LOCAL RULE COVERSHEET

This coversheet must be attached or included with all local rule submissions to the Division of State Court Administration.

County: Henry

Courts Included: Circuit and Superior

Contact Name / Phone Number: Hon. Mary G. Willis, Judge, Henry Circuit Court/765-529-1403

Are the attached rules:

- ☐ Previously enacted with no changes and submitted solely for posting to the Internet;
- ☐ Newly revised or redrafted and submitted for posting to the Internet and comment;
- XX A mixture of prior rules and new revisions.

Do any of the rules contained in this packet:

XX Make changes to local rules pursuant to Crim.R. 2.2

XX Make changes to local rules pursuant to Trial.R. 79

XX Make changes to local rules with respect to caseload allocation and Weighted Caseload

XX Make changes to local rules for court reporters pursuant to Admin.R. 15

HENRY COUNTY

LOCAL RULES

CIRCUIT AND SUPERIOR COURTS

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RULES OF CIVIL AND CRIMINAL PRACTICE AND PROCEDURE
CIRCUIT AND SUPERIOR COURTS
HENRY COUNTY, INDIANA

Local Rules of Trial Procedures

LR33-TR3.1-1 APPEARANCES

(A) FILING. Properly completed and signed appearance forms shall be filed in all actions pursuant to Indiana T.R. 3.1. An appearance, on the prescribed form, must be filed with the court to represent a party at a hearing and to receive notices from the Court. Each pleading, motion or other document filed, shall clearly identify the name, attorney number, address, telephone number and facsimile number of the attorney (if facsimiles are accepted), attorneys or pro se litigant filing the same and shall designate the party for whom an attorney appears. The Clerk shall note all appearances on the Chronological Case Summary (hereinafter referred to as the CCS).

(B) PETITIONS TO WITHDRAW Counsel desiring to withdraw an appearance in any pending action shall file a petition requesting leave of Court to do so. Permission to withdraw shall be given only after the petitioning attorney has given his or her client ten (10) days written notice of the intent to withdraw. A copy of said written notice shall be attached to the petition. The written notice to the client shall contain the client's complete mailing address and shall explain to the client that failure to secure new counsel or appear may result in dismissal of the client's case or in the rendering of a default judgment, and shall further delineate other pertinent information such as any pending trial date, hearing date and any pleading, discovery or other pre-trial deadline(s).

(C) PETITIONS ACCOMPANIED BY APPEARANCE OF OTHER COUNSEL. A petition to withdraw appearance, accompanied by the proper appearance of other counsel, or where one has been recently filed, shall constitute a waiver of the requirements of (B) of this rule.

(D) TENDERED ORDER. At the time of filing a petition to withdraw, counsel shall tender to the Court an order granting the petition and ordering the relief sought with sufficient addressed envelopes to non-local attorneys and any unrepresented parties.

LR33-TR4.15 ELECTRONIC RETURN RECEIPT

The Henry County Clerk shall be authorized to utilize a process for return of certified mail through an electronic version in accordance with USPS Postal Bulletin 22137 as an electronic return receipt. The Courts hereby designate this means of service as meeting the requirements of the Trial Rules governing service.

LR33-TR6-1 MOTIONS - FOR ENLARGEMENT OF TIME

(A) INITIAL MOTIONS. An initial written motion for enlargement of time to respond to a claim, pursuant to T.R. 6(B)(1), shall be automatically granted, allowing an additional thirty (30) days from the original due date.

(B) SUBSEQUENT MOTIONS. Any subsequent motions for enlargement of time to respond to a claim, pursuant to T.R. 6(B)(1), shall be supported with a written statement of specific reasons why a second or subsequent extension is required. Further, the motion shall clearly indicate in the heading that is a second, third etc., motion for enlargement of time. The Court, upon its own discretion, may allow opposing counsel an opportunity to respond to subsequent motions for enlargement of time.

(C) CONTENTS OF MOTION. Any motion filed pursuant to this rule shall state the date when such response is due and the date to which time is requested to be enlarged. If the motion is not filed on or before the original due date it shall state specific reasons why it is not timely.

(D) TENDER OF ORDER. All motions for enlargement of time shall be accompanied by a tendered order sustaining same. The order tendered upon initial motions for enlargement of time shall recite the specific date, 30 days in advance, to which the time is extended. Subsequent motions for enlargement of time shall contain appropriate blank date lines for the Court's completion.

