HENDRICKS COUNTY LOCAL RULES

FOR

CIRCUIT COURT,

SUPERIOR COURT NO. 1,

SUPERIOR COURT NO. 2,

SUPERIOR COURT NO. 3

OF THE

55TH JUDICIAL CIRCUIT,

HENDRICKS COUNTY, INDIANA

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LOCAL RULES OF COURT
FOR THE
CIRCUIT COURT, SUPERIOR COURT NO. 1, SUPERIOR COURT NO. 2, AND SUPERIOR COURT NO. 3 COURTS, OF THE 55TH JUDICIAL CIRCUIT, HENDRICKS COUNTY, INDIANA

ORDER ADOPTING RULES OF PRACTICE AND PROCEDURE IN THE CIRCUIT COURT, SUPERIOR COURT NO. 1, SUPERIOR COURT NO. 2, AND SUPERIOR COURT NO. 3 COURTS OF THE 55TH JUDICIAL CIRCUIT

It is **ORDERED** that all existing local rules of Court for the Circuit Court, Superior Court No. 1, Superior Court No. 2, and Superior Court No. 3, Courts of the Fifty-Fifth (55th) Judicial Circuit, Hendricks County, Indiana, relating to rules of general, civil, domestic relations, juvenile, criminal, and small claims practice and procedure, shall be and are hereby revoked as of April 1, 2002.

It is further **ORDERED** that the following general local rules relating to practice and procedure in the Circuit Court, Superior Court No. 1, Superior Court No. 2, and Superior Court No. 3 Courts of the Fifty-Fifth (55th) Judicial Circuit, Hendricks County, Indiana, hereby adopted, effective July 1, 2002 pursuant to Trial Rule 81 of the Indiana Rules of Procedure.

It is further ordered that these local rules shall apply to proceedings that are docketed or filed as small claims only to the extent that such proceedings are not otherwise governed specifically by the Indiana Rules for Small Claims.

It is further ordered that the Clerk of Hendricks County shall furnish the Clerk of the Indiana Supreme Court and Court of Appeals two (2) copies of these rules.

These Local Rules shall be cited to the Court as "**Hendricks County Local Rule** _____" or (**HCLR** _____).

Dated this 13th day of June, 2002.

_____	_____
JEFFREY V. BOLES, Judge Hendricks Circuit Court	ROBERT W. FREESE, Judge Hendricks Superior Court No.1
_____	_____
DAVID H. COLEMAN, Judge Hendricks Superior Court No.2	KAREN M. LOVE, Judge Hendricks Superior Court No.3

LOCAL RULE 1

Court Hours

1.1 The Hendricks County Circuit and Superior No. 1, Superior No. 2, and Superior No. 3 Court offices shall be open from 8:00 a.m. until 4:00 p.m., Monday through Friday, legal holidays excluded, unless otherwise set by the Court, and at such other hours as the Court may from time to time direct or otherwise post.

1.2 The office of the Clerk of Courts shall be open from 8:00 a.m. until 4:00 p.m. on all days except Saturdays, Sundays and legal holidays, but may be closed on days that the Judge of the Circuit Court orders the Clerk closed in accordance with the custom and practice of the Court, or as may be dictated by the necessity of the situation. Any legal action requiring to be processed in the office of the Clerk during the time the office is closed may be taken on the next following day the office is open.

1.3 When weather conditions or other emergencies arise, any Court closing shall be made by the Judge of the Court. The Court shall make every effort to contact litigants scheduled for Court. To this end, the Chronological Case Summary and all pleadings shall set out the addresses and telephone numbers of the attorney or Pro Se litigant filing the pleading.

1.4 Courts are open to Trial Rule 65 hearings as requested.

LOCAL RULE 2

Filing of Pleadings and Entry of Appearances

2.1 All pleadings shall be filed with the County Clerk with the exception of emergency orders under Trial Rule 65. All pleadings shall be on 8 1/2 x 11 inch paper. The Clerk shall refuse to accept any pleading not in compliance with the Rule.

2.2 Attorneys shall enter a written appearance for their client containing the attorney's name, address to which notices and orders are to be sent, telephone and FAX number where the attorney can be reached during normal business hours, his/her State Disciplinary Commission number and Federal Tax Identification number.

2.3 Withdrawals of appearance by attorneys shall be permitted only after the granting of a written motion requesting such action.

2.4 *Pro Se* appearances shall be made in writing by signing a written appearance which shall include the person's name, address to which notices and orders are to be sent, and telephone and (FAX) number where the person can be reached during normal business hours and Social Security Number.

2.5 Pursuant to Trial Rule 5(b)(1)(d), the Circuit and Superior Courts of Hendricks County hereby designate the "mail boxes" located in the Clerk's office as a suitable place for

service of pleadings upon attorneys who have such boxes.

2.6 Attorneys and *pro se* litigants shall be responsible for seeing that the Chronological Case Summary contains a current address where notices and orders are to be sent and a current telephone and FAX number where the attorney or pro se litigant can be reached during normal business hours. The Clerk shall be promptly informed in writing of changes in address and telephone.

2.7 All pleadings filed with the Court requiring a certificate of service will not be accepted for filing where the certificate of service merely states that service has been made on "all counsel of "record". A certificate of service shall specifically name the individual party or attorney on whom service has been made, his address, in what manner the service was made, and the date upon which service was made.

2.8 Clerk or Court personnel shall not be responsible for the filing of pleadings by mail, except certified or registered. If the documents received by mail are not in proper form as set forth by the Indiana Rules of Civil Procedure and these Rules of court, such documents will be shown as received but the deficiencies will not be corrected by court personnel and no further processing of the documents by the Clerk or Court will take place.

2.9 The above rule shall not be construed by attorneys or litigants to relieve them of their duty to keep themselves informed of the current status of their cases in Court.

LOCAL RULE 3

Minute Entries and Proposed Orders

3.1 The Courts provide minute sheets for the preparation of minute entries and judgment docket entries for the preparation of proposed docket entries.

3.2 Proposed Orders: No Motion or Petition or other request for relief shall be filed without a proposed order and a proposed judgment docket entry, if applicable. Opposing counsel is further requested, where possible, to submit to the Court proposed alternative orders.

3.3 The Court shall not be required to act on any Motion, Petition or other request for relief unless a proposed order and proposed judgment docket entry, if applicable, is filed in compliance with Local Rule 3.2.

3.4 A proposed judgment docket entry is not required on *pro* se small claims cases.

3.5 All proposed orders submitted by counsel [or *Pro Se* litigant] pursuant to these Local Rules shall meet the following requirements:

(a) Contain a <u>complete</u> distribution list of all attorneys and/or *Pro Se* litigants with full addresses.

(b) Include a sufficient number of copies of such proposed order as follows: Original for Court, copy for Court file and one copy for each attorney and/or *Pro Se* litigant and sufficient copies for service by Clerk or

Sheriff.

(c) Include envelopes appropriately addressed, postage pre-paid for each attorney and/or *Pro Se* litigant on the distribution list unless the attorney has a mailbox in the Clerk's Office.

3.6 All proposed judgment docket entries shall be signed by the counsel or party requesting the judgment and contain the information as set forth in **APPENDIX A**.

3.7 The initial Court costs paid to the Clerk when filing civil cases shall include the cost of service of process by certified mail. Thereafter, counsel tendering orders, documents, or papers to the Court for filing shall furnish sufficient copies to the Court so that the original may be retained and one copy served on each interested party. Counsel will further furnish envelopes addressed to the interested parties or their attorneys of record, with sufficient postage attached, so that a copy may be mailed to each affected party. Clerk has no responsibility to distribute orders unless prepaid postage is provided. On orders generated by the Court after a case had been taken under advisement, the Judge shall indicate on the distribution directive that the Clerk shall mail the order at Clerk's expense.

LOCAL RULE 4

Trial Settings

4.1 All requests for trial settings or other evidentiary hearings shall be in writing and shall contain the following information:

(a) Type of trial or hearing (i.e. jury trial, court trial, final hearing in dissolution, etc.).

(b) An honest, good faith estimate of the court time needed for the trial or hearing. It is the duty of counsel to determine the amount of time required by both sides for the hearing. No hearing will be scheduled until such time is stated and will be limited to the time requested.

4.2 Each request for a continuance shall be accompanied by a proposed written order with appropriate blanks for date and time and shall further include reference to those items set forth in HCLR 4.1(a) and (b).

4.3 Every opposing attorney or *Pro Se* litigant who receives such an order and disputes the estimate of court time needed for the trial or hearing shall notify the Court in writing within ten (10) days of the receipt of the original order and give their honest, good-faith estimate of the court time needed.

LOCAL RULE 5

Continuances

5.1 When an attorney enters his appearance, it is the attorney's responsibility to review the file and become aware of all previously scheduled hearing dates.

5.2 A motion for continuance must be filed promptly upon the discovery of the cause therefore. Motions for continuance, shall be filed at least five (5) days, excluding Saturday, Sunday and Holidays, before a Court trial or hearing, and at least ten (10) days before a Jury Trial, unless good cause is shown.

5.3 Motions for continuance shall include the following information:

(a) The specific reason for the continuance. General assertions, e.g. "unavailability of counsel," "unavailability witness," "other commitments," etc. shall be subject to summary denial.

(b) Whether or not opposing counsel has been advised that a continuance will be requested.

(c) Whether or not opposing counsel agrees to said continuance.

(d) The date, time, and type of the hearing or trial for which a continuance is being sought.

(e) Whether prior continuances have been requested by the moving party.

