LOCAL RULES OF COURT
FOR THE CIRCUIT, SUPERIOR I AND SUPERIOR II COURTS
OF THE 20TH JUDICIAL CIRCUIT, BOONE COUNTY, INDIANA

ORDER ADOPTING RULES OF PRACTICE AND PROCEDURE
IN THE CIRCUIT, SUPERIOR I AND SUPERIOR II COURTS
OF THE 20TH JUDICIAL CIRCUIT

WHEREAS the undersigned judges of the 20th Judicial Circuit, Boone County, Indiana desire to recodify all existing local rules of the 20th Judicial Circuit, Boone County, Indiana in compliance with Indiana Trial Rule 81.

THEREFORE be it known that the following rules numbered 1 through 28 are hereby ratified, confirmed and enacted as the local rules of the 20th Judicial Circuit, Boone County, Indiana.

DATED this ____ day of _____, 2005.

_____
Steve David, Judge
Boone Circuit Court

_____
Matthew Kincaid, Judge
Boone Superior Court I

_____
James Detamore, Judge
Boone Superior Court II

LR06-TR05-BLR-1

PLEADINGS

A. Filings

All causes – civil, criminal, probate, or small claims – may be commenced by personal filing of original pleadings or filing by mail of original pleadings in the office of the Clerk of Boone County. All other pleadings will be accepted and filed as of the date of receipt; provided, however, that any filing made by registered or certified mail, shall be complete upon mailing. All pleadings shall be filed with the Clerk, not directly to the Courts, unless the Indiana Rules of Procedure provide otherwise. Electronic facsimile transmission ("FAX") are not permitted.

B. Distribution and Service

No pleadings, order or notices, other than those originated by the Court, will be returned or distributed to attorneys by mail unless the Court is provided with stamped, self-addressed return envelopes. Pursuant to Indiana Rules of Procedure, T.R. 5(B)(1)(d), the Boone County Circuit, Superior I, and Superior II Courts hereby designate the mailboxes in the Boone county Superior I office as a suitable place for service upon local attorneys.

LR06-TR03.1-BLR-2

APPEARANCES

A. Entry of Appearance

1. Every pleading filing shall clearly identify the name, address and telephone number of the attorney filing the pleading. Any attorney for a party shall first file his formal written Appearance in accordance with Trial Rule 3.1 and Criminal Rule 2.1.

2. Any pleading not signed by at least one attorney appearing of record as required by T.R. 11 of Indiana Rules of Procedure shall not be accepted for filing, or, if inadvertently accepted for filing, shall, upon discovery of the omission, be struck from the record.

3. Neither typewritten signatures nor facsimile signatures shall be accepted on original documents. Facsimile signatures are permitted on copies.

4. The Rule shall not apply to small claims where attorneys are not employed; however, parties shall be required to comply with the Small Claims Statute and Rules of Procedure and Instructions provided by the Clerk of the Court.

5. All pleadings shall be submitted on 8½ x 11 paper and shall be double-spaced (except pre-printed forms).

6. All documents or orders requiring a Judge's signature must be submitted with an original and one copy for the Court, plus one copy for each attorney or pro-se party, for distribution.

B. Withdrawal of Appearance

1. Counsel desiring to withdraw Appearance in any cause other than criminal shall file a petition requesting leave to do so. A proposed order complying with section (A)(6) of this Rule shall be submitted along with said petition. All withdrawals of Appearance shall comply fully with the provisions of Rule 1.16 of the Rules of Professional Conduct.

2. No withdrawal of Appearance shall be granted where the withdrawal would deprive the Court of its jurisdiction over the party.

3. A withdrawal of Appearance when accompanied by the Appearance of other counsel shall constitute compliance with the requirements of Paragraph (A)(1) of this rule.

LR06-TR53.5-BLR-3

CONTINUANCES

A. A motion for continuance, unless made during the hearing of cause, shall be for cause, in writing, with a copy thereof first served upon opposing counsel. No motion for continuance will be granted unless the moving party has ascertained from opposing counsel whether or not the opposition objects to the continuance. If counsel for the opposition does not object and the moving party so notifies the Court, the motion for continuance probably will be granted. If counsel for the opposition objects and the moving party so notifies the Court, the motion for continuance may be granted anyway. If, however, the moving party does not contact counsel for the opposition's position on the motion for continuance will probably be overruled.

B. A motion for continuance must be filed as soon after the cause for continuance is discovered by the moving party and not later than 10 days before trial, unless the reason thereafter is shown by affidavit to have occurred within said 10 day period.

C. Continuances of small claims will be granted only at the discretion of the Court and, in no event, less than 3 days prior to trial, unless all parties and the Court concur to the continuance or unless shown by affidavit filed with the Court at least 1 day prior to trial that it is physically impossible to attend trial due to illness or injury. A physician's statement must accompany the affidavit.

D. All delays and continuances shall be at the cost of the party causing same, except where it is otherwise provided by law.

E. All motions for continuance must be accompanied by an order, providing appropriate blanks for the Court to reset and comply with Local Rules.

LR06-TR07-BLR-4

MOTIONS

A. The time of hearing motions shall be fixed by the Court. Dates of hearing shall not be specified in the notice hearing of the motion unless prior authorization shall be obtained from the Judge or Court Reporter. Any party may request oral argument upon a motion, but granting of oral argument is discretionary with the Court.

B. Dispositive motions, such as motions to dismiss, for judgment on the pleadings, and for summary judgment shall be accompanied by a brief or memorandum and proof of service upon opposing counsel of record. Failure to file opposing briefs or memorandum within time limits established by T.R. 56 or by the Court shall subject a dispositive motion to summary ruling by the Court unless, upon motion of a party or the Court, the matter is set for hearing.

C. Extensions of time for filing briefs or memorandum shall be granted only by order of the Court. All requests for extensions of time for filing briefs or memoranda, whether written or oral, shall be accompanied by a proposed order.

D. Motions for more definite statement and to strike shall be accompanied by brief or memorandum. The Court, in its discretion, may direct the filing of an answer, brief or memorandum. Such motions shall be decided by the Court without oral argument unless the court otherwise directs.

E. To curtail undue delay, the Court shall refuse to rule on any motions for discovery and production of documents under T.R. 26 through T.R.37. However, the Court will expect parties to facilitate discovery in good faith within the time limits established by T.R.26 through T.R. 37. A party failing, without good cause, to respond to discovery in a timely manner shall be subject, upon motion, to an order compelling discovery and appropriate sanctions.

LR06-TR26-BLR-5

DISCOVERY

A. Interrogatories and Requests for Admission: Form and Limitation of Number

1. Answers or objections to interrogatories or requests for admissions under Rule 33 and Rule 36 of the Indiana Rules of Civil Procedure shall set forth in full the interrogatory or request for admission being answered or objected to immediately preceding the answer or objection. Objections shall be accompanied by citation of legal authority, if any.

2. No mimeographed or otherwise duplicated forms shall be filed or served upon a party unless each interrogatory and request for admission on such form is consecutively numbered and applicable to the case in which the same are filed and served. The intent and purpose of this rule is to prohibit the filing of mimeographed or otherwise duplicated forms of "stock" interrogatories and requests for admission except where the nature of the case or the number of parties makes the use of such forms necessary and feasible.

3. No party shall serve on any other party more than 30 interrogatories or requests for admission other than requests relating to the authenticity or genuineness of documents in the aggregate, including subparagraphs, without leave of Court. Subparagraphs shall relate directly to the subject matter of the interrogatory or request for admission. Any party desiring to serve additional interrogatories or requests for admissions shall file a written motion setting forth the proposed additional interrogatories or requests for admissions and the reasons establishing good cause for their use.

