managing his property or caring for himself, or both, by reason of mental illness, mental retardation or senility, at a minimum, a Physician's Report by the doctor treating the alleged disabled person must be presented at the time the petition is filed or on the hearing date. No determination will be made without supporting medical report or testimony.

(b) Current reports filed by a guardian of the person must state the present residence of the disabled person and the person's general condition. If the guardianship was instituted for an adult by reason of mental illness, mental retardation or senility, a report of a treating physician must be filed with the current report, verifying that the condition of the disabled person has not materially improved since the date the guardianship was established or the date of the last current report and that the living arrangement for the disabled person is appropriate.

(c) In every petition for the appointment of guardian of the person of a minor child, the following information shall be given:

1. The child's present address;
2. The places where the child has lived within the past two (2) years and the names and present addresses of persons with whom the child has lived during that period;
3. Whether, to petitioner's knowledge, any other litigation is pending concerning the custody of the same child in this or any other state.
4. Whether, to petitioner's knowledge, any person not a party to the guardianship proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child.

(14) Safety deposit boxes of a disabled person in a newly established guardianship shall be opened initially only in the presence of the guardian and the guardian's attorney or a representative of the guardian's attorney. A written inventory of the contents of the box shall be made, signed by all parties present, and attached to the Guardianship Inventory.

(15) No fees of a guardian or guardian's attorney shall be paid except upon a written order of the Court.

(16) All pleadings tendered in probate, estate and guardianship matters shall include a minute entry, and the following standardized estate minutes of the White Circuit Court shall be included with pleadings tendered for filing:

- (a) Petition filed for probate of self-proved will, together with verified proof of will. Petition granted. Will ordered admitted to probate as per form.
- (b) Petition filed for probate of will and issuance of letters testamentary together with verified proof of will. Petition granted. Will ordered admitted to probate. Personal Representative appointed. Oath and acceptance filed. Bond filed and approved. Letters testamentary ordered issued as per form.

- (c) Petition filed for probate of will and codicil and for issuance of letters testamentary together with verified proof of will and of codicil. Petition granted. Will and codicil ordered admitted to probate. Personal Representative appointed. Oath and acceptance filed. Bond filed and approved. Letters testamentary ordered issued as per form.
- (d) Petition filed for probate of will and issuance of letters of administration, with will annexed, together with verified proof of will and written renunciation of named personal representative. Petition granted. Will ordered admitted to probate. Personal representative appointed. Oath and acceptance filed. Bond filed and approved. Letters of administration, with will annexed, ordered issued as per form.
- (e) Petition filed for issuance of letters of administration. Petition granted. Personal Representative appointed. Oath and acceptance filed. Bond filed and approved. Letters of administration ordered issued as per form.
- (f) Petition filed for issuance of letters of administration. Petition granted for UNSUPERVISED ADMINISTRATION. Personal Representative appointed. Oath and acceptance filed. Bond filed and approved. Letters of administration ordered issued and UNSUPERVISED ADMINISTRATION granted as per form.
- (g) Petition filed for probate of will and issuance of letters testamentary and for UNSUPERVISED ADMINISTRATION, together with verified proof of will and written consent of each of the devisees and legatees herein. Petition granted. Will ordered admitted to probate. Personal Representative appointed. Oath and acceptance filed. Bond filed and approved. Letters testamentary ordered issued and UNSUPERVISED ADMINISTRATION granted as per form.
- (h) Petition filed for issuance of letters of administration for the sole and only purpose of recovering damages for the allegedly wrongful death of decedent. Petition granted. Personal Representative appointed. Bond and oath filed; same examined and approved. Letters of administration ordered issued as per form.
- (i) Inventory and appraisal of property filed.
- (j) Schedule of all property for inheritance tax purposes filed, together with waiver of notice of hearing thereon. County Assessor appointed appraiser.

(k) Petition to sell real estate filed together with waivers of notice of hearing and consents. Submission; petition granted as per form.

(l) Report of sale of real estate filed. Submission; report examined and approved as per form. Deed of conveyance is in open Court examined and approval endorsed thereon.

(m) Petition filed to sell and transfer automobile title. Submission; petition granted as per form.

(n) Petition to sell personal property filed. Submission; petition granted as per form.

(o) Petition filed for waiver of penalty for late filing of schedule of all property for inheritance tax purposes. Submission; petition granted as per form.

(p) Supplemental Report of Distribution and Petition for Discharge filed. Submission; Supplemental Report examined and approved, Petition granted. Receipts for distribution filed. Estate ordered closed as per form. Costs paid. Bond and surety released.

(q) Proof of publication of notice of hearing on final account filed together with proof of mailing of notices; proofs submitted and approved. Submission on final account and petitions therein; final account examined and approved, petitions granted and distribution ordered as per form. Costs paid.

(r) Proof of publication of notice of hearing on final account filed together with proof of mailing of notices; proofs submitted and approved. Submission on final account and petition therein; final account examined and approved, petitions granted. Receipts for distribution filed. Estate ordered closed as per form. Costs paid. Bond and surety released.

(s) Verified closing statement filed; same examined and approved as per form. Costs paid.

Such other appropriate minutes of the Court, shall be included as conform to the pleadings.

(17) All court costs in probate, estates, guardianships, and trust estates shall be paid in accordance with the schedule of Court costs and fees, and any other requirements of the Clerk's office.

(18) The local Court rules on probate, estates, and guardianships, shall be effective on all new proceedings beginning on March 1, 1989, and to all existing estate and guardianship pleadings and proceedings filed with the Court on and after May 2, 1989.