(f) The approximate amount of time needed to elapse before the matter can be heard or tried.

(g) A good-faith estimate of the amount of time needed for such hearing or trial.

5.4 All motions for continuance shall be in writing and shall be accompanied by a proposed order in conformity with HCLR 3 containing a blank for the Court to set a new date and time for the hearing or trial.

5.5 Signature by an attorney on the request for continuance is certification by that attorney that the client has been notified of the request, agrees to the continuance, and understands the specific reason for which the continuance is sought.

5.6 Such motion and any accompanying affidavits or documents shall be served on opposing counsel or the opposing party, unless there is a showing that opposing counsel or the party has acquiesced or agreed to the motion to continue. The motion to continue will not be granted as a matter of course or as a matter of right.

5.7 The motion to continue, if granted, may be granted subject to the payment of costs or expenses connected with the continuance or for the delay of the trial or hearing that are necessarily incurred by the parties or by the Court.

5.8 Under no circumstances and in no case will any matter be continued or removed from the Court's hearing or trial calendar without order of the Court granting such continuance or removal from the calendar.

5.9 A motion for continuance shall denominate whether it is the First (1st), Second (2nd), Third (3rd) etc. Motion for Continuance filed by the party.

LOCAL RULE 6

Pre-Trial Conferences

6.1 Pre-Trial Conference

(a). A pre-trial conference may be set in any pending case on the motion of any party or on the motion of the Court.

(b) A pre-trial conference should be requested and set as soon after the initiation of the case as is reasonable, allowing the attorneys and the parties sufficient time to acquaint themselves with the nature of the case.

(c) In Circuit Court parties must strictly comply with a pre-trial order. The order is sent when a party requests trial time.

(d) In the Superior Courts the purpose of the pre-trial conference is to schedule disposition of the case and to establish a timetable for pretrial procedures. The attorneys shall bring their calendars to the pre-trial conference, or have their calendar available if the conference is conducted by telephone, so that scheduling conflicts will be avoided. Matters to be scheduled at the pre-trial conference are as follows: Trial; final pre-trial conference; settlement conference; use of alternative dispute resolution; conclusion of discovery; exchange of preliminary and final lists of witnesses and exhibits and statements of contentions; names and reports or experts; filing of motions for summary judgment, briefing schedule and hearing date; filing of preliminary and final instructions, motions in *limine* and trial briefs.

(e) The Court will have an order prepared as a result of the pre-trial conference. The order will detail the schedule agreed upon by the parties and the Court will provide that the schedule may not be altered absent the agreement of the Court, and will provide that the pre-trial conference will control the progression of the case.

(f) The pre-trial conference may be held by telephone conference call. The arrangements for the conference call in lieu of personal appearance for the pre-trial conference may be made by any of the parties or the Court itself. Such arrangements shall be made far enough ahead of the scheduled conference time to allow every participant to be apprised of the manner in which the conference will be held.

6.2 Settlement Conference

(a) A settlement conference may be set in any pending case on the motion of any party or on the motion of the Court.

(b) The motion requesting a settlement conference must be accompanied by a memorandum informing the Court of the nature of the case, the history of settlement negotiations, an indication of any particular impediment to negotiations, and advising the Court what benefit a settlement conference with the Court might provide to the parties. The Court must be assured that the parties have made serious, good faith efforts to negotiate prior to requesting a settlement

conference.

(c) The Court may require that the parties to the action be present in person. If a party to the action is an entity other than an individual, that entity shall be represented in person by an officer or an agent delegated to the specific task and who has the authority to negotiate a final settlement on behalf of that entity. Any insurer or entity having authority to approve any final settlement shall be present by a representative having authority to enter into a final settlement.

(d) Before the settlement conference each party and the attorney for each party must have carefully reviewed the case and their position, evaluated the same, and arrived at a realistic appraisal of the value, strength and the likelihood of success of their side of the case.

(e) The settlement conference may be scheduled at any time after the case has been pending a sufficient length of time to allow for adequate discovery and accurate evaluation of each side of the case.

6.3 Attorneys Conference

(a) In any case wherein a pre-trial conference is scheduled either by status conference order or by other order of the Court, the attorneys shall arrange, prepare for, and hold an attorneys conference as contemplated by Trial Rule 16. At that conference the attorneys shall address each of the subject areas described in Trial Rule 16 that apply to the particular case. The attorneys shall also address other issues which are germane to the case and which are appropriate to an attorneys' conference.

6.4 Final Pre-Trial Conference

(a) The final pre-trial conference shall be attended by counsel who will try the case and who have the authority to bind the party represented with finality in any aspect that may arise during the final pre-trial conference.

(b) The Court may require that the parties attend the final pre-trial conference or that they be available for immediate consultation with their attorneys. If a party is an entity other than an individual, that entity shall have available an officer or agent who has the full and final authority to negotiate a final settlement or to make any other commitment or take any other action with regard to that party as may arise during the final pre-trial conference. Any insurer or entity having authority to approve any final settlement shall be present by a representative having authority to enter into a final settlement.

(c) The provisions of Trial Rule 16 shall govern the procedure of the pre-trial conference.

(d) The topics to be covered at the pre-trial conference and for the discussion of which the attorneys should be prepared shall include, but not be limited to, the following: Discovery, pending motions, motions to be filed, stipulations, the filing and exchange of final lists of

witnesses and exhibits and final statement of contentions, the filing and exchange of preliminary and final instructions, the filing and exchange of trial briefs, motions in *limine*, any unusual instructions or questions of law, the use of alternative dispute resolution, and settlement. Other topics to be covered at the pre-trial conference may include any topic contemplated or referred to in Trial Rule 16.

(e) A final pre-trial order shall be prepared as a result of the final pre-trial conference reflecting the agreements and the decisions made concerning the topics listed above and pursuant to Trial Rule 16.

6.5 Other Pre-trial Conferences

(a) Other pre-trial conferences may be scheduled on motion of any party showing the need therefor, by agreement of the parties, or upon motion of the Court.

LOCAL RULE 7

Special Judges

7.1 After a Special Judge is selected, the caption of all pleadings filed thereafter shall designate:

BEFORE SPECIAL JUDGE _____.

7.2 A copy of each pleading or each paper filed with the Court after a Special Judge has qualified shall be mailed or delivered to the office of that Special Judge by the counsel or litigant with service indicated on the certificate of service.

LOCAL RULE 8

Trials

8.1 The Court reserves the right to require advance settlement conferences.

8.2 Court trials shall begin promptly at the time assigned. The attorneys and the litigants are encouraged to arrive substantially in advance of the scheduled time for the purpose of entering into any last-minute stipulations or agreements.

8.3 All exhibits shall be marked and exchanged prior to the commencement of the trial.

LOCAL RULE 9

Protective Orders Under I.C. 5-2-9-2.1

9.1 DEFINITIONS: For the purpose of this rule the following definitions shall apply:

(a) Order - any order defined in I.C. 5-2-9-2.1.

(b) Notice - Form NPO-I as provided by the Office of the Hendricks Court Clerk.

(c) Termination Notice - NPO-T as provided by the Office of the Hendricks Counts Clerk.

9.2 FILING OF NOTICE - NPO-I: No order as defined in this rule shall be issued unless a fully prepared original and two (2) copies of the required notice for each protected person are filed by the person or party defined below:

(a) In civil proceedings the person or attorney requesting the order shall prepare and file the notice. This rule shall apply for all new filings and for requests made in currently pending matter.

(b) In criminal pre-trial release or diversion matters it shall be the responsibility of the Prosecuting Attorney to prepare and file the notice at the time an order is requested.

(c) In cases involving conditions of probation it shall be the responsibility of the Probation Officer assigned to the specific case to prepare and file the notice at the time the order is requested.

(d) In Juvenile Delinquency matters it shall be the responsibility of the prosecuting attorney to prepare and file the notice at the time an order is requested. In Juvenile CHINS matters it shall be the responsibility of the person or attorney requesting the order to prepare the required notice at the time the order is requested.

(e) If an order has previously been issued without the filing of a notice as required herein, any party to the action may prepare and file the requisite notice in order to invoke the protection of I.C. 5-2-9-2.1. In this event, said requesting party shall bring the filing of the notice to the attention of the County Clerk for distribution.

9.3 CONFIDENTIALITY: All matters contained in the notice which identify the address, phone number or location of the protected person shall be confidential and may not be disclosed to any person restrained or any other person except as is necessarily required to any law enforcement agency, or court personnel in the conduct of official duties, or by specific order of the Court. Any disclosure of information in violation of this section shall be punishable to contempt.

9.4 EMERGENCY ORDERS: If a party requesting and obtaining an order hereunder believes that an emergency exists where the Sheriff or Municipal Law Enforcement Agency should be immediately notified of the issuance of the order, then the party requesting the order may obtain a sealed copy of the order marked DEPOSITORY and personally deliver said orders and notices to the Sheriff and the Municipal Law Enforcement agency. The law enforcement agencies shall receive any such notice as if were served upon them by the Clerk.

9.5 REVOCATION OF PROBATION: The Probation Officer filing a Petition for Violation of Probation for a sentence imposed for a violation of I.C. 35-46-1-15 where the suspended sentence is in excess of ten days shall file a copy of said information with the Sheriff and the Sheriff shall notify the Court that notice has been given to the protected person pursuant to statute.