4. No interrogatories, requests for admissions, or production in small claims matters shall be permitted unless by authorization from the Court upon petition requesting same and the reasons therefore filed not later than 10 days after service of the complaint on the Defendant.

B. Depositions

Depositions shall be governed by T.R. 30, and videotape or other mechanically reproduced tapes as allowed by T.R. 74, shall be admissible to the same degree as any other depositions. All videotapes shall be paid for by the moving party and shall not be taxed as costs.

LR06-TR16-BLR-6

PRE-TRIAL CONFERENCES

A. In all cases, a pre-trial conference will be held upon motion of the parties, or upon direction of the Court.

B. It shall be the duty of counsel for the Plaintiff to arrange for a conference of attorneys in advance of the pre-trial conference with the Court. In the absence of an agreement to the contrary, the conference shall be held in the Court in which the action is pending.

C. At the conclusion of the attorneys' conference, counsel for the parties may cause a written memorandum or suggested pre-trial order to be submitted to the Court at the pre-trial conference. The written memorandum or suggested pre-trial order shall be prepared in such a manner to allow the court to adopt same as the pre-trial order controlling the trial of the case.

D. All matters to be assigned for pre-trial conference shall be assigned a date and time not less than thirty (30) days prior to the date for trial, unless otherwise directed by the Court. Notice of pre-trial assignments shall be given promptly by the Court, either by individual notice or by providing copies of the docket entry or as the Court may direct.

LR06-TR38-BLR-7

JURY TRIALS

A. Regularly scheduled jury trials shall begin on Monday mornings at 9:00 a.m. in the Circuit Court, unless otherwise scheduled by the Court. Regularly scheduled jury trials in Superior Court I shall begin Monday mornings at 9:00 a.m., unless otherwise scheduled by the Court. Regularly scheduled jury trials in Superior II shall begin on Tuesday mornings at 9:00 a.m., unless otherwise scheduled by the Court. Counsel and parties will be expected to be present at Court at least ½ hour prior to trial.

B. Three (3) working days before the scheduled trial date (Wednesday for the following Monday settings) all choice settings except first and second choices shall be released from trial readiness at 3:00 p.m. As of two (2) calendar days before the scheduled trial date (Friday for the following Monday settings) and if 2nd choice setting is still 2nd choice, it shall be released from trial readiness at 3:00 p.m.

C. Motions in Liminie shall be filed at least five (5) calendar days prior to trial unless good cause is shown for filing closer to or during trial.

LR06-JR04-BLR-7A
(APPLICABLE TO CIRCUIT COURT ONLY)

Circuit Court utilizes a system of calling prospective jurors by issuance of a form letter seven (7) calendar days before a scheduled jury trial, with prospective jurors to telephone the Court after 2:00 p.m. the day before the scheduled trial date. This allows the Circuit Court to accept cancellation of trials by agreement of counsel due to settlement, up to 2:00 p.m. the day before the scheduled trial. If the matter is settled after this time, such as the evening before or the morning of the trial, prior to the jury being sworn in for voir dire, then the expense of having jurors appear will be assessed as costs of the case, payable along with filing fees and other costs.

LR06-JR01-BLR-8

JURY TRIAL PROCEDURES

A. Jury Instructions

All requests for special instructions submitted in accordance with T.R. 51 of the Indiana Rules of Procedure shall be submitted to the Court not later than one working day prior to the beginning of trial. Counsel shall have the right to submit additional instructions during trial on matters which reasonably could not have been anticipated in advance of trial. Instructions shall be exchanged by counsel as ordered by the Court. Instructions shall contain citations to supporting authorities.

B. Objections/Multiple Counsel

During trial where a party is represented by more than one attorney, only one of such attorneys may be designated to make objections, examine or cross-examine as to any particular witness. This designation may be changed as each witness appears to testify and at each stage of the trial.

C. Multiple Parties

Where there are multiple parties, such parties' participation at trial will be in order named in the pleadings, unless such parties agree otherwise and confirm same with the Court prior to trial.

D. Custody and Disposition of Models and Exhibits

1. After being marked for identification, models, diagrams, exhibits and material offered or admitted in evidence in any cause pending or tried before the Court shall be placed in custody of the Court Reporter unless otherwise ordered by the Court.

2. All models, diagrams, exhibits or material placed in the custody of the Court Reporter shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, within four (4) months after the case is decided unless an appeal is taken. In all cases in which an appeal is taken, they shall be taken away within ninety (90) days after the filing of the appeal. At the time of removal, a detailed receipt shall be given to the Court Reporter and filed in the cause.

3. Failure to comply with paragraph (b) above will result in the Court determining the model or exhibit abandoned and disposing of the exhibit or model as the Court deems appropriate.

LR06-CR02.1-BLR-9

CRIMINAL MATTERS

A. Immediately upon being retained in a criminal matter, counsel shall file a written Appearance in the cause with the Court and serve a copy thereof in the Prosecuting Attorney.

B. Counsel desiring to withdraw Appearance in any criminal matter shall file a Petition requesting leave to do so. Petitioning counsel shall file with the Court satisfactory evidence of at least ten (10) days written notice of such written notice of such Petition to his client. A withdrawal of other counsel shall constitute a waiver of ten (10) day notice requirement.

LR06-CR00-BLR-10

CRIMINAL CONTINUANCES

Motions for Continuance in criminal cases shall be governed by LR06-TR53.5-BLR-3 herein.

LR06-CR00-BLR-11

CRIMINAL BAIL

A. In all criminal cases coming within the jurisdiction of the Court and preliminary felony charges filed in the Court, the bail is now fixed as of the first day of each yearly term and each succeeding term hereafter as follows, and these amounts will be the only amounts set for bail for charges to be filed in the Circuit, Superior I and Superior II Courts of Boone County, unless otherwise ordered by the Courts:

1. MURDER ……..NONE
2. HABITUAL OFFENDER……..$50,000
3. CLASS A FELONY ……..$50,000
4. CLASS B FELONY ……..$25,000
5. CLASS C FELONY ..……$10,000
6. CLASS D FELONY……...$5,000
7. CLASS A MISDEMEANOR*…...……$5,000 surety
8. CLASS B MISDEMEANOR*……...……$3,500 surety
9. CLASS C MISDEMEANOR*……...……$2,500 surety
   *Indiana residents may post a ten percent (10%) cash bond in lieu of surety bond on Misdemeanors ONLY.

If a person has multiple charges, bond shall be posted on the most serious charge only.

B. Upon issuance of a criminal bench warrant, the amount of bail specified shall be endorsed upon the warrant. The Court may increase or diminish the amount specified or permit the posting of cash bond in lieu of accepting any property or surety bond in any justifiable cause.

C. The Clerk may assess a ten percent (10%) administrative fee per statute on all cash bonds.

D. (APPLICABLE TO SUPERIOR II ONLY) The schedule of fines and penalties established by Superior II for infraction matters as adopted in September 1, 1981, and as amended April 10, 1984, and as may be subsequently amended by Superior II are now incorporated herein and made a part of this Order.

LR06-TR26-BLR-12

AUTOMATIC CRIMINAL DISCOVERY RULE

A. General Provisions

1. Upon the entry of an appearance by an attorney for a defendant, the State shall disclose and furnish all relevant items and information under this rule to the defendant within thirty (30) days from the date of the appearance, subject to Constitutional limitations and such other limitation as the court may specifically provide by separate order, and the defense shall disclose and furnish all relevant items and information under this rule to the State within thirty (30) days after the State's disclosure.

2. No written motion is required, except:
    a) To compel compliance under this rule;
    b) For additional discovery not covered under this rule;
    c) For a protective order seeking exemption from the provisions of this rule; or
    d) For an extension of time to comply with this rule.

3. Although each side has a right to full discovery under the terms of this rule, each side has a corresponding duty to seek out the discovery. Failure to do so may result in the waiver of the right to full discovery under this rule.