LR33-TR7-1 MOTIONS - GENERAL

(A) NOTICE. When a motion requires notice of hearing, a Notice of Hearing form shall be provided. The time and date of hearing shall be left blank and fixed by the Court unless previously arranged with Court staff.

(B) HEARINGS ON MOTIONS. As a general rule, hearings on motions will not be scheduled unless required by the Indiana Rules of Civil Procedure, e.g., Summary Judgment. All hearings set on motions, other than those required by the Rules of Civil Procedure, shall be within the discretion of the Court and may be set on the Court's own motion or upon the request of any party unless the Court deems a hearing to be necessary.

Where hearings upon motions are required by the Indiana Rules of Civil Procedure, the Court will set hearing upon said motions at the time of filing. Parties may, however, waive hearing upon said motions by filing with the Court, simultaneous with said filing, a written "WAIVER OF HEARING" upon a page separate from and not incorporated in the pleading or motion. Where a hearing has been set, if all parties consent to a waiver of hearing, the hearing will be stricken.

(C) REQUEST FOR HEARINGS. Any party may request hearing upon a motion, but the granting of a hearing is discretionary with the Court, except where required by the Indiana Rules of Civil Procedure. When a hearing is requested, the request shall be made by filing with the Court a written "REQUEST FOR HEARING" upon a page separate from and not incorporated in a pleading or motion. Requests for hearing should be made in proper pleading form and not by correspondence

to the Court Administrator.

LR33-TR10-1 PREPARATION OF PLEADINGS, MOTIONS AND OTHER DOCUMENTS

(A) TITLES AND SUB-TITLES. All pleadings and orders shall be titled to delineate each topic included in the pleading, and further specificity shall be provided by placing subtitles within the body of the pleading, e.g., where a pleading contains an Answer, a Counterclaim, a Cross-claim, a Motion to Dismiss, a Motion to Strike or a Jury Request. The abbreviation (H.I.) should not be used in pleadings.

(B) SIGNATURES AND REQUIRED INFORMATION. Neither typewritten signatures nor facsimile signatures shall be accepted on original documents. Facsimile signatures are, however, permitted on copies and facsimile filing. All pleadings shall contain the written signature and attorney number of the individual attorney, his or her printed signature, the name, if appropriate, of the law firm, complete address and telephone number (including zip and area codes respectively), and a designation as to the party for whom he or she appears.

(C)NUMBER OF COPIES. All documents submitted to the Court shall be accompanied by sufficient copies to provide retention of the original by the Clerk (plus one additional copy of orders for retention in the RJO) and copies for all parties or attorneys of record with stamped envelopes. Adequate copies must be furnished where a request is made for service by law enforcement authorities, i.e., protective orders.

(D) COPIES TO SPECIAL JUDGE. In the event a Special Judge is selected, and appointed, the Clerk shall notify such Judge of the appointment, shall furnish such Judge with copies of all pending pleadings and forward the same to the Special Judge, as well as a copy of the CCS pertaining to the cause. Once a Special Judge has qualified, parties shall mail or deliver to the Special Judge, copies of all pleadings, motions, briefs or other papers filed thereafter with a certificate of forwarding same made a part of the original documents.

(E) REPRODUCTIONS. Xeroxed, printed, photocopies and form pleadings will be accepted only if clearly typed or printed and are legible, understandable and unaltered by strikeover or erasures and in compliance with section (A) of this Rule.

LR33-TR12-1 MOTIONS - RULE 12

(A) BRIEFS. All motions filed pursuant to T.R. 12 (Motions to Dismiss, Motion to Strike etc.) shall be accompanied by a brief. An adverse party shall have 15 days after service of the movant's brief to file an answer brief. Failure to timely file briefs shall subject all motions filed pursuant to T.R. 12 to summary ruling.

(B) EXTENSIONS OF TIME. All requests for extensions of time for filing briefs or similar

action shall be timely filed and shall be accompanied by a tendered order with sufficient copies as prescribed in Rule 3.

LR33-TR16-1 CIVIL PRE-TRIAL CONFERENCES

(A) REQUIREMENT. A Pre-Trial Conference shall be conducted by the Court in civil cases pursuant to the following rules:

(1) In Cases Triable by Jury: Upon motion of any party; or upon order of the Court.

(2) In Cases Triable by the Court: Within the sole discretion of the Court. A party may request a Pre-Trial Conference in a case triable by the Court, but shall specifically state reasons in said request.