9.6 MODIFICATIONS OF SENTENCE: Any person requesting a modification of a sentence imposed for violation of I.C. 35-46-1-

15.1 where such sentence is for more than ten (10) days, shall serve the Sheriff a copy of the modification request and the Sheriff shall certify to the Court that notice has been given to the protected person pursuant to statute. Failure to comply with this provision shall cause the hearing on said modification request to be continued until such time as the Sheriff can notify the protected person by statute.

9.7 SENTENCES FOR VIOLATION OF I.C. 35-46-1-15.1 (Invasion of Privacy) IN EXCESS OF TEN (10) DAYS: The Clerk shall notify the Sheriff of any sentence imposed against any defendant for violation of I.C. 35-46-1-16 where such sentence is for a period in excess of ten (10) days.

9.8 TERMINATION OF ORDERS: The party requesting and obtaining an order hereunder shall cause to be filed at the termination of the order, in the cause in which it was entered, a fully prepared original and two (2) copies of Form NPO-T as provided by the office of the Hendricks County Clerk. A final judgment or order shall not be entered in a cause of action where an order has been issued hereunder unless said final judgment or order addresses the termination of any order issued hereunder.

9.9 CHANGE OF ADDRESS: The party protected by an order issued hereunder shall advise the Sheriff of Hendricks County of all changes in address or telephone number. Further, if the protected person changes addresses from the municipality in which they resided at the time of the issuance of the order, then upon such change of address said protected person shall file with the Clerk of the Court a corrected Form NPO-I with a copy of the original order.

LOCAL RULE 10

Interrogatories and Requests for Admission: Form and Limitation of Number

10.1 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.

10.2 No mimeographed or otherwise duplicated forms shall be filed or served upon a party unless each Interrogatory and Request for Admission and Requests for Production of Documents 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 said parties makes the use of such forms necessary and feasible.

10.3 No party shall serve on any other party more than twenty-five (25) Interrogatories or Requests for Admission other than requests relating to the authenticity of genuineness of documents (in the aggregate, including subparagraphs,) without

leave of Court. Subparagraphs shall relate directly to the subject matter of the Interrogatory or Requests for Admission. Any party desiring to serve additional Interrogatories or Requests for Admission shall file a written Motion setting forth the proposed additional Interrogatories or Requests for Admission and the reasons establishing good cause for their use.

10.4 No Interrogatories or Requests for Admissions are allowed in Small Claims matters except as provided for by order of the Court pursuant to Small Claims Rule 6.

10.5 No deposition or request for discovery or response thereto under Trial Rules 27, 30, 31, 33, 34, 35, or 36 shall be filed with the Court unless:

(a) A motion is filed for a protective order pursuant to Trial Rule 26(C) or for an order compelling discovery pursuant to Trial Rule 37 and depositions or discovery requests and responses are necessary to enable the Court to rule;

(b) A party intends to use a deposition, request for discovery, or response for evidentiary purposes at trial or in connection with a motion for summary judgment or a motion under Trial Rule 12, and the Court, either on its own motion or that of any party, or as a part of any pre-trial order, orders the filing of the original; or

(c) Depositions, requests for discovery, or responses are to be used at trial or are necessary to a pre-trial motion which might result in a final order on any issue, in which event those portions to be used shall be filed with the Court at the outset of the trial or upon the filing of the motion insofar as their use can be reasonably anticipated; or

(d) A deposition, request for discovery or response is required by a party for inclusion in the record of proceedings for use on appeal, in which event the party having custody of the original shall, upon request of the party taking the appeal, cause it to be filed with the Court.

10.6 The original of any request for discovery or response thereto under Trial Rules 33, 34, 35, and 36, and the original of a deposition (or a copy deemed an original under Trial Rule 30(E)(4) shall be maintained by the party who originated the request or response or who took the deposition, until the original is filed with the Court these rules or until the later of final judgment, agreed settlement of the litigation or exhaustion of all appellate rights.

10.7 To avoid delays in the administration of justice, the Court shall not hear motions seeking to compel discovery, for sanctions, or seeking protection against discovery under Trial Rule 26 through Trial 37, unless moving counsel shall first certify in writing, as a part of the motion, that after a meeting and sincere attempts to resolve differences, counsel remain unable to agree. The certification shall recite the date, time and place of the meeting and the names of counsel participating.

If counsel for a party informs the Court in writing that opposing counsel has refused to meet or delayed a meeting to resolve discovery disputes as contemplated by this subsection, the Court shall take appropriate action.

LOCAL RULE 11

Duties of Attorneys

11.1 Attorneys to Prepare Documents Requiring Court's Signature. It shall be the duty of attorneys to prepare decrees of all final judgments and of such interlocutory and other orders as may be required by the Court, including Pre-Trial Orders, Findings of Fact and Conclusions of Law.

11.2 Decrees and Entries Prepared by One Attorney to Be Submitted to Other Attorneys Interested in Cause. When there are several attorneys interested in decree, order, entry of judgment to be entered in a case and one or more of them desires such documents entered, he or they, shall submit such document to the other attorneys who may be interested in the cause, and obtain an endorsement thereon of "Inspected", provided that this rule shall not apply when the attorneys of all parties are in court when the judgment or decree is proffered.

11.3 Obligations to Keep Themselves Informed of Case Status**.** Counsel and parties in a case must keep themselves informed of all steps taken in all matters pending before the court, and are bound by the Court's actions, including but not limited to rulings, notice of trial date settings, and current position of cases on jury trial date settings, and current position of cases on jury trial calendar, all without special or additional oral or written notice by the Court.

11.4 Duty of Attorney to State Time Required for Hearing**.** It is the duty of counsel to determine the amount of time required by both sides for the hearing. No hearing will be scheduled until such time is stated, and it will be limited to the time requested.

11.5 Duty of *Pro se* litigants. *Pro se* litigants shall comply with all duties and requirements imposed on lawyers.

LOCAL RULE 12

Change of Venue - Civil Cases

12.1 In Civil cases, Special Judges shall be selected pursuant to "COORDINATED LOCAL RULES OF THE COUNTIES OF BOONE, HENDRICKS, MORGAN, JOHNSON, SHELBY, HANCOCK, AND HAMILTON ENACTED IN COMPLIANCE WITH T.R. 79 (H)." The pertinent provisions of which are as follows:

(a) This rule shall be subject to any previous standing order for the appointment of judges which may be in effect, (specifically including Standing Order Appointing Special Judge 32S00-9503-SJ-274 dated March 3, 1995) 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 pre-empt this rule and shall take precedence over it.

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

(c) In 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.

(d) 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 Hendricks County Judges. If Hendricks County does not have a sufficient number or regular sitting judges, then the sitting judge shall name a panel including the available local judges and a judge or magistrate from Boone County or Morgan County.

(e) Should none of the above methods produce a special judge, the regular sitting judge shall select (on a rotating basis) one of the judges or magistrates from Boone County or Morgan County.

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

(g) Included on the list contemplated in Part D & E of the rule hereinabove are the judges and magistrates of Boone and Morgan Counties or their successor as follows:

(1) The Honorable Steve David, Boone Circuit Court.

(2) The Honorable Ora A. Kincaid, III, Boone Superior Court I.

(3) The Honorable James R. Detamore, Boone Superior Court II.

(4) The Honorable Matt Hanson, Morgan Circuit Court.

(5) The Honorable G. Thomas Gray, Morgan Superior Court No.1.

(6) The Honorable Christopher J. Burnham, Morgan Superior Court No.2.

(7) The Honorable Jane Spencer Craney, Morgan Superior Court 3.

(8) The Honorable Robert E. Lybrook, Magistrate for Morgan County.

LOCAL RULE 13

FAX Transmission

13.1 The Hendricks County Clerk will accept pleadings by FAX

so long as FAX transmission complies with Trial Rule 5(E)(2). The Clerk shall file mark said pleadings on the date of receipt. The party transmitting pleadings by FAX must send the original document to the Clerk the same day as the fax by certified mail. The mailed pleading must include the original signature of transmitting counsel. Any pleading filed by FAX must be FAXED to all parties simultaneously.

13.2 Failure to deliver the original document of the FAX transmission within five (5) days shall make such pleading subject to a Motion to Strike.

13.3 FAX transmissions shall be sent to the following telephone number: 317- 745-9306

LOCAL RULE 14

Briefs/Memoranda

14.1 Authorities relied upon which are not cited in the Northeastern Reporter system shall be attached to counsel's brief. If the authority is cited for the first time in oral argument, a copy of the authority may be provided to the Court at the time of the argument. Sufficient copies shall be available to provide counsel for each party with a copy.

LOCAL RULE 15

Custody and Disposition of Models and Exhibits

15.1 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 Court.

15.2 In civil cases, all models, diagrams, exhibits, or material placed in the custody of the Court Reporter shall be removed by the parties offering them in evidence except as otherwise ordered by the Court, within sixty (60) days after the case is decided unless an appeal is taken. At the time of removal, a detailed receipt shall be given to the Court Reporter and filed in the case.

15.3 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.

15.4 In all contested trials, the attorneys shall prepare and submit to the Court a schedule of exhibits and two (2) copies. Attorneys shall pre-mark all exhibits and submit a copy to the Court prior to the hearings

LOCAL RULE 16

Withdrawal of Appearance

16.1 An attorney's appearance and representation in a case

may only be withdrawn upon the filing of a written motion and an order of the Court granting such motion, except in the following instances:

(a) The party authorized the withdrawal in open court;

(b) The party authorized the withdrawal in writing, such authorization being verified; or (c) there is an appearance simultaneously filed by successor counsel.