4. All discovery shall be completed on or before the omnibus date unless otherwise extended for good cause shown.

5. The party seeking disclosure or a protective order under this Rule shall include in the party's motion or request a statement showing that the attorney making the motion or request has made a reasonable effort to reach agreement with opposing counsel concerning the matter set forth in the motion or request. In addition, this statement shall recite the date, time and place of this effort to reach agreement, whether the effort was made in person or by telephone and the names of all parties and attorneys participating therein. The court may deny a discovery motion filed by a party who has failed to comply with the requirements of this subsection.

B. State Disclosures

1. The State shall disclose the following materials and information within its possession or control:
    a) The names and last known addresses of persons whom the State intends to call as witnesses along with copies of their relevant written and/or recorded statements. However, the

State may refrain from providing a witness' address under this Rule if the State in good faith believes the disclosure of the witness' address may jeopardize the safety of the witness and the witness' immediate family. If the State does not disclose the witness' address for the reason stated under this Rule, then the State shall make the witness available for deposition or interview by defense counsel upon reasonable notice. Should there be a dispute among the parties concerning the disclosure of a witness' address, counsel shall meet and make a reasonable effort to resolve this dispute before seeking intervention from the court. If an attorney for any party advises the court in writing that an opposing attorney has refused or delayed meeting and discussing the issue of witness address disclosure, the court may take such action as is appropriate;

b) Any written, oral, or recorded statements made by the accused or by a co-defendant, and a list of witnesses to the making and acknowledgment of such statements;
c) If applicable, the State shall provide a copy of those portions of any transcript of grand jury minutes, within the State's possession, which contain the testimony of persons whom the State intends to call as a witness at hearing or at trial. If such transcripts do not exist, the defendant may apply to the court for an order requiring their preparation;
d) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons;
e) Any books, papers, documents, photographs, or tangible objects that the State intends to use in the hearing or trial or which were obtained from or belong to the accused; and
f) Any record of prior criminal convictions that may be used for impeachment of the persons whom the State intends to call as witnesses at any hearing or trial.

2. The State shall disclose to the defense any material or information within its possession or control that tends to negate the guilt of the accused as to the offense(s) charged or would tend to reduce the punishment for such offense(s).

3. The State may perform these disclosure obligations in any manner mutually agreeable to the State and the defense. Compliance may include a notification to the defense that material and information being disclosed may be inspected, obtained, tested, copied, or photographed at a specified reasonable time and place.

C. Defendant Disclosures

1. Defendant's counsel (or defendant where the defendant is proceeding pro se) shall furnish the State with the following material and information within his or her possession or control:

    a. The names and last known addresses of persons whom the defense intends to call as witnesses along with copies of their relevant written and/or recorded statements. However, the defense may refrain from providing a witness' address under this Rule if the defense in good faith believes the disclosure of the witness' address may jeopardize the safety of the witness and the witness' immediate family. If the defense does not disclose the witness' address for the reason stated under this Rule, then the defense shall make the witness available for deposition or interview by the State upon reasonable notice. Should there be a dispute among the parties concerning the disclosure of a witness' address, counsel shall meet and make a reasonable effort to resolve this dispute before seeking intervention from the court. If an attorney for any party advises the court in writing that an opposing attorney has refused or delayed meeting and discussing the issue of witness address disclosure, the court may take such action as is appropriate.

    b. Any books, papers, documents, photographs, or tangible objects the defense intends to use as evidence at any trial or hearing;

    c. Any medical, scientific, or expert witness evaluations, statements, reports, or testimony which may be used at any trial or hearing;

    d. Any defense, procedural or substantive, which the defendant intends to make at any hearing or trial; and

    e. Any record of prior criminal convictions known to the defendant or defense counsel that may be used for impeachment of the persons whom the defense intends to call at any hearing or trial.

2. After the formal charge has been filed, upon written motion by the State, the court may require the accused, among other things, to:
    a. Appear in a line-up;
    b. Speak for identification by witnesses to an offense;
    c. Be fingerprinted;
    d. Pose for photographs not involving re-enactment of a scene;
    e. Try on articles of clothing;
    f. Allow the taking of specimens of material from under his/her fingernails;

g. Allow the taking of samples of his/her blood, hair and other materials of his/her body that involve no unreasonable intrusion;
h. Provide a sample of his/her handwriting; and
i. Submit to a reasonable physical or mental examination.

Whenever the personal appearance of the accused is required for the foregoing purposes, reasonable notice of the time and place of such appearance shall be given by the State to the accused and his/her counsel, who shall have the right to be present. Provision may be made for appearances for such purposes in an order admitting the accused to bail or providing for his/her release.

D. **Additions, Limitations and Protective Orders**

1. Discretionary Disclosures: Upon written request and a showing of materiality, the court, in its discretion, may require additional disclosure not otherwise covered by this rule.

2. Denial of Disclosure: The court may deny disclosure required by this rule upon a finding that there is substantial risk to any person of physical harm, intimidation, bribery, economic reprisals or unnecessary annoyance or embarrassment resulting from such disclosure which outweighs any usefulness of the disclosure.

3. Matters not subject to Disclosure:

   a) Work Product: Disclosure hereunder shall not be required of legal research or records, correspondence, reports, or memoranda to the extent that they contain the opinions, theories, or conclusions of the State or members of its legal or investigative staff, or of defense counsel or his/her staff;
   b) Informants: Disclosure of an informant's identity shall not be required where there is a paramount interest of non-disclosure and where a failure to disclose will not infringe upon the Constitutional rights of the accused. However, disclosure shall not be denied hereunder of the identity of witnesses to be produced at trial or hearing; and
   c) Any matters protected by law.

4. Protective Orders: Either the State or defense may apply for a protective order for non-disclosure of discovery required hereunder or any additional requested discovery.

E. Duty of Supplemental Responses

The State and the defense are under a continuing duty to supplement the discovery disclosures required hereunder as required upon the acquisition of additional information or materials otherwise required to be disclosed hereunder. Supplementation of disclosures shall be made within a reasonable time after the obligation to supplement arises.

F. Sanctions Upon Failure to Comply

Failure of a party to comply with either the disclosure requirements or the time limits required by this rule may result in the imposition of sanctions against the noncompliant party. These sanctions may include, but are not limited to, the exclusion of evidence at a trial or hearing.

LR06-CR00-BLR-13

NON-DISCRETIONARY FILING OF CRIMINAL CASES

Effective July 1st, 1995, all criminal cases, when filed, shall be assigned by the Clerk to the Circuit, Superior I or Superior II Courts of the Judicial Circuit using the following procedure:

A. All cases in which one or more counts are charged under Title IX of the Indiana Code, whether as felonies or misdemeanors, shall be assigned to Superior Court II.

B. All cases charged as misdemeanors exclusively under Indiana Code 35-48-4, 35-42-2-1, 35-43-5 or 7.2 shall be assigned to Superior Court II. All other cases charged as misdemeanors shall be assigned to Circuit Court. In those circumstances where the nature of eh charges would result in a conflict in the assignment of such cases between Superior Court II and Circuit Court, such cases shall be assigned to Superior Court II and Circuit Court on an alternating basis, beginning with Circuit Court.

C. All cases in which one or more counts are charged under Indiana Code 35-36-1-3 (4) or (5) shall be assigned to Circuit court.

D. Recognizing that the Circuit Court exercises exclusive jurisdiction in the area of juvenile matters, all felony cases, except as set forth in Numbers 1 and 3 above shall be rotated between the Circuit, Superior I and Superior II Courts by assigning thirty percent (30%) of such felony cases to Circuit, fifty percent (50%) to Superior I, and twenty percent (20%) to Superior II.