(19) The Standing General Order of Court entered on March 1, 1989, to allow banking institutions located in White County, Indiana, to permit access to a lock box of a decedent to determine if a Will for the decedent can be found in said lock box, shall be amended beginning March 8, 1989 to allow banking institutions located in White County, Indiana, to permit access to a safe-deposit lock box of a decedent to determine if a Last Will and Testament for the decedent can be found in said safe-deposit lock box, with such access procedure to be in conformity with Indiana law. This Standing General Order shall not obviate the requirements of Indiana law, and specifically I.C.6-4.1-8-4 et seq., which requires reasonable notice to the White County Assessor of the opening of any safe-deposit lock box of a decedent, and the required inventory procedures. It is the purpose of this Standing General Order to expedite the process of locating a Will of a decedent, and to facilitate the appointment of a Personal Representative in the estate. This Standing General Order of Court shall allow White County banking institutions, in such bank's discretion, upon reasonable notice by telephone or otherwise to the White County Assessor, to permit an attorney for, a personal representative of, or an heir of, a decedent to gain access to a safe-deposit lock box of a decedent, in the presence of a representative of the bank, to determine if a Will for the decedent can be found in said safe-deposit lock box. If such a Will is found, the bank shall make a copy of the Will for its records, and upon a receipt being given, which shall bear the name, address and phone number of the recipient, the bank shall furnish such original Will to the appropriate attorney, named personal representative, or heir of the decedent. The bank shall then furnish a copy of the Will, together with a copy of the receipt, to the Clerk of the White Circuit Court within (2) business days.

When received, the Clerk shall file-mark the copy of the Will, shall notify the Judge of its receipt, and then shall file the copy of the Will with the receipt affixed in a file designated as "Unprobated Wills," where copies of such Wills shall remain until the original Will is filed with the Court pursuant to I.C. 29-1-7-3, or until further Order of the Court.

**LR91-TR69-CIV-31                      Judicial Sales of Real Estate**

Pursuant to Trial Rule 69(F) of the Indiana Rules of Civil Procedure, the Circuit and Superior Courts of White County, State of Indiana, hereby ORDER by local rule that in the case of any judicial sale of land, including without limitation mortgage and lien foreclosures, execution sales, sales by receivers, assignees for the benefit of creditors, guardians or trustees, partition sales or tax sales, the officer or commissioner conducting the sale shall procure a qualified title opinion or a title insurance policy from a title insurance company authorized to do business in Indiana with respect to the interest in the real estate being transferred. The policy must be conditioned to cover the purchase price at the sale and may be given with any necessary exclusions. The opinion or policy or copy thereof shall be available for inspection in the Court from which the sale is being conducted or in the office of the Court officer conducting the sale at the first notice of sale and shall be made available for inspection at the sale. Expenses of the opinion or policy shall be taxed as costs like other expenses of the sale and paid from the first proceeds of the sale. The opinion or policy shall not cover defects arising in the conduct of the sale.

This Local Rule shall be effective from and after August 1, 1989.

The foregoing Local Rule on Judicial Sales of Real Estate, having been formally adopted by the white Circuit and Superior Courts, pursuant to the authority of Trial Rule 81, the same is hereby promulgated and made effective this 1st day of August, 1989. Two copies of said local rule shall be furnished to the Clerk of the Indiana Supreme Court and Court of Appeals pursuant to Trial Rule 81 of the Indiana Rules of Procedure.

The White County Clerk, as Clerk of the White Circuit Court and White Superior Court, is hereby ordered and directed to provide a copy of this local rule to all White County attorneys and to maintain a copy of this local rule in the Clerk's office for examination by the Bar and general public.

## **LR91-AR1-GEN-32 Allocation of Judicial Resources**

### **(A) Criminal Cases:**

(1) All murder, felony, misdemeanor, infraction, ordinance violation, miscellaneous criminal (MC), and post conviction relief cases shall be filed in the Superior Court.

### **(B) Juvenile Cases:**

(1) All juvenile cases shall be filed in the Circuit Court.

### **(C) Civil Cases:**

(1) All adoption (AD), domestic relations (DR), estate (ES/EU), guardianship (GU), mental health (MH), protective order (PO), reciprocal support (RS), and trust (TR) cases shall be filed in the Circuit Court.

(2) All small claim (SC) cases shall be filed in the Superior Court.

(3) Civil plenary (CP), mortgage foreclosure (MF), civil collection (CC), civil tort (CT), and civil miscellaneous (MI) cases may be filed in either the Circuit Court or the Superior Court.

Further, the White Circuit Court and the White Superior Court have concurrent jurisdiction, pursuant to IC 33-33-91-4, and either Judge may with the consent of the other Judge sit as Judge of either Court.

*(As amended and effective on January 1, 2010)*

## **LR91-JR4-GEN-33 Notice of Selection for Jury Pool**

The White Circuit Court and the White Superior Court shall utilize a two tier system for mailing notice and summons to prospective jurors as referenced in Indiana Jury Rule 4(b). Each year when names of prospective jurors are drawn from the jury pool for each quarter, the Jury Administrator shall send to those prospective jurors whose names have been drawn for the quarter, notice of the period of their possible jury service and a jury qualification form. The notice and qualification form shall be mailed not later than seven (7) days after the date the prospective jurors' names were drawn from the jury pool.

The jury administrator shall send jury summons, in accordance with Indiana Jury Rule 4, to prospective jurors at least seven (7) days before the required jury service.

**LR91-AR00-GEN-34 Alcohol and Drug Program Fees**

The Superior and Circuit Courts of White County, Indiana, adopt the following schedule of fees for participants in the Court's Alcohol and Drug Program:

Assessment and Case Management	\$100.00
Basic Education Program	\$400.00