16.2 The written motion shall state the reasons for withdrawal with specificity and must demonstrate written notice to the client of the intent to make application to withdraw the appearance and representation. The notice must have been given at least ten (10) days prior to filing the motion to withdraw, shall advise the client that failure to secure new counsel may result in dismissal of the client's case or in the rendering of a default judgment, shall advise of the date and time the motion will be considered, shall advise of the status of the case and of the existence and significance of any hearing dates or deadlines established by the Court in that case. The attorney shall in all other respects comply with Rule 1.16 of the Rules of Professional Conduct.

16.3 Withdrawal may not be permitted if less than 40 days remain until a trial or hearing date.

16.4 No withdrawal shall be permitted if such withdrawal would deprive the Court of jurisdiction over a party.

16.5 Upon the granting of a withdrawal, the attorney shall inform the court of the last known valid address of the client if upon withdrawal no appearance is entered by new counsel.

16.6 Until a withdrawal is granted the attorney continues to be responsible for all aspects of the case including attending all trials and hearings.

16.7 Withdrawal of appearance in criminal cases will only be allowed pursuant to I.C. 35-36-8-2. A hearing shall be held, with the defendant present, on all motions to withdraw based upon the grounds set forth in I.C. 35-36-8-2(b). Provided however that counsel appointed by the Court may file a verified pleading advising the Court of a conflict pursuant to I.C. 35-36-8-2(b)(1) and a hearing shall not be required.

LOCAL RULE 17

FILING OF CRIMINAL CASES

17.1 Beginning on January 1, 2002 criminal cases filed with Hendricks County Clerk shall be assigned by the Clerk according to the date the alleged offense occurred.

17.2 The following weekly rotation is adopted for the courts of Hendricks County:

(a) Week 1 - Hendricks Superior Court No. 2;

(b) Week 2 - Hendricks Superior Court 3;

(c) Week 3 - Hendricks Circuit Court;

(c) Week 4 - Hendricks Superior Court 1.

17.3 The weekly rotation will be from 12:01 a.m. Friday

until 12:00 a.m. on the following Friday. All misdemeanor and felony cases except as set forth in this Rule will be assigned in a weekly rotation on the day on which the offense alleged in the charging document (including Grand Jury Indictments) occurred. In the event of multiple offenses the date of the earliest offense alleged in the charging document shall control the rotation date and assignment of court. Filing of multiple offenses shall comply with Indiana Supreme Court Administrative Rule 1 (B).

17.4 For offenses occurring prior to January 1, 2002, that have not yet been filed those cases shall be assigned in rotation pursuant to the prior filing order.

17.5 This order for assignment shall not apply where Indiana statutes have granted exclusive jurisdiction to one of the courts. The following cases filed with the Hendricks County Clerk shall be filed exclusively in the four courts as follows according to the letter pre-fix:

(a) **HENDRICKS CIRCUIT COURT:**

(1) Juvenile Cases - JD, JM, JS, JT, JC & JP.

(2) All criminal cases in which the defendant was less than 18 years of age on the date the alleged offense occurred.

(b) **HENDRICKS SUPERIOR COURT NO.1, HENDRICKS SUPERIOR COURT NO.2 and HENDRICKS SUPERIOR COURT NO. 3:**

(1) All Traffic and I.C. 9 criminal cases, except those criminal cases in which the defendant was less than 18 years of age on the date the alleged offense occurred shall be filed as provided by a joint order signed by the Superior Court Judges.

(c) **HENDRICKS SUPERIOR COURT NO. 1:**

(1) All misdemeanor invasion of privacy cases; all misdemeanor domestic battery cases; and all misdemeanor battery cases in which the alleged victim is female. Provided, however, if a felony is also charged in the same case the case shall be filed according to the weekly rotation provided in this rule.

17.6 Transfer

(a) The Prosecuting Attorney, or the defendant may move to transfer a case and, upon good cause shown, a case may be transferred to any of the other courts for consolidation with a companion case, or with other cases pending in that court against the defendant provided the Judge of the receiving court accepts the transfer.

(b) A judge of Hendricks Circuit or a Superior Court, by appropriate order entered in the Record of Judgments and Orders, may transfer and reassign to any other court of record in the county with jurisdiction to hear the charged offense in any pending case subject to acceptance by the receiving court.

(c) In the event a motion for change of Judge is filed and granted pursuant to Criminal Rule 12 (except I.C. 9 cases), the Clerk shall randomly select one of the other

three courts pursuant to Criminal Rule 12 and the case shall be reassigned to the Court. (For statistical purposes the case is disposed by transfer and in the second court as "*transferred in*").

(d) On criminal cases filed pursuant to I.C. 9 where the judge has disqualified or granted a motion for change of judge, then the case shall be transferred to the other court as provided by joint order of the Hendricks Superior Courts.

17.7 Re-filing and Subsequent Files

(a) When the State of Indiana dismisses a case and chooses to re-file that case, the case shall be assigned to the court from which the dismissal was taken.

(b) In the event additional charges are filed against a criminal defendant subsequent to the assignment of the case, all such additional charges to be resolved in conjunction with the pending case shall be assigned to the court of initial assignment.

17.8 Appointment of Special Judge

(a) In the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a special judge. In the event the judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a special judge, the presiding judge may request the Indiana Supreme Court for such appointment.

LOCAL RULE 18

DECORUM

18.1 The attorneys shall be punctual, shall arrive at court early for hearings, and shall instruct clients and witnesses to be present before a hearing or trial is scheduled so that the Court's business may move with dispatch.

18.2 The attorneys, parties and witnesses shall dress in a manner that is appropriate to the dignity and the formality of the Court.

18.3 Lawyers and litigants and their witnesses shall conduct themselves in Court in a restrained and dignified manner. No person should lean on the bench nor sit on counsel tables.

18.4 No person while in the courtroom shall smoke, chew tobacco, eat, drink, or converse in any way which might be offensive or distracting to the Court or any other person present in the courtroom. Attorneys and parties who find it necessary to converse during the course of a hearing or a trial shall do so as quietly as possible and in tones calculated not to distract, disturb or influence the Court or any other person present in the courtroom.

18.5 Entering and leaving the courtroom should be done as infrequently and unnoticeably as possible.

18.6 The offices of the court, of the Judge and the Court staff are not to be considered by the attorneys, litigants, or other parties as their own private offices or as being readily available for the use of the attorneys, litigants or other parties. The court and its staff will assist attorneys as it is convenient, but the attorneys have no right to expect the Court staff to yield up their telephones, typewriters, copiers, desks, or their time to the attorneys for the attorneys' use or benefit. The Court and its staff have their own work to do and can reasonably expect to do that without distraction or interference from attorneys, litigants or other parties.

18.7 Lawyers shall not talk to or in any way distract the Court Reporter during hearings in which the lawyers are not participating.

LOCAL RULE 19

Transcripts

19.1 When an appeal is initiated by the filing of a Notice of Appeal pursuant to Appellate Rule 2 and a transcript for all or any part of the evidence is sought for the record on appeal, counsel filing the Notice of Appeal shall contemporaneously personally deliver a copy of the Notice of Appeal to the Court Reporter and inform the reporter of the deadline for the record.

19.2 All requests for transcripts shall be made in writing.

19.3 All requests for transcripts, including those by Notice of Appeal or *praecipe* for the record for an appeal, shall be accompanied by tender to the Court Reporter of payment of the estimated cost of preparation of the transcript, except for indigent criminal defendants, indigent civil litigants who file an **Affidavit of Indigency** and are granted a transcript without payment, and certain governmental agencies.

LOCAL RULE 20

Body Attachment

20.1 BODY ATTACHMENT. Upon failure of a judgment debtor or garnishee defendant to appear as ordered for a scheduled hearing, the judgment creditor may request a body attachment as to said person. A body attachment shall be issued only when:

(a) The judgment debtor or garnishee defendant previously ordered to appear for a scheduled hearing was personally served with notice or notified in open court of the contempt hearing;

(b) The request for body attachment is filed within thirty (30) days of the hearing at issue; and

(c) The judgment creditor provides information to enable the Sheriff to locate and identify the judgment debtor, including address, social security number and date of birth.

20.2 CONTACTING JUDGMENT CREDITOR. When the judgment creditor requests the issuance of a body attachment, and as needed at any time thereafter, said creditor shall file with the Court a telephone number at which the Court may notify the creditor of the attached person's appearance in custody. Upon such appearance in custody, the Court, to the best of its ability and consistent with the continued performance of its daily responsibilities, shall:

(a) Attempt to contact the creditor at the telephone number on file with the Court; and

(b) Thereby notify the creditor of a time later during the same Court business day at which the attached person will be brought before the Court for questioning by said creditor. If the Court is unable to contact the judgment creditor, the attached person shall be released and the underlying proceeding supplemental shall be rescheduled for hearing.

20.3 EXPIRATION AND RECALL OF BODY ATTACHMENTS.

(a) Expiration. Body Attachments expire 180 days after issuance.

(b) Recall. If during the pendency of a body attachment, the judgment creditor desires to recall said body attachment, said judgment creditor shall file a written request therefor or appear personally or by attorney and move on the record for recall of the body attachment and state in writing or on the record the reason for the recall.

LOCAL RULE 21

Confidential Documents

21.1 Confidential matters shall not be set forth openly in pleadings, either as part of the text of the pleading or as an attachment. Such matters may be incorporated by reference to material that have been or are to be independently furnished to the Court and are held by the Court in a separate file for confidential documents, or may be submitted with the pleading and contained in a sealed envelope marked "**Confidential**" and upon which the caption of the cause has been typed. All copies of the pleading shall conform to the rule.