E. Subject to the exceptions set forth in 1 and 3 above, in the event a case charges both felony and misdemeanor offenses, the case shall be considered a felony and assigned pursuant to Number 4 above.

F. The rotation of cases under paragraph 4 hereinabove shall be accomplished by using one deck of a hundred cards. The deck for felony cases under paragraph 4 shall contain 50 cards designated for Superior I, 30 cards designated for Circuit Court, and 20 cards designated for Superior Court II. The deck shall be shuffled by the Clerk and placed in a secure location. Each time a felony case is referred to in paragraph 4 is filed, the Clerk shall draw a card from the top of the deck and assign the case to the Court so designated. The card drawn shall be stapled to the inside portion of the Court's file to evidence the selection of said Court.

G. If, after assignment, a case is dismissed and later refilled, it shall be assigned to the Court of original assignment. The purpose of this rule is to comply with

Indiana Criminal Rule 2.2 so as to provide a procedure for non-discretionary assignment of criminal cases.

H. In order to comply with Criminal Rule 13 (c), a list of alternative judges shall be maintained in the offices of the Circuit, Superior I and Superior II Courts. On this list shall be contained the names of the other two regular sitting Judges in Boone County. Whenever the appointment of an alternative sitting Judge is ordered by any of the regular sitting judges of the court where the Judge sits, the Judge shall assign the case to one of the alternative sitting Judges on a rotating basis from the list. In a situation where none of the other two regular Judges are available or able for assignment of a particular criminal case, then Senior Judge Donald Foulke shall be assigned to that particular case.

I. This rule shall not, under any circumstances, limit or otherwise alter the option of the regular sitting Judge to request the Indiana Supreme Court appoint a Special Judge in accordance with the Criminal Rule 13(d).

LR06-FL00-BLR-14

PARENTING TIME GUIDELINES

I. General Rules Applicable to Parenting Time

A. Communications

1. Between Parents. Parents shall at all times keep each other advised of their home and work addresses and telephone numbers. Notice of any change in this information shall be given to the other parent in writing. All communications concerning a child shall be conducted between the parents. Any communication shall occur at reasonable times and places unless circumstances require otherwise. A child shall not be used to exchange documents or financial information between parents.

2. With a Child Generally. A child and a parent shall be entitled to private communications without interference from the other parent. A child shall never be used by one parent to spy or report on the other parent. Each parent shall encourage the child to respect and love the other parent. Parents shall at all times avoid speaking negatively about each other or near the presence of the child, and they shall firmly discourage such conduct by relatives or friends.

3. With a Child by Telephone. Both parents shall have reasonable phone access to their child at all times. Telephone communications with the child by either parent to the residence where the child is located shall be conducted at reasonable hours, shall be of reasonable duration, and at reasonable intervals, without interference from the other parent.
If a parent uses an answering machine, voice mail or a pager, messages left for the child shall be promptly communicated to the child and the call returned.

4. With a Child by Mail. A parent and a child shall have a right to communicate privately by e-mail and faxes, and by cards, letters, and packages, without interference by the other parent.

5. Emergency Notification. For emergency notification purposes, whenever a child travels out of the area with either parent, one of the following shall be provided to the other parent: an itinerary of travel dates, destinations and places where the child or the traveling parent can be reached, or the name and telephone number of an available third person who knows where the child or parent may be located.

B. Implementing Parenting Time

1. Transportation Responsibilities. Unless otherwise agreed between the parents, the non-custodial parent shall provide transportation for the child at the start of the scheduled parenting time and the custodial parent shall provide transportation for the child at the end of the scheduled parenting time.

2. Punctuality. Each parent shall have the child ready for exchange at the beginning and at the end of the scheduled parenting time and shall be on time in picking up and returning the child. The parents shall communicate as early as possible regarding any situation that would interfere with the timely exchange of the child.

3. Clothing. The custodial parent shall send an appropriate and adequate supply of clean clothing with the child and the non-custodial parent shall return such clothing in a clean condition. Each parent shall advise the other, as far in advance as possible, of any special activities so that the appropriate clothing may be available to the child.

4. Privacy of Residence. A parent may not enter the residence of the other, except by express invitation, regardless of whether a parent retains a property interest in the residence of the other. Accordingly, the child shall be picked up at the front entrance of the appropriate residence unless the parents agree otherwise. The person delivering the child shall not leave until the child is safely inside.

C. Changes in Scheduled Parenting Time.

Parents should recognize there will be occasions when modification of the existing parenting schedule will be necessary. Parents should exercise reasonable judgment in their dealings with each other and with their child. Parents should be flexible in scheduling parenting time and should consider the benefits to the child of frequent, meaningful and regular contact with each parent and the schedules of the child and each parent.

1. Scheduled Parenting Time to Occur as Planned. Parenting time is both a right and a responsibility, and scheduled parenting time shall occur as planned. If a parent is unable to provide personal care for the child during scheduled parenting time, then that parent shall provide alternate child care or pay the reasonable costs of child care caused by the failure to exercise the scheduled parenting time.

2. Adjustments to Schedule/"Make Up" Time. Whenever there is a need to adjust the established parenting schedules because of events outside the normal family routine, the parent who becomes aware of the circumstance

shall notify the other parent as far in advance as possible. Both parents shall then attempt to reach a mutually acceptable adjustment to the parenting schedule.
If an adjustment results in one parent losing scheduled parenting time with the child, "make-up" time should be exercised as soon as possible. If the parents cannot agree on "make-up" time, the parent who lost the time shall select the "make-up" time within one month of the missed time.

3. Opportunity for Additional Parenting Time. When it becomes necessary that a child be cared for by a person other than a parent or a family member, the parent needing the child care shall first offer the other parent the opportunity for additional parenting time. The other parent is under no obligation to provide the child care. If the other parent elects to provide this care, it shall be done at no cost.

D. Exchange of Information

1. School Records. Each parent shall promptly provide the other with copies of a child's grade reports and notices from school as they are received. A parent shall not interfere with the right of the other parent to communicate directly with school personnel concerning a child.

2. School Activities. Each parent shall promptly notify the other parent of all school activities. A parent shall not interfere with the right of the other parent to communicate directly with school personnel concerning a child's school activities. The parent exercising parenting time shall be responsible to transport the child to school related activities.

3. Other Activities. Each parent shall promptly notify the other parent of all organized events in a child's life which permit parental and family participation. A parent shall not interfere with the opportunity of the other parent to volunteer for or participate in a child's activities.

4. Health Information. If a child is undergoing evaluation or treatment, the custodial parent shall communicate that fact to the non-custodial parent.
Each parent shall immediately notify the other of any medical emergencies or illness of the child that requires medical attention.
If a child is taking prescription or nonprescription medication, the custodial parent shall provide the non-custodial parent with a sufficient amount of medication with instructions whenever the no-ncustodial parent is exercising parenting time.
The custodial parent shall give written authorization to the child's health care providers, permitting an ongoing release of all information regarding the child's situation with the non-custodial parent.

5. Insurance. A parent who has insurance coverage on the child shall supply the other parent with current insurance cards, an explanation of benefits, and a list of insurer-approved or HMO-qualified health care providers in the area where each parent lives. If the insurance company requires specific forms, the insured parent shall provide those forms to the other parent.

E. Resolution of Problems

1. Disagreements Generally. When a disagreement occurs regarding parenting time and the requirements of these Guidelines, both parents shall make every effort to discuss options, including mediation, in an attempt to resolve the dispute before going to court.

2. Mediation. If court action is initiated, the parents shall enter into mediation unless otherwise ordered by the court.

3. Child Hesitation. If a child is reluctant to participate in parenting time, each parent shall be responsible to ensure the child complies with the scheduled parenting time. In no event shall a child be allowed to make the decision on whether scheduled parenting time takes place.

4. Relocation. When either parent considers a change of residence, reasonable advance notice of the intent to move shall be provided to the other parent so they can discuss necessary changes in the parenting schedule as well as the allocation of transportation costs in exercising parenting time which may result from the move.

5. Withholding Support or Parenting Time. Neither parenting time nor child support shall be withheld because of either parent's failure to comply with a court order. Only the court may enter sanctions for noncompliance. A child has the right both to support and parenting time, neither of which is dependent upon the other. If there is a violation of either requirement, the remedy is to apply to the court for appropriate sanctions.

6. Enforcement of Parenting Time

a) Contempt Sanctions. Court orders regarding parenting time must be followed by both parents. Unjustified violations of any of the provisions contained in the order may subject the offender to contempt sanctions. These sanctions may include fine, imprisonment, and/or community service.

b) Injunctive Relief. Under Indiana law, a non-custodial parent who regularly pays support and is barred from parenting time by

the custodial parent may file an application for an injunction to enforce parenting time under Ind. Code §31-17-4-4.

c) Criminal Penalties. Interference with custody or visitation rights may be a crime. Ind. Code § 35-42-3-4.

d) Attorney Fees. In any court action to enforce an order granting or denying parenting time, a court may award reasonable attorney fees and expenses of litigation. A court may consider whether the parent seeking attorney fees substantially prevailed and whether the parent violating the order did so knowingly or intentionally. A court can also award attorney fees and expenses against a parent who pursues a frivolous or vexatious court action.

II. Specific Parenting Time Provisions

Introduction. The best parenting plan is one created by parents which fulfills the unique needs of the child and the parents. The specific provisions which follow are designed to assist parents and the court in the development of a parenting plan. They represent the minimum recommended time a person should have to maintain frequent, meaningful, and continuing contact with a child.

A. Infants and Toddlers

The first few years of a child's life are recognized as being critical to that child's ultimate development. Infants (under eighteen months) and toddlers (eighteen months to three years) have a great need for continuous contact with the primary care giver who provides a sense of security, nurturing and predictability. It is thought best if scheduled parenting time in infancy be minimally disruptive to the infant's schedule.

1. Overnight Parenting Time. Unless it can be demonstrated that the non-custodial parent has not had regular care responsibilities for the child, parenting time shall include overnights. If the non-custodial parent has not previously exercised regular care responsibilities for the child, then parenting time shall not include overnights prior to the child's third birthday, except as provided below.

2. Parenting Time in Early Infancy (birth through age 9 months).
   a) Birth through age 4 months:
      (1) Three (3) non-consecutive "days" per week of two (2) hours in length.
      (2) All scheduled holidays of two (2) hours in length.
      (3) Overnight if appropriate under Rule 1 above but not to exceed one (1) 24-hour period per week.
   b) Age 5 months through age 9 months:

(1) Three (3) non-consecutive "days" per week of three (3) hours per day. The child is to be returned at least one (1) hour before evening bedtime.
(2) All scheduled holidays of three (3) hours in length. The child is to be returned at least one (1) hour before evening bedtime.
(3) Overnight if appropriate under Rule 1 above but not to exceed one (1) 24-hour period per week.

3. Parenting Time in Later Infancy (age 10 months through age 18 months).

a) Age 10 months through age 12 months:

(1) Three (3) non-consecutive "days" per week, with one day on a "non-work" day for eight (8) hours. The other days shall be for three (3) hours each day. The child is to be returned at least one (1) hour before evening bedtime.
(2) All scheduled holidays for eight (8) hours. The child is to be returned at least one (1) hour before evening bedtime.
(3) Overnight if appropriate under Rule 1 above but not to exceed one (1) 24-hour period per week.

b) Age 13 months through age 18 months:

(1) Three (3) non-consecutive "days" per week, with one day on a "non-work" day for ten (10) hours. The other days shall be for three (3) hours each day. The child is to be returned at least one (1) hour before evening bedtime.
(2) All scheduled holidays for eight (8) hours. The child is to be returned at least one (1) hour before evening bedtime.
(3) Overnight if appropriate under Rule 1 above but not to exceed one (1) 24-hour period per week.

4. Parenting Time for Toddlers (age 19 months through 36 months).

(1) Alternate weekends on Saturdays for ten (10) hours and on Sundays for ten (10) hours. The child is to be returned at least one hour before bedtime, unless overnight is appropriate under Rule 1.
(2) One (1) "day" preferably in mid-week for three (3) hours, the child to be returned at least one (1) hour before evening bedtime, unless overnight during the week is appropriate under Rule 1.
(3) All scheduled holidays for ten (10) hours. The child is to be returned one hour before bedtime.
(4) If the non-custodial parent who did not initially have substantial care responsibilities has exercised the scheduled parenting time under these guidelines for at least nine (9)

continuous months, overnight parenting time may take place.

B. Child 3 Years of Age and Older

1. Regular Parenting Time
   a) On alternating weekends from Friday at 6:00 p.m. until Sunday at 6:00 p.m. (the times may change to fit the parents' schedules).
   b) One (1) evening per week, preferably in mid-week, for a period of up to four hours, but the child shall be returned no later than 9:00 p.m.
   c) On all scheduled holidays.
2. Extended Parenting Time (Child ages 3-4 years old).
   Up to four (4) non-consecutive weeks during the year beginning at 4:00 p.m. on Sunday until 4:00 p.m. on the following Sunday, the non-custodial parent to give sixty (60) days advance notice of the use of a particular week.
3. Extended Parenting Time (Child age 5 years and older).
   One-half of the summer vacation. The time may be either consecutive or split into two (2) segments. The non-custodial parent shall give notice to the custodial parent of the selection by April 1 of each year. If such notice is not given, the custodial parent shall make the selection.

   If a child attends year-round school, the periodic breaks should be divided equally between the parents.

   If a child attends summer school, the parent exercising parenting time shall be responsible for the child's transportation to and attendance at school.

   During any extended summer period of more than two (2) consecutive weeks with the non-custodial parent, the custodial parent shall have the benefit of the regular parenting time schedule set forth above, unless impracticable because of distance created by out of town vacations.

   Similarly, during the summer period when the children are with the custodial parent for more than two (2) consecutive weeks, the non-custodial parent's regular parenting time continues, unless impracticable because of distance created by out of town vacations.

   Notice of an employer's restrictions on the vacation time of either parent shall be delivered to the other parent as soon as that information is available. In scheduling parenting time, the

employer imposed restrictions on either parent's time shall be considered by the parents in arranging their time with their child.

C. Parenting Time for the Adolescent and Teenager

1. Regular Parenting Time. Regular parenting time by the non-custodial parent on alternating weekends, during holidays, and for an extended time during the summer months as set forth in the Parenting Time Guidelines shall apply to the adolescent and teenager.
2. Special Considerations. In exercising parenting time with a teenager, the non-custodial parent shall make reasonable efforts to accommodate a teenager's participation in his or her regular academic, extracurricular and social activities.

D. Holiday Parenting Time Schedule

1. Conflicts Between Regular and Holiday Weekends. The Holiday Parenting Time Schedule shall take precedence over regularly scheduled and extended parenting time. Extended parenting time takes precedence over regular parenting time unless otherwise indicated in these Guidelines. If the non-custodial parent misses a regular weekend because it is the custodial parent's holiday, the regular alternating parenting time schedule will resume following the holiday.
If the non-custodial parent receives two consecutive weekends because of a holiday, the regular alternating parenting time schedule will resume the following weekend with the custodial parent.

2. Holiday Schedule. The following parenting times are applicable in all situations referenced in these Guidelines as "scheduled holidays" with the limitations applied as indicated for children under the age of three (3) years.

a) Special Days.