LOCAL RULE 22

COURT REPORTER SERVICES

22.1 DEFINITIONS. The following definitions shall apply under this local rule:

(a) A ***Court Reporter*** is an employee at will, not an independent contractor, not self-employed subject to the control of the Judge and is specifically designated to perform the official court reporting services for the court including preparing a transcript of the record.

(b) ***Equipment*** means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipments 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.

(c) ***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.

(d) ***Page*** means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.

(e) ***Recording*** means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

(f) ***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.

(h) ***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.

(i) ***Overtime hours*** *worked* means those hours worked in excess of forty (40) hours per work week.

(j) ***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.

(k) ***Court*** means that particular court for which the court reporter performs services. Court may also mean all of the courts in Hendricks County.

(l) ***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.

(m) ***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.

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

22.2 SALARIES AND PER PAGE FEES.

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

(b) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be $4.00. The court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.

(c) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be $4.00.

(d) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be $4.00.

(e) A minimum transcript fee of $35.00 may be charged for any transcript.

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

(g) Court reporters may charge an additional hourly labor charge for time spent binding the transcripts and copying the exhibits and binding the exhibits. This labor charge shall be equivalent to the court reporter's hourly compensation rate.

(h) Court reporters may charge a supply charge pursuant to the Schedule of Transcript Supplies (**APPENDIX D**) established annually by the Judges of Hendricks County.

22.3 APPELLATE TRANSCRIPTS.

(a) Court reporters may charge up to an additional $.50 per page for transcripts prepared in accordance with the Indiana Rules of Appellate Procedure.

22.4 PRIVATE PRACTICE.

(a) 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 equipments for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

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

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

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

(b) 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.

LOCAL RULE 23

PLAN FOR ALLOCATION OF JUDICIAL SERVICES

23.1 The following cases filed with the Hendricks County Clerk shall be filed exclusively in the four (4) courts as set forth in this Rule and/or APPENDIX B to these Rules.

23.2 Hendricks Circuit Court

(a) All juvenile cases, juvenile CHINS, juvenile delinquents, juvenile status, juvenile paternity, juvenile miscellaneous and termination parental rights (**JC, JD, JS, JP, JM, JT**). All criminal cases in which the defendant was less than eighteen years of age on the date of the alleged offense. All reciprocal support cases - RS, all requests for hardship driver's license and all other miscellaneous civil cases reserved by statute to the Circuit Court.

23.3 Hendricks Superior Court No.1, Hendricks Superior Court No.2, and Hendricks Superior Court No.3

(a) All adoptions, all mental health and requests for adult protective service, all estates, guardianships, trusts, and petitions to compromise wrongful death claims, small claims, infractions, (**AD, ES, EU, GU, TR, MH, SC, IF,**), all traffic and criminal cases that originate from Indiana Code Title 9 as amended, and all other miscellaneous civil cases reserved by statute exclusively to each of the Superior Courts. The Judges of the Superior Courts shall specify by a joint order the manner in which these cases shall be assigned.

23.4 Criminal cases (**MR, FA, FB, FC, FD, CM**) filed with the Hendricks County Clerk shall be assigned by the Clerk according to the Local Rule 17.

23.5 Post conviction relief cases (**PC**) shall be filed in the Court with jurisdiction on the original criminal case.

23.6 Protective Orders (**PO**) shall be filed in a weekly rotation on the day in which the case was filed, unless the parties have previously filed a dissolution case. If a dissolution case has been previously filed, the protective order case shall be filed in the same court as the dissolution case. The weekly rotation shall follow the same schedule as set forth for criminal filings under Local Rule 17.

23.7 Ordinance violations, miscellaneous civil cases and miscellaneous criminal cases (**OV, OE, MI, MC**) not otherwise reserved to a particular court by statute may be filed in the court requested by the initiating party.

23.8 On or before March 1 of each calendar year the judges shall by joint order signed by a majority of the Judges (which shall be attached to the Local Rules as **APPENDIX B** establish case limits for each court for that calendar year for Dissolutions, Plenary, Civil Collections, Mortgage Foreclosures, Civil Torts and any other civil case type definitions as there may be from

time to time (**DR, PL, CC, MF, CT**). The Clerk of Hendricks County shall limit the filing of these types of cases in each court to the limits set forth in **APPENDIX B** until all courts reach their limit.

23.9 Cases in which the parties have not requested a particular court shall be rotated equally among the four (4) courts in the following order: First, Hendricks Circuit Court; Second, Hendricks Superior Court No.1; Third, Hendricks Superior Court No.2; and Fourth, Hendricks Superior Court No.3.

23.10 An initiating party's request for a particular court shall be granted by the Clerk until that court has reached its case limit. Once a court's annual case limit has been reached, the Clerk shall deny the request for said court and file said case in rotation among the other remaining courts. The Clerk shall thereafter limit the filing in this manner until all four (4) courts have reached their case limit.

23.11 When all four (4) courts have reached their case limit, the Clerk shall rotate the filing equally among the four (4) courts until the end of the calendar year at which time the process shall start anew.

23.12 The judge of a court that has reached its case limit shall not be included on a panel for selection of special judge for a Hendricks County case. After all courts have reached all case limits, then the judges of each court may be included on a panel for selection of special judge of the Hendricks County cases.

23.13 The Clerk of Hendricks County shall notify all courts when any court has reached a case limit and shall post said notice in the Clerk's office to inform the Bar and public.

23.14 Not later than March 1, of each year, the judges of Hendricks County Courts shall meet, in person, telephonically, or by other means and shall evaluate each court's caseload data as reported by the Division of State Court Administration.

23.15 As necessary to affect compliance with the orders of the Indiana Supreme Court the case limit for any court may be changed by an order issued by a majority of the judges of the Hendricks County Courts.

23.16 The Hendricks County Clerk shall send to the Division of State Court Administration copies of the order(s) establishing case.

23.17 All transfer cases received by the Clerk of Hendricks County pursuant to District 8 Plan For Allocation of Judicial Resources shall be assigned as provided by this local rule.

23.18 The Clerk of Hendricks County shall require all filings of cases to comply with HCLR 17and HCLR 23.

23.19 This plan may be amended by a majority of the judges of Hendricks Circuit and the Hendricks Superior Courts.

LOCAL RULE 24

BOND SCHEDULE

24.1 Bonds for criminal cases shall be as set forth in **APPENDIX C** as modified from time to time by order of a majority of the Judges of the Circuit and Superior Courts.

LOCAL RULE 25

JURY RULES

25.1 Pursuant to Rule 2 of the Indiana Jury Rules, the Clerk of Hendricks County is appointed as the Jury Administrator. The current Jury Commissioners shall remain in their position until such time as the Indiana Legislature amends the Indiana Code.

25.2 The jury pool shall consist of the voter's registration list for Hendricks County and the Bureau of Motor Vehicles operator's license records for residents of Hendricks County.

25.3 Pursuant to Rule 4 of the Indiana Jury Rules, Tier 2 Notice and Summons procedure shall be used.

HENDRICKS COUNTY
FAMILY LAW RULES

FOR

CIRCUIT COURT,

SUPERIOR COURT NO. 1,

SUPERIOR COURT NO. 2,

SUPERIOR COURT NO. 3

OF THE

55TH JUDICIAL CIRCUIT,

HENDRICKS COUNTY, INDIANA

LOCAL FAMILY LAW RULES OF COURT
FOR THE CIRCUIT, SUPERIOR NO.1, SUPERIOR NO.2,
SUPERIOR NO.3 COURTS, OF THE 55TH JUDICIAL CIRCUIT,
HENDRICKS COUNTY, INDIANA

ORDER ADOPTING HENDRICKS COUNTY FAMILY RULES
IN THE CIRCUIT, SUPERIOR NO.1, SUPERIOR NO.2,
AND SUPERIOR NO.3 COURTS OF THE
55th JUDICIAL CIRCUIT

It is **ORDERED** that the following Hendricks County Family Law Rules relating to practice and procedure in the Circuit, Superior No.1, Superior No.2, and Superior No.3 Courts of the Fifty-Fifth (55th) Judicial Circuit, Hendricks County, Indiana be and the same are hereby adopted, effective July 1, 2002 pursuant to Trial Rule 81 of the Indiana Rules of Procedure.

It is further ordered that the Clerk of Hendricks County shall furnish the Clerk of the Indiana Supreme Court and Court of Appeals two (2) copies of these rules.

Dated this 13th day of June, 2002.

_____
JEFFREY V. BOLES, Judge
Hendricks Circuit Court

_____
ROBERT W. FREESE, Judge
Hendricks Superior Court No.1

_____
DAVID H. COLEMAN, Judge
Hendricks Superior Court No.2

_____
KAREN M. LOVE, Judge
Hendricks Superior Court No.3

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RULE 1

SCOPE AND TITLE

1.1 These Rules shall apply in the Hendricks Circuit and Superior Courts and shall be applicable in all family law matters. These Rules are in addition to and are not intended to replace the Hendricks County Local Rules of Court. In the event of a conflict in a domestic relations matter, the Hendricks County Family Law Rules shall apply.

2.1 These Rules shall be known as the "Hendricks County Family Law Rules" and shall be cited as "**HENDRICKS COUNTY FAMILY LAW RULE _____**" or "**HCFLR _____**".

3.1 All rules shall apply to *Pro se* litigants as if the *Pro se* litigant is an attorney. *Pro se* litigants shall comply with all duties and requirements imposed on lawyers.