(1) Mother's Day – With the child's mother from Friday at 6:00 p.m. until Sunday at 6:00 p.m.
(2) Father's Day – With the child's father from Friday at 6:00 p.m. until Sunday at 6:00 p.m.
(3) Child's Birthday – In even numbered years the non-custodial parent shall have all of the children on each child's birthday from 9:00 a.m. until 9:00 p.m. However, if the birthday falls on a school day, then from 5:00 p.m. until 8:00 p.m. In odd numbered years the non-custodial parent shall have all of the children on each child's birthday on the day before the child's birthday from 9:00 a.m. until 9:00 p.m. However, if the birthday falls on a school day, then from 5:00 p.m. until 8:00 p.m.

(4) Parent's Birthday – With that parent from 9:00 a.m. to 9:00 p.m. However, if such day falls on a school day, then from 5:00 p.m. to 8:00 p.m.

b) Christmas Vacation. One-half of the period which will begin at 8:00 p.m. on the evening the child is released from school and continues to December 30 at 7:00 p.m. If the parents cannot agree on the division of this period, the custodial parent shall have the first half in even-numbered years. In those years when Christmas does not fall in a parent's week, that parent shall have the child from Noon to 9:00 p.m. on Christmas Day. The winter vacation period shall apply to pre-school children and shall be determined by the vacation period of the public grade school in the custodial parent's school district.

c) Holidays.

In years ending with an even number, the non-custodial parent shall exercise the following parenting time:

(1) New Year's Eve and New Year's Day. The date of the new year will determine odd or even year. From December 30th at 7:00 p.m. to 7:00 p.m. of the evening before school resumes.

(2) Memorial Day. From Friday at 6:00 p.m. until Monday at 7:00 p.m.

(3) Labor Day. From Friday at 6:00 p.m. until Monday at 7:00 p.m.

(4) Thanksgiving. From 6:00 p.m. on Wednesday until 7:00 p.m. on Sunday.

In years ending with an odd number, the non-custodial parent shall exercise the following parenting time:

(5) Spring Break. From Friday at 6:00 p.m. through Sunday of the following weekend at 7:00 p.m.

(6) Easter. From Friday at 6:00 p.m. until Sunday at 7:00 p.m.

(7) Fourth of July. From 6:00 p.m. on July 3rd until 10:00 a.m. on July 5th.

(8) Halloween. On Halloween evening from 6:00 p.m. until 9:00 p.m. or at such time as coincides with the scheduled time for trick or treating in the community where the non-custodial parent resides.

3. Religious Holidays. Religious based holidays shall be considered by the parties and added to the foregoing holiday schedule when appropriate. The addition of such holidays shall not affect the Christmas vacation parenting time, however, they may affect the Christmas Day and Easter parenting time.

III. Parenting Time When Distance is a Major Factor.

Where there is a significant geographical distance between the parents, scheduling parenting time is fact sensitive and requires consideration of many factors which include: employment schedules, the costs and time of travel, the financial situation of each parent, the frequency of the parenting time and others.

A. General Rules Applicable. The general rules regarding parenting time as set forth in Section I of these guidelines shall apply.

B. Parenting Time Schedule. The parents shall make every effort to establish a reasonable parenting time schedule.

C. Priority of Summer Visitation. Summer parenting time with the non-custodial parent shall take precedence over summer activities (such as Little League) when parenting time cannot be reasonably scheduled around such events. Under such circumstances, the non-custodial parent shall attempt to enroll the child in a similar activity in his or her community.

D. Extended Parenting Time Notice. The non-custodial parent shall give notice to the custodial parent of the selection by April 1 of each year. If such notice is not given, the custodial parent shall make the selection.

E. Special Notice of Availability. When the non-custodial parent is in the area where the child reside, or when the child is in the area where the non-custodial parent resides, liberal parenting time shall be allowed. The parents shall provide notice to each other, as far in advance as possible, of such parenting opportunities.

LR06-FL00-BLR-15

CONTESTED DISSOLUTION HEARINGS

If the final hearing of a dissolution of marriage is to be contested and is to require more than one-half hour of the Court's time, counsel must file a certification of the expected length of the trial along with the written request for the trial. The Court will then schedule the matter for trial allowing time on the calendar as certified by counsel, and only the certified length of time will be allowed. If the matter is not completed within the scheduled time, the Court will continue the matter and reschedule for completion of evidence as the calendar allows.

LR06-FL00-BLR-16

FAMILY COURT RULES
(with attached Montgomery County Local Rule 28)

The following Local Rule is implemented for cases referred by the Family Court Case Manager and approved by the Judges of Boone County, pursuant to the Family Court Pilot Project:

A. Jurisdiction. Each court and each presiding judge shall have concurrent jurisdiction in all matters relating to cases referred through the Family Court Pilot Project and transferred to their court.

B. Implementation. The undersigned judges have determined that cases pending in Boone County that are related to another, regardless of the court in which the case is pending, shall be bundled and transferred to a specific court, but only in those circumstances where the Family Court Case Manager makes such a recommendation and all three judges concur. Cases related to one another are those cases where a named party or family members or household member(s) have matters pending of the following types: Criminal cases involving or impacting upon the family and/or household, and all of the following types: PO; JM; JS; JP; JT; JD; JC; DR; GU; AD and MH. Emphasis and priority shall be given to JC; JD; DR and Criminal cases involving or impacting upon the family and/or household.

C. Boone County courts may, in their discretion, set hearings on related cases to be heard concurrently, take evidence on the related cases at these hearings and rule on the admissibility of evidence for each cause separately as needed to adequately preserve the record for appeal. This rule applies only when the cases are pending before the same judge or have been bundled and transferred to one particular court of judge.

D. Upon approval of the judges to bundle and transfer a case or cases, case management procedures shall be implemented and all parties/counsel will be notified. A CCS entry or other suitable order will be made to reflect the action taken.

E. Within a reasonable time after a case or cases are bundled and transferred, the court accepting the transfer shall provide to all parties/counsel a list of the cases being bundled and transferred.

F. Change of Judge. Once notice is sent to all parties that a case has been selected for bundling and transfer, no motion for change of venue from judge may be granted except as to the extent permitted by Indiana Trial Rule 76. A Motion for Change of Venue from Judge in any matters arising in the post bundling and transfer proceeding or any future cases joined or assigned to the

original accepting judge, shall be granted only for cause. If a Special Judge is assigned or appointed, all current and future cases joined or assigned to the original court, may be assigned to the special judge.

G. Judicial Notice and Access to Records. Any court having jurisdiction over a case assigned or bundled and transferred, can take judicial notice of any relevant orders or CCS entries issued by any Indiana Circuit, Superior, County or Probate Court. Procedurally, if a court takes judicial notice of a court order, the court shall provide a copy of that order; or a CCS entry to the affected parties/counsel of record.

H. Access to Records. Parties to a Family Court proceeding shall have access to all cases within the Family Court Proceeding (all cases that have been bundled and transferred), with the exception of confidential cases or records to which they are not a party. However, parties may seek such access, by written petition based on relevancy and need. Confidential Records shall maintain their confidential status.

I. Entry of Appearance forms as approved by the Indiana Supreme Court shall be utilized.

J. Administrative Matters. The judges of Boone County shall administer the Family Court Project jointly, however, the Judge of the Boone Circuit Court shall be responsible for insuring that any and all reports are timely filed and he/she will provide the day to day coordination with the Family Court Manager and Montgomery County's Pilot Project.

Montgomery County Local Rule 28 – Family Court

28.1 The Family Court Rules issued by the Indiana Supreme Court, including definitions of "Family Court" and "Family Court Proceeding", are adopted by reference.

28.2 All of the courts of Montgomery County may serve as a Family Court.

28.3 Cases shall be selected for Family Court upon recommendation of the Family Court Administrator and concurrence of the judges before whom each case is pending.

28.4 The judges of Montgomery County shall administer the Family Court Project jointly. The judge of the Montgomery Circuit Court shall be responsible for filing required reports and coordination with the Family Court Administrator and the Boone County Family Court Project.

LR06-SC00-BLR-17

SMALL CLAIMS (Applicable to Superior II Only)

Documents Filed With the Court.

1. Written Answers to small claims complaints are not necessary buy may be filed by parties or counsel at least ten (10) days prior to trial. In no event will the Court continue a trial setting to permit a filing of an Answer.

2. Counter-claims may be filed not later than ten (10) days prior to trial. Parties are responsible for mailing copies of the counter-claim to the opposing party or counsel at least ten (10) days prior to trial and show proof of mailing by a certificate of service attached to the pleading filed within the Court. Failure to comply with these requirements may result in the Court refusing to hear such counter-claim.

Evidence. Parties are expected to bring with them at the time of trial all exhibits and other physical and documentary evidence they intend to introduce at trial. Failure to do so may result in the Court refusing to consider such evidence.

LR06-PR00-BLR-18

PROBATE AND GUARDIANSHIP RULES
(Applicable to Superior I Only)

A. Probate

1. Where required by law, all Wills must be admitted to Probate.

2. Bond Procedures for Supervised Estates.
    a. If the decedent's Will provides for no bond, the Court may honor the request.
    b. If all heirs request no bond or a minimal bond, the Court may honor the request.
    c. In all instances, upon petition by an interested person, the Court may require bond to protect creditors, heirs, legatees or devisees.
    d. In all other situations, the Court will determine and set the amount of the bond and in no event shall it be less than that required to protect creditors and taxing authorities.
    e. Personal surety must meet the requirements of Indiana Code 29-1-11-5.
    f. No attorney will be accepted as surety in any bond required to be filed with the Court.

3. In all Guardianships and Supervised Estates, an inventory must be filed with the Court within two (2) months after the appointment of the personal representative or guardian.

4. In all Guardianships and Supervised Estates in which real estate is to be sold, a written professional appraisal setting forth the fair market value thereof must be filed with the Court at the time of filing the petition for sale; unless such an appraisal was filed with the Inventory.

5. Three (3) months and fifteen (15) days after the date of the first published notice to creditors, the personal representative, or his/her attorney, shall examine the Claim Docket and shall allow or disallow each claim filed against the estate.

6. Whenever an estate cannot be closed within one (1) year, an intermediate account shall be filed with the Court within thirty (30) days after expiration of one (1) year and each succeeding year thereafter. Such accounting shall comply with the provisions of Indiana Code 29-1-16-4 and 29-1-16-6. Such accounting shall state the facts showing why the estate cannot be closed. Such accounting shall propose partial distribution of the estate to the extent that

partial distribution can be made without prejudice to distributees and claimants. Failure to comply with this rule may be grounds for removal of the personal representative.

7. Inheritance Tax Schedules must be filed in duplicate and where necessary, copies of the Will of the decedent must be attached.

8. In Inheritance Tax Only proceedings, whether tax is due, all costs must be paid at the time of the filing of the schedule of all property for inheritance tax appraisement.

9. In supervised administration, the countersigned receipt, or photocopy thereof, showing payment of the Indiana Inheritance Tax liability in the estate, executed and sealed by the Indiana Department of the State Revenue should be attached to the Final Report at the time of filing, although not required.

B. <u>Guardianships</u>

1. In all guardianship matters pertaining to declaring an adult incompetent for any reason, at a minimum, an affidavit by the doctor treating the alleged incompetent must be presented at the time the petition is filed, or on the hearing date. No determination will be made without supporting medical testimony.

2. In all instances in guardianships, a bond shall be required to the full extent of the value of the personal property assets in the guardianship, plus one year's anticipated income, pursuant to Indiana Code 29-1-19-9.

3. In all guardianship matters, whether pertaining to the appointment of a guardian of a minor child, personal service of process must be demonstrated by the record, pursuant to the rules. No waiver of service signed by the proposed adult incompetent or the representative of the minor child shall be recognized or accepted by the Court.

4. Current reports filed by the guardian of the person must show the present whereabouts of the ward and his/her personal welfare.

5. All Social Security benefits received on behalf of a ward must be included and accounted for in the guardian's accountings.

LR06-TR52-BLR-19

SPECIAL FINDINGS OF FACT

In all cases where special finding of facts by the Court is required counsel of record shall submit to the Court a form of proposed special findings embracing all the facts which they claim to have been proved and the conclusions of law thereon. Such form of special findings shall be submitted to the Court, pursuant to Trial Rule 52 (c), and shall be submitted within such time directed by the Court.

LR06-TR54-BLR-20

PAYMENT OF COSTS

In all pauper cases, excepting criminal, no Final Decree will be approved until proof of payment of costs is presented to the Court.

LR06-AR00-BLR-21

COURT SESSIONS

The Court shall convene promptly at 8:00 a.m., recess at 12:00 noon, reconvene at 1:00 p.m. and adjourn at 4:00 p.m. each day not being a legal holiday, Monday through Friday, unless a different time or day is ordered by the Judge of the Court.

1. In addition to the Court session immediately referred to hereinabove, Superior II shall also convene in the first and fourth Wednesdays of each month beginning at 7:00 p.m. when cases are scheduled for such time and recess upon completion of such matters.

LR06-TR63-BLR-22

PRO-TEM JUDGES (TEMPORARY JUDGES)

As needed, a Judge Pro-Tem will be appointed according to schedules provided by the Boone County Bar Association. Such Judge Pro-Tem shall hear provisional matters in dissolutions, final uncontested dissolutions, modification petitions not exceeding one-half hour, proceedings supplemental, contempt/show cause hearings, and other matters at the discretion of the regular Judge. This rule will apply whether the regular Judge is physically present, and whether the regular Judge is conducting other Court business. Said Judges Pro-Tem are hereby designated as "Temporary Judges" pursuant to Indiana Code 33-13-16-1 through 33-13-16-11.

LR06-TR79-BLR-23

SPECIAL JUDGE SELECTION

Coordinated Local Rule of the Counties of: Boone, Hendricks, Morgan, Johnson, Shelby, Hancock and Hamilton.

(Enacted in Compliance With T.R. 79 (H))

Pursuant to Order Amending Rules of Trial Procedure entered by the Supreme Court of Indiana bearing a date of June 7, 1995, the undersigned Judges and Magistrates of the seven contiguous counties to Marion County, Indiana, do hereby adopt the following rule to establish procedures for the selection of special judges in civil cases:

A. This rule shall be subject to any previous standing orders for the appointment of judges which may be in effect or which may become effective subsequent to the entry of this rule, which standing orders may be entered by the Supreme Court of Indiana. Standing orders shall preempt this rule and shall take precedence over it.

B. This rule shall have a seven-part addendum, one part for each of the contiguous counties to Marion County, which addenda are attached hereto and incorporated herein by reference.

C. Pursuant to T.R. 79, parties to a civil action may agree (with concurrence with judge selected) to any particular special judge.

D. In the absence of an agreement as to a particular special judge, the parties, alternatively, may agree to have the regular sitting judge appoint a special judge from a list of local judges, magistrates or senior judges.

E. In the absence of an agreement as to a particular special judge or an agreement to have the regular sitting judge appoint a special judge, the regular sitting judge shall name a panel consisting, whenever possible, of other judges or magistrates within the county where the civil action is situated. If the county in question does not have a sufficient number of regular sitting judges or magistrates, then such county shall name a panel including the available local judges or magistrates and one judge or magistrate from a county immediately adjoining that county and also contiguous to Marion County, but excluding Marion County.