RULE 2

ADMINISTRATIVE PROCEDURE

2.1 Any request for provisional order should be made a part of the petition for dissolution of marriage, legal separation or paternity, in which case the petition shall be titled "Petition for Dissolution of Marriage (Legal Separation) (Paternity) and for Provisional Orders".

2.2 Attorneys shall advise the Court in the text of any preliminary or contempt petition if the matter cannot be heard on the regularly scheduled docket and shall provide an estimate of the time required in the event that more than 15 minutes is necessary.

2.3 By agreement of the parties, all issues and evidence relevant to a domestic relations case may be presented in summary fashion by counsel.

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

2.5 In order to obtain a bench warrant from the Court, a party must have personal service on the adverse party and complete a bench warrant information sheet. The Court may issue a bench warrant on copy service with sworn testimony confirming actual notice to the adverse party.

2.6 In all relevant family law matters, the petitioner shall use the form of summons set forth in **APPENDIX A**.

RULE 3

NOTICE AND SPECIAL DISCLOSURE REQUIREMENTS

3.1 In all relevant family law matters, the moving party shall give notice of the time and place of the hearing or trial by summons, subpoena, order to appear, notice of hearing or letter, served upon the adverse party at least seven (7) days prior to the hearing or trial and file a copy of the notice with the Court on or prior to the hearing or trial.

3.2 Prior to any preliminary hearing or within thirty (30) days after service of any petition seeking relief in any family law matter, whichever shall first occur, each party shall provide the Court with written notice of any other pending legal proceeding in which such person is a party wherein the other pending legal proceeding involves an issue or allegation of domestic violence, spousal abuse, child abuse, protective order, restraining order, or any criminal charges. The written notice should include the cause number of the legal proceeding, identification and location of the Court, names of parties involved, and a brief summary of the nature of the legal proceeding.

RULE 4

SUBMISSION OF AGREED MATTERS

4.1 No agreed matter shall be submitted unless accompanied with a signed agreement and other appropriate documents such as a Decree. However, if the parties reach a settlement just prior to hearing or trial and there is insufficient time for the attorneys to prepare a type written agreement, then the Court may accept evidence of that settlement in handwritten form or on the record. If the agreement is entered orally on the record, counsel shall prepare and submit a written order setting forth the agreement for approval by the Court within ten (10) days or such additional time as the Court may allow.

RULE 5

CHILD SUPPORT GUIDELINES

5.1 In all proceedings involving child support, each party shall file with any settlement, or submit to the Court at any hearing or trial, Indiana Child Support Guidelines worksheets-one or more depending upon the facts. Further, the worksheets shall be provided to the other party at least seven (7) days prior to any hearing or trial.

5.2 If an agreement concerning support provides any deviation from the Guidelines, the parties shall present to the Court a written explanation.

5.3 In all proceedings involving child support, an Income Withholding Order shall be submitted with any Settlement Agreement or Final Decree pursuant to Ind. Code 31-2-10-7(a).

5.4 In all proceedings involving child support, the parties

shall provide the Hendricks County Clerk with a completed **Child Support Information Sheet (APPENDIX B)**.

5.5 Attorneys are required to provide their client with a copy of the **Hendricks county clerk's child support payment information for payors and payees (APPENDIX C)** prior to the final hearing or submission of a final decree.

RULE 6
FINANCIAL DECLARATION FORM

6.1 In all relevant family law matters, including dissolution, separation, paternity, post-decree and support proceedings, the moving party shall prepare and serve a Financial Declaration Form within ten (10) days after the initial filing of the action. The responding party shall prepare and serve a Financial Declaration Form within ten (10) days after receipt of service. These time limits may be amended by Court order for good cause shown.

6.2 The Financial Declaration Form need not be exchanged if:

(a) The parties agree in writing to waive exchange:

(b) The parties have executed a written agreement that settles all financial issues:

(c) The proceeding is one in which the service is by publication and there is no response; or

(d) The proceeding is post-decree and concerns issues without financial implications. Provided, however, when the proceeding is post-decree and concerns only an arrearage, the alleged delinquent party shall complete the entire Form, while the support recipient need complete merely that portion thereof which requires specification of the basis of the arrearage calculation (with appropriate supporting documentation).

6.3 If there are any assets or obligations not disposed of by written agreement between the parties, the litigants must prove the value thereof at the hearing. Subject to specific evidentiary challenges, Financial Declarations shall be considered as received in evidence subject to cross-examination. Direct examination, on matters in the Financial Declaration, should be confined to unusual factors that require explanation, or to corrections, and normally will be unnecessary.

6.4 For the purpose of providing a full and complete verification of income, assets, liabilities and values, each party shall attach to the Financial Declaration form all information reasonably required and reasonably available. At the minimum this shall include income tax returns and supporting documentation, and current wage records. "Reasonably available" means material that may be obtained by letter accompanied with an authorization, but does not mean material that must be subpoenaed or is in the possession of the other party. The Court may require either party to supplement such Financial Declaration with appraisals, bank records, and other evidence to support the values set out therein.

6.5 The exchange of Forms constitutes mandatory discovery. Thus, Ind. Trial Rule 37 sanctions apply. Additionally, pursuant to Ind. Trial Rule 26(E)(2) and (3), the Form shall be supplemental if additional material becomes available.

6.6 In all contested dissolution cases the parties shall complete a Schedule of Property and Schedule of Debts and Obligations. These schedules must be signed by the party and a copy provided to the opposing party at least one working day prior to the final hearing. The original shall be filed with the Court before the hearing. Failure to complete the schedules will result in sanctions against the party and/or their attorney.

RULE 7

TEMPORARY RESTRAINING ORDERS

7.1 Subject to the provisions of Ind. Trial Rule 65, in an action for dissolution of marriage, legal separation or child support, the Court may issue a Temporary Restraining Order, without hearing or security, if either party files a verified petition alleging an injury would result to the moving party if no immediate order were issued.

7.2 If the Court finds that an order shall be entered, the Court may enjoin both parties from:

(a) Transferring, encumbering, concealing, selling or otherwise disposing of any joint property of the parties or asset of the marriage without the written consent of the parties or the permission of the Court;

(b) Removing any child of the parties then residing in the State of Indiana from the State with the intent to deprive the Court of jurisdiction over such child without the prior written consent of all parties or the permission of the Court.

7.3 In the event a party seek to enjoin the non-moving party from abusing, harassing, disturbing the peace, committing a battery on the moving party or any child or step-child of the parties, or exclude the non-moving party from the martial residence, and the Court determines that an order shall be issued, such order shall be addressed to one person. **A joint or mutual restraining or protective order shall not be issued.** If both parties allege injury, they shall do so by separate petitions. The Court shall review each petition separately and grant or deny each petition on its individual merits. In the event the Court finds cause to grant both petitions, it shall do so by separate orders. The moving party shall provide the Court with the following information concerning the non-moving party:

Name: _____

SSN: _____

Age: _____ DOB: _____ Race: _____ Sex: _____

Height:_____ Weight: _____

Scars, tattoos or other identifiable characteristics?

_____
_
_____
_
Home Address:
_____
Telephone No.
_____
Work Address:
_____
Telephone No:
_____
Work Hours: _____

RULE 8

ORDERS EXCLUDING A SPOUSE FROM THE RESIDENCE

8.1 Eviction Without Notice**.** Trial Rule 65 applies. A restraining Order without notice that would evict spouse from the marital residence may be issued only upon the following bases:

(a) There are alleged specific facts indicating more than a generalized fear of an adverse action; and

(b) There is evidence of actual or threatened physical or emotional abuse sufficient to find a risk of imminent danger; and

(c) The movant is physically available to testify unless there is a showing of exceptional circumstances precluding his or her availability; or

(d) The applicant certifies to the Court the reasons supporting the claim why notice cannot be given.

8.2 In addition to the foregoing criteria, the Court may consider any other relevant social or economic factors including whether either party has a reasonable alternative residence pending hearing on the provisional order. In those circumstances where the Court allows a part to be heard *ex parte* on the record and finds an emergency exists justifying issuance of an eviction order, the cause shall be set for preliminary hearing within ten (10) days with notice to all parties.

8.3 An Order granting exclusive possession of the martial residence shall be had only upon the terms, and conditions set out elsewhere in these Rules.

RULE 9

CHILD CUSTODY AND PARENTING TIME

9.1 On motion of either party with the approval of the Court, or on the Court's own motion, in all contested matters involving child custody and visitation, the Court may appoint a

guardian *ad litem* to investigate and report to the Court his or her recommendations concerning the child's (children's) best interests.

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

RULE 10

FEES

10.1 Attorney fees may be awarded based on evidence presented by affidavit or oral testimony at a preliminary hearing. Affidavits shall be admissible subject to cross-examination. The following factors fill be considered:

(a) The number and the complexity of the issues (e.g. custody dispute, complex asset valuation).

(b) The nature and extent of discovery.

(c) The time reasonably necessary for the preparations for or the conduct of contested *pendente lite* matters or final hearing.

(d) Other matters requiring substantial expenditure of attorney's time.

(e) The attorney's hourly rate.

(f) The amount counsel has received from all sources.

10.2 Appraisal or accounting fees may be awarded based on evidence presented by affidavit or oral testimony at a preliminary hearing. The following factors will be considered:

(a) Itemized list of property to be appraised or valued (e.g. Defined Benefit Pension, Business Real Estate, Furnishings, Vehicles, etc.)

(b) An estimate of the cost of the appraisals and the basis therefore.

(c) The amount of a retainer required and the reason an expert is necessary.