F. Should none of the above methods produce a special judge, the regular sitting judge shall select (on rotating basis) one of the judges or magistrates from a contiguous county to the county where the civil action is situated, which counties are contiguous to Marion County, but excluding Marion County, all pursuant as to the specifics of each county to the addenda attached hereto and incorporated herein by reference.

G. If a special judge is not selected or fails to assume jurisdiction using any methods recited hereinabove, the regular sitting judge shall certify to the Indiana Supreme Court for naming of a special judge.

H. The available panel of judges from Boone County shall consist of the following:

1. The Judge of the Boone Circuit Court
2. The Judge of the Boone Superior Court I
3. The Judge of the Boone Superior Court II

I. Also included on the list contemplated in Part 6 of the rule hereinabove for Boone County, Indiana, are the judges and magistrates or their successors of Hendricks and Hamilton Counties as follows:

1. The Judge of the Hendricks Circuit Court
2. The Judge of the Hendricks Superior Court I
3. The Judge of the Hendricks Superior Court II
4. The Judge of the Hendricks Superior Court III
5. The Judge of the Hamilton Circuit Court
6. The Judge of the Hamilton Superior Court I
7. The Judge of the Hamilton Superior Court II
8. The Judge of the Hamilton Superior Court III
9. The Judge of the Hamilton Superior Court IV
10. The Judge of the Hamilton Superior Court V
11. The Magistrate for Hamilton County.

LR06-TR79-BLR-24

ASSIGNMENT OF CASES FROM BOONE SUPERIOR COURT I TO BOONE CIRCUIT COURT AND BOONE SUPERIOR COURT II WHERE LAW FIRM OF KINCAID, TAYLOR, SIMS, CHADD & MINETTE APPEAR

WHEREAS Matthew C. Kincaid is Judge of the Boone Superior Court I; and

WHEREAS Ora A. Kincaid, III, his father, practices law in Boone County Indiana with the law firm of KINCAID TAYLOR SIMS CHADD & MINETTE, P.C., which firm desires to practice law in Boone County Superior I;

Therefore, in order to avoid any and all conflicts of interest, this Local Rule is enacted as follows:

1. Whenever the aforementioned law firm appears in any case in Boone Superior Court I, the Honorable Matthew C. Kincaid shall recuse forthwith.

2. Upon his recusal, he shall assign the cause on a rotating basis to either the Honorable Steve David, Judge of Boone Circuit Court, or the Honorable James R. Detamore, Judge of Boone Superior Court II.

3. Judge David or Judge Detamore shall assume jurisdiction of the assigned case without any action necessary on their parts.

4. Nothing in this rule shall prohibit a Motion for Change of Judge from being filed or granted by either Judge David or Judge Detamore once the case has been assigned to either of them.

LR06-AR15-BLR-25

COURT REPORTERS

The Local Rule for Court Reporters in the Circuit and Superior Courts of Boone County, shall be partnered under Model Option 2 of Administrative Rule #15. It is also consistent with the past practice of the Courts. Specifically, the Local Rule shall include the following:

A. Court Reporters shall be paid an annual salary applied for by the Court and approved by the County Council, which salary shall be payment for regular work hours, gap hours, or overtime hours as the case may be, and which salary shall not include payment for the preparation of any transcripts.

B. The salary shall be based upon a 35-hour work week. Should Court Reporters work gap hours from 35 to 40 hours per week on regular court business, they shall be entitled to overtime at the hourly rate or comp time on an hour-for-hour basis. Should Court Reporters work more than 40 hours in one week on regular court business, the Court Reporters should be paid time-and-a-half or receive comp time at the rate of one-and-a-half times the overtime hours worked.

C. All transcripts, including indigent transcripts, transcripts done for private attorneys, deposition transcripts or any and all other such transcripts shall be prepared by the Court Reporters on their own time, off the court premises and pursuant to their own private business arrangements. Such transcripts shall be prepared on equipment purchased and owned by the Reporters, on paper obtained and paid for by the Court Reporters, and no materials or machinery belonging to the court shall be used in the preparation of such transcripts.

D. Occasionally, it will be necessary for a Court Reporter to use the court's recording equipment for the purpose of taking a private deposition.

LR06-AR01-BLR-26

BOONE COUNTY'S LOCAL CASE LOAD PLAN

We, the undersigned Judges of Boone County, hereby adopt Local Rule 21 entitled "The Boone County Plan for Allocation of Judicial Resources."

WHEREAS, the Supreme Court of the State of Indiana issued its Order for Development of Local Case Load Plans on July 16, 1999; and

WHEREAS, said Order required the Judges of Boone County to adopt a Local Rule for the Allocation of Judicial Resources; and

WHEREAS, the Courts of Boone County, pursuant to Legislative direction and the evolution of time, have acquired certain subject matter expertise that the Judges of Boone County believe should not be altered, but instead should be preserved and enhanced upon, i.e., Circuit Court has exclusive jurisdiction over all juvenile matters, including, but not limited to, Status Offenses, Delinquent Offenses, CHINS proceedings and Paternity matters; Superior I has exclusive jurisdiction over all Estates, Guardianships, Probate matters and Adoptions; and Superior II has exclusive jurisdiction over all Small Claims and certain Alcohol and Drug Offenses;

WHEREAS, the Judges of Boone County have met and discussed the Supreme Court's Order and have established the following plan for Allocation of Judicial Resources within Boone County which maintains the integrity of the courts in Boone County:

IT IS THEREFORE ORDERED by the Judges of Boone County that for calendar year 1999 and beyond, within 60 days of the Supreme Court's issuance of the previous year's Weighted Caseload Report, as reported by the Division of State Court Administration, a calculation shall be made as to Boone County's average caseload, i.e., (Sum of all Court weighted caseloads within Boone County / number of courts in county = county average.) To the extent that each Court is within a range of 25 percentage points (or that percentage determined by the Supreme Court) above or below the county average, no action will be taken by the Courts until the following year when the calculation is again made.

To the extent that any Court exceeds a range of 25 percentage points (or that percentage determined by the Supreme Court) above or below the county average, then the Judges of Boone County agree to alter or modify the distribution of cases in the County to bring each Court within the range of 25 percentage points (or that percentage determined by the Supreme Court) by amending Local Rule 11, Non-Discretionary filing of Criminal Cases.

The Judges of Boone County have determined that this method can be implemented with very little administrative effort and that it will have a minimal effect on the Prosecuting Attorney's office and a negligible effect on the Local Bar Association. The statistics for the previous year's criminal filings are readily available and the necessary adjustments can be made very quickly and modifications made to Local Rule 11 can be easily distributed to the Clerk's Office and the Prosecutor's Office.

A report will be made annually to the State Court Administration, within the same tiem period prescribed above, certifying compliance with the Supreme Court's Order in Cause No. 94S00-9907-MS-390. In addition, an amended Local Rule 11 will be implemented by Boone County Judges, when applicable. Moreover, the Judges of Boone County have agreed to review this Rule every two years to determine whether other adjustments should be made in the distribution of cases in Boone County outside the spectrum of Local Rule 11.

SO ORDERED this 17th day of August, 1999.

LR06-AR00-BLR-27

COMPLIANCE WITH RULES

All counsel and/or parties having matters before the Boone Circuit, Superior I or Superior II Courts are presumed to have knowledge of the Courts' rules and are expected to comply accordingly.

LR06-TR81-BLR-28

NOTICE

Copies of the foregoing rules shall be certified to the Indiana Supreme Court and the Court of Appeals pursuant to Indiana Rules of Procedure, T.R. 81. Copies of these rules shall be posted in the Clerk's Office, on the bulletin board in the respective Courts to which these rules apply and a copy of these rules shall at all times be available at counsel tables in open Court of the respective Courts to which the rules apply.