10.3 There shall be a rebuttable presumption that attorney fees will be awarded to the prevailing party in all matters involving a contempt citation. An attorney may submit by affidavit, or oral testimony, along with an itemized statement his requested fee. Affidavits shall be admissible into evidence by the Court.

RULE 11

PARENTING TIME ORDERS

11.1 The phrase "reasonable parenting time" if not specifically defined in the Court's Order is defined as those parenting time rights agreed upon between the parties. To the extent the parties cannot agree to the particulars of such visitation, "reasonable parenting time" shall be defined as those

parenting time rights provided for in the State Parenting Time Guidelines.

11.2 Attorneys are required to provide their client with a copy of the State Parenting Time Guidelines prior to any hearing or the submission of an agreement.

HENDRICKS COUNTY PROBATE LOCAL RULES

FOR

SUPERIOR COURT NO. 1,

SUPERIOR COURT NO. 2,

SUPERIOR COURT NO. 3

OF THE

55TH JUDICIAL CIRCUIT,

HENDRICKS COUNTY, INDIANA

LOCAL PROBATE RULES OF COURT

FOR THE
SUPERIOR COURT NO. 1, SUPERIOR COURT NO. 2,
AND SUPERIOR COURT NO. 3 COURTS, OF THE 55TH JUDICIAL CIRCUIT,
HENDRICKS COUNTY, INDIANA

ORDER ADOPTING RULES OF PRACTICE AND PROCEDURE
IN THE SUPERIOR COURT NO. 1, SUPERIOR COURT NO. 2,
AND SUPERIOR COURT NO. 3 COURTS OF THE
55TH JUDICIAL CIRCUIT

It is ORDERED that all existing local Probate rules of Court for the Superior Court No. 1, Superior Court No. 2, and Superior Court No. 3, Courts of the Fifty-Fifth (55th) Judicial Circuit, Hendricks County, Indiana, relating to rules of Probate practice and procedure, shall be and are hereby revoked as of April 1, 2002.

It is further ORDERED that the following local Probate rules relating to practice and procedure in the Superior Court No. 1, Superior Court No. 2, and Superior Court No. 3 Courts of the Fifty-Fifth (55th) Judicial Circuit, Hendricks County, Indiana, are hereby adopted, effective July 1, 2002 pursuant to Trial Rule 81 of the Indiana Rules of Procedure.

It is further ordered that the Clerk of Hendricks County shall furnish the Clerk of the Indiana Supreme Court and Court of Appeals two (2) copies of these rules.

Dated this 13th day of June, 2002.

_____
ROBERT W. FREESE, Judge
Hendricks Superior Court No.1

_____
DAVID H. COLEMAN, Judge
Hendricks Superior Court No.2

_____
KAREN M. LOVE, Judge
Hendricks Superior Court No.3

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APPENDIX A Probate Fee Guideline
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LOCAL PROBATE RULE 1

Notice

1.1 **Whenever notice by publication and/or written notice by U.S. Mail is required to be given, the attorney shall prepare such notice and shall ensure that such notice is properly published and/or served by certified mail, return receipt requested. In all respects, the notice shall comply with all statutory requirements. It shall be the attorney's responsibility to ascertain and provide adequate proof thereof regarding whether notice was properly served prior to bringing a matter to the Court.**

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

1.3 **Notice of the opening of an estate shall be sent by 1st Class U.S. Mail to all readily ascertainable creditors. However, the use of certified mail, return receipt requested, to serve such notice is recommended.**

1.4 **Notice of the hearing to be held on a Petition to determine an Estate insolvent shall be served on all interested parties, including the local representative of the Inheritance Tax Division of the Indiana Department of Revenue.**

LOCAL PROBATE RULE 2

Filing of Pleadings

2.1 **When pleadings are filed by mail, or left with the Clerk for filing, a self-addressed, stamped envelope shall be included for return of documents to the attorney.**

2.2 **Routine pleadings, such as Inventories, Inheritance Tax Schedules, and Final Reports, may be filed with the Clerk for transmittal to the Court.**

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

2.4 **Every pleading, including Inventories, Petitions, and Accountings, filed in an Estate or Guardianship shall be signed and verified by the fiduciary and signed by the attorney for the fiduciary.**

2.5**All pleadings filed shall contain the attorney's name, address, telephone number, and attorney's registration number.**

2.6 **The initial petition to open an Estate or Guardianship shall contain the name, address, social security number and date**

of birth of the fiduciary.

2.7 **The Instructions to the Personal Representative or Guardian, executed by the fiduciary, must be filed with Court before letters will be ordered issued in the proceeding.**

2.8 **The affidavit of compliance with the notice provisions as to creditors in an estate proceeding shall be timely filed with the Clerk of the Court.**

LOCAL PROBATE RULE 3

Bond

3.1 **In every Estate and Guardianship, the fiduciary, prior to the issuance of letters, shall file a bond not less than the value of the personal property to be administered, plus the probable value of annual rents and profits of all property of the estate in such amount as shall be set by the Court, except as hereafter provided:**

(a) Where, under the terms of the Will, the testator expresses and intention that the bond be waived, the Court shall set a bond adequate to protect creditors, tax authorities, and devisees.

(b) Where the fiduciary is an heir or legatee of the estate, the bond may be reduced by said fiduciary's share of the estate.

(c) Where the heirs or legatees have filed a written request that the fiduciary serve without bond, the bond may be set in the amount adequate to protect the rights of the creditors and tax authorities only.

(d) No bond shall be required in any supervised estate or guardianship in which a corporate banking fiduciary qualified by law serves as a fiduciary.

3.2 **In lieu of a bond as required by Rule 3.1, a fiduciary 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 HENDRICKS SUPERIOR COURT No.___ of Danville, Indiana.

3.3 **The fiduciary shall file the following with the Clerk of the Court:**

(a) Prior to the issuance of letters, the fiduciary's attorney shall execute and Attorney's Undertaking for the said assets, a copy of which is attached as an appendix to these local rules.

(b) A certification by an officer of the financial institution at which the account has been created, stating that the account is restricted as required by the Court, shall be filed with the Court within ten (10) days of the Order authorizing the creation of the account.

3.4 All petitions to open an estate or guardianship shall set forth the probable value of the personal property plus the estimated annual rents and profits to be derived from the property in the estate or guardianship.

3.5 The name and address of the insurance agency providing the corporate surety shall be typed or printed on all corporate bonds in any estate or guardianship.

LOCAL PROBATE RULE 4

Inventory

4.1 An inventory shall be filed by the fiduciary in all estates and guardianships as follows: Supervised estates, within sixty (60) days; Guardianships, within ninety (90) days for permanent guardians and within thirty (30) days for temporary guardians. All times relate to the date of appointment of the fiduciary.

4.2 In the event a partial inventory is filed, all subsequent inventories must contain a recapitulation of prior inventories.

LOCAL PROBATE RULE 5

Real Estate

5.1 In all supervised estates and guardianships in which real estate is to be sold, a written appraisal prepared by a professional real estate appraiser shall be filed with the Court at the time of filing the Petition for Sale, unless such appraisal was filed with the Inventory. Such written appraisal shall include as a minimum the following elements:

(a) A brief description of the property interest being appraised, including the full legal description thereof.

(b) Purpose or objective of the appraisal.

(c) Date for which Fair Market Value is determined.

(d) Data and reasoning supporting the Fair Market Value.

(e) Fair Market Value determined.

(f) Statement of assumptions and special or limiting conditions.

(g) Certification of disinterest in real estate.

(h) Signature of the appraiser.

5.2 All appraisals required by Rule 5.1 shall be made within one year of the date of the Petition for Sale.

5.3 All deeds submitted to the Court for approval in either Estate or Guardianship proceedings shall be signed by the fiduciary and the signature notarized prior to its submission. All such deeds shall be submitted with the Report of Sale of Real Estate or at the time of the hearing on the Final Account. A copy of such deeds shall be filed with the Court for its records.

5.4 Whenever a Final Decree reflects that real estate has vested in heirs or beneficiaries, the Decree shall be recorded with the County Recorder of the County where any such real estate is located and evidence of said recording shall be provided to the Court with the Supplemental Report.

LOCAL PROBATE RULE 6

Sale of Assets

6.1 In all supervised estates and guardianships, no Petition to Sell Personal Property shall be granted unless a written appraisal, prepared by a person competent to appraise such property, setting forth the fair market value thereof, is filed with the Court at the time of the filing of the Petition to Sell, unless such appraisal was filed with the Inventory. This rule shall not apply to personal property that is sold at public auction.

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

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

LOCAL PROBATE RULE 7

Claims

7.1 Five (5) months and fifteen (15) days after the date of the first published notice to creditors, the fiduciary, or the fiduciary's attorney, shall examine the Claim Docket and shall allow or disallow each claim filed against the estate.

LOCAL PROBATE RULE 8

Accountings

8.1 **Whenever an estate cannot be closed within one (1) year, an intermediate account shall be filed with the Court within thirty days after the expiration of one (1) year and each succeeding year thereafter. Such accounting shall comply with the provisions of I.C. 29-1-16-4 and 29-1-16-6 and:**

(a) Shall state facts showing why the estate cannot be closed and an estimated date of closing.

(b) Shall propose partial distribution of the estate to the extent that partial distribution can be made without prejudice to the distributees and claimants.

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

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

8.4 **In all supervised estate and guardianship accountings, vouchers, receipts, or cancelled (or copies of) checks for the expenditures claimed shall be filed with the accounting. No affidavits in lieu of vouchers or cancelled checks will be accepted from individual personal representatives and guardians. An affidavit in lieu of vouchers may be accepted by the Court from a State or federally-chartered financial institution which serves as fiduciary, provided the fiduciary retains the vouchers on file or by electronic recording devise. The Court may require the fiduciary to provide a certification from its Internal Audit Department verifying the accuracy of the accounting. Such vouchers shall be made available to interested persons upon Court Order.**

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

EXAMPLE:

Local Drugs – toiletries for incapacitated person
Dr. John Jones
Sam Smith – repair roof to incapacitated person's residence (give address)
Tendercare Nursing Home

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

8.7 **Receipts or cancelled (or copies of) checks for all final distributions shall be filed either in the final report, or a supplemental report, before discharge will be granted by the**

Court.

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

8.9 **All Court costs shall be paid, all claims satisfied and released, and a Clerk's Certification presented to the Court before the hearing on the final account.**

8.10 **The Federal Estate Tax Closing letter and the Indiana Inheritance Tax Closing Letter (or the counter-signed receipt) or a photocopy thereof, showing payment of all Federal Estate and/or Indiana Inheritance Tax liability in the Estate, executed by the Internal Revenue Service or the Indiana Department of State Revenue, shall be attached to the Final Report at the time of filing.**

8.11 **When an individual has been appointed to handle the financial affairs of protected person, an accounting shall be filed within thirty (30) days after the first anniversary of the date the Guardianship letters were issued. Thereafter, unless a contrary order is issued by the Court, all accountings shall be filed biennially.**

LOCAL PROBATE RULE 9

Fees of Attorneys and Personal Representatives

9.1 **No fees for fiduciary or attorney shall be paid out of any supervised estate or guardianship without prior written Order of the Court.**

9.2 **All Orders for fees in estates shall provide that said fees are to be paid only after approval of the final account.**

9.3 **A guardian or guardian's attorney may petition for fees at the time of filing an inventory. Other than as provided hereafter, no further petitions for fees may be filed until a biennial, annual, or final accounting has been filed. When unusual items of substantial work occur during the proceedings, the Court may consider a petition to allow fees for such services.**

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

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

9.6 **All petitions for fees for the attorney and/or fiduciary shall conform to thefee guideline set forth in** APPENDIX A **and shall specifically set forth all services performed in detail as well as the amount of the fee requested and how it has been calculated.**

9.7 **Unjustified delays in carrying out duties by the fiduciary and/or attorney will result in a reduction of fees.**

LOCAL PROBATE RULE 10

Unsupervised Administration

10.1 **No petition for administration without Court supervision shall 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).**

10.2 **All Court costs shall be paid, all claims satisfied and released, and a Clerk's Certification presented to the Court on or before the date of the filing of the Closing Affidavit.**

10.3 **The Federal Estate Tax Closing letter and the Indiana Inheritance Tax Closing Letter) or the counter-signed receipt) or a photocopy thereof, showing payment of all Federal Estate and/or Indiana Inheritance Tax liability in the Estate, executed by the Internal Revenue Service or the Indiana Department of State Revenue, shall be attached to the Closing Affidavit at the time of filing.**

LOCAL PROBATE RULE 11

Guardianships

11.1 **In all guardianship matters seeking to declare an adult incapacitated for any reason, a Physician's Report by the doctor <u>treating</u> the alleged incapacitated person and such <u>additional</u> evidence as the Court shall require, shall be presented to the Court at the time the petition is filed or on the hearing date. No determination will be made without a supporting medical report or testimony.**

11.2 **Current reports filed by a guardian of the person shall state the present residence of the incapacitated person and his general welfare. If the incapacitated person is an adult, an affidavit of a treating physician shall be filed with the current report, verifying that the incapacity of the person remains unchanged since the date the guardianship was established or the date of the last current report and that the living arrangement for the incapacitated person is appropriate.**

11.3 **In every petition for the appointment of a guardian of the person of a minor child, the following information shall be given:**

(a) The child's present address.

(b) The places where the child has lived within the past two years and the names and present addresses of person

with whom the child has lived during that period.

(c) Whether, to Petitioner's knowledge, any person not a party to the guardianship proceedings has physical custody of the child or claims to have custody or visitation rights with respect to the child.

(d) Whenever a Petition for Guardianship of a minor child is filed, the petition shall list every adult person residing on the home of the petitioner. Every adult residing in the home of the petitioner shall sign a Waiver and Consent to Release Confidential Information and file the same with the Petition.

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

11.5 Other than for routine matters, the Guardian shall obtain Court approval prior to taking any action on any financial matter pertaining to carrying out the Guardian's duties and responsibilities for the protected person.

LOCAL PROBATE RULE 12

Waiver of Notice of Inheritance Tax Appraisal

12.1 Waivers of notice of the time and place of the appraisal of each property interest of a decedent for inheritance tax purposes and of the hearing on the appraisal report shall be filed on or before the date upon which the Schedule of All Property is filed.

12.2 Such waivers of notice shall be signed by each person known to have an interest in the property interests to be appraised, and by any person designated by the Court. A waiver filed by an entity other than an individual shall state the capacity of the person who has signed for such entity.

12.3 A waiver signed by an attorney or another person on behalf of a person who is entitled to notice under I.C. 6-4.1-5-3 and I.C. 6-4.1-5-9 shall include a copy of the power of attorney, letters of guardianship or other authority for the signer to act on behalf of such person; in the event that the interested person is a minor, the waiver shall include a statement of the relationship of the signer to the minor.

PROBATE FEE GUIDLINE

The following is a maximum fee guideline that the Court will utilize to determine appropriate attorney and personal representative fees in supervised estates, guardianships, trusts, and wrongful death administration. The guideline is intended to cover usual and ordinary services that are incurred in the administration of the probate proceedings and is to be applied to all charges as shown on the final account. In an uncomplicated case, fees requested should be less than the maximum fees listed in the schedule. If an attorney is required to do extraordinary work, the additional fees commensurate with the services rendered may be charged according to the circumstances prevailing in each individual matter. Fee petitioners requesting extraordinary fees must set forth services rendered with specificity. All fees should bear a reasonable relationship to the services rendered.

In utilizing the guideline, the Court will consider the following criteria:

1. The time and labor required; the novelty, complexity, or difficulty of the issues involved, and the skill requisite to perform the services properly. This includes a determination as to how much of the attorney's time was devoted to legal matters and how much of it was devoted to ministerial functions;
2. The nature and extent of the responsibility assumed by the attorney and the results obtained. Included herein are considerations of the identity of the personal representative and the character of the probate assets;
3. The sufficiency of assets properly available to pay for legal services. Inherent herein is whether the attorney's duties are expanded by the existence of the non probate assets because of their inclusion for tax purposes, both federal and state.
4. The timeliness with which the necessary services are performed consistent with statutory requirements, the Court's rules of procedure, and the applicable Rules of Professional Conduct.

NO PERSONAL REPRESENTATIVE, GUARDIAN, OR ATTORNEY FEES SHALL BE PAID WITHOUT WRITTEN COURT ORDER

DECEDENT'S ESTATES

Attorney Fees

10% of the first	$20,000.00
7% of the next	$25,000.00
5% of the next	$50,000.00
4% of the next	$100,000.00
3% of the next	$400,000.00
1% of the assets in excess of	$1,000,000.00

Personal Representative

1. Professional: Applicable reasonable, rate established by the

personal representative to be reviewed in light of all of the circumstances.

2. Nonprofessional: Not more than 1/3 of the attorney fees.
3. Whenever the attorney for the estate serves as the personal representative, personal representative fees not in excess of one-third (1/3) of the attorney fees, provided:
4. Additional services have been performed which are normally done by the personal representative; and
5. Assets of the estate warrant the allowance of additional fees.

GUARDIANSHIPS

Attorney Fees

1. All services at $150.00 per hour, if assets warrant.
2. Fee petitions must set forth services rendered with specificity.

Guardian Fees

1. Professional: Applicable reasonable rate established by the guardian to be reviewed in light of all of the circumstances.
2. Nonprofessional: Up to $25.00 per hour if assets warrant. Hourly amount allowed will be determined by the nature and complexity of the service performed.

TRUSTS

Attorney Fees

1. All other services at $150.00 per hour, if assets warrant.

2. Fee petitions must set forth services rendered with specificity.

Trustees Fees

1. Professional: Applicable reasonable rate established by the

guardian to be reviewed in light of all of the circumstances.

2. Nonprofessional (same as above for guardianships)

WRONGFUL DEATH-ADMINISTRATION

Fees not to exceed:

Settlement prior to filing	25%
Settlement after filing and prior to trial	33.3%
Trial	40%
Appeal, or extra work	50%

No contract with personal representative which exceeds guideline will be approved by the Court.

FILING OF FEE PETITION

Before any fees are paid, a petition for allowance of such fee shall be filed and determined by the Court. A request for fees will be considered only under the following circumstances:

Estates:

1. When the Inheritance Tax Petition is ready to be filed; or
2. When a petition to find no tax due has been approved; or
3. When necessary for purposes of an estate fiduciary income tax deduction; or
4. Under extraordinary circumstances.

Guardianships and Trusts:

1. After the filing of the inventory, and
2. With the filing of each bi-annual accounting, and
3. With the filing of a final accounting.

UNSUPERVISED ESTATES

The Court will not determine and allow fees in an unsupervised estate.

LIMITATION ON FEES

The combined total of the fees allowed to the personal representative and attorney for the administration of an estate shall not exceed ten percent (10%) of the decedent's gross estate.

This maximum fee guideline is effective in Hendricks Superior Courts beginning January 1, 2002.