(B) CONFERENCE OF ATTORNEYS. The Conference of Attorneys provided for in Trial Rule 16(C) is encouraged, but not required. In the event a Conference of Attorneys is held, plaintiff's counsel shall prepare, in advance of the Pre-Trial Conference, a statement regarding the conference of attorneys and forward same to opposing counsel for their approval. Said statement shall then be filed with the Court at the time of the Pre-Trial Conference.

(C) ORDER FOR PRE-TRIAL CONFERENCE. Notice of the setting of the Pre-Trial Conference shall be given by written order of the Court.

(D) MEANS OF CONDUCTING CONFERENCE. The Court shall designate within the text of the Order for Pre-Trial Conference whether the conference is to be held by telephone or by personal appearance in Court by counsel of record for the parties. The Court will encourage Pre-Trial Conferences by telephone. It shall be the obligation of the plaintiff to place the call and to coordinate same with opposing counsel.

(E) AGENDA. The Court ~~shall~~ may attach to the Order for Pre-Trial Conference a written agenda delineating matters to be considered at the Pre-Trial Conference. The Pre-Trial Conference will be held pursuant to that agenda and the provisions of T.R. 16. Counsel shall be prepared to address those matters contained in the agenda at the Pre-Trial Conference.

(F) PRE-TRIAL ORDER. Following the Pre-Trial Conference, the Court may request that counsel prepare and tender a proposed Pre-Trial Order or, in the alternative, the Court itself may prepare and forward to counsel a Pre-Trial Order. In all cases, however, the letter and intent of such Pre-Trial Order shall be strictly complied with by all counsel and parties.

LR33-TR26-1 CIVIL DISCOVERY RULES

(A) USE OF COPY. In the event it is made to appear to the satisfaction of the Court that the original of a deposition or request for discovery or response thereto cannot be filed with the Court when required, the Court may allow use of a copy instead of the original.

(B) MOTIONS TO SHORTEN TIME TO RESPOND. A motion requesting that the Court shorten the time period for response to discovery shall specifically set forth reasons for the request. Any such motion shall be accompanied by a tendered order containing blank lines for the Court's use in establishing the response date. Such motions shall specifically set forth why the shortened response time is necessary. Lack of diligence on the part of the requesting party may result in a summary denial of the request.

LR33-TR26-2 SIGNATURES AND CERTIFICATION.

For discovery filed with the Court in seeking sanction or an order compelling, every request for and response to discovery shall be signed by a party as required by the Indiana Rules of Civil Procedure and shall further be signed by at least one attorney of record in his or her individual name. A party who is not represented by an attorney shall sign the request or response and state his or her specific address and phone number. Signature(s) shall constitute a certification that the signing person(s) has read the request or response and that, to the best of that person's knowledge, information and belief formed after a reasonable inquiry, such request, answer or objection is:

(1) warranted by existing law or constitutes a good faith attempt to extend, modify or reverse existing law;

(2) for no improper purpose, such as harassment, unnecessary delay or needless increase in the cost of litigation; and

(3) not unreasonable, unduly burdensome or expensive, given the needs of the case, the prior discovery in the case, the amount in controversy, and the importance of the issues at stake in the litigation.

Upon the failure to certify a request or response, or certification which is in violation of this Rule, the Court, on motion of party or upon its own initiative, may impose appropriate sanctions.

LR33-TR26-3 DISCOVERY CONFERENCE AND DISCOVERY MATERIALS.

(A) DISCOVERY CONFERENCE. At any time after commencement of an action, the Court may direct the attorneys for the parties to appear before it for a conference on the subject of discovery. The Court may do so upon motion by the attorney for any party if the motion is accompanied by a discovery plan which includes:

(1) A statement of the issues as they then appear;

(2) A proposed schedule of discovery;

(3) Any limitations proposed to be placed on discovery;

(4) Any proposed orders with respect to discovery; and

(5) A statement showing that the attorney making the motion has made a reasonable effort to reach agreement with opposing attorneys on the matters set forth in the motion. Each party and his attorney are under a duty to participate in good faith in the framing of a discovery plan proposed by the attorney for any party. Notice of the motion shall be served on all parties. Objections or additions to matters set forth in the motion shall be served no later than ten (10) days after service of the motion.

(B) DISCOVERY CONFERENCE ORDER. Subsequent to the conference, the Court will enter a discovery conference order which will encompass the following:

(1) A tentative identification of the issues;
(2) Plan and schedule for discovery;
(3) Recitation of limitations, if any, on discovery;
(4) Allocation of expenses, as may be deemed necessary for the proper management of discovery in the action;
(5) Any other matters relating to discovery.

A Discovery Conference order may be altered or amended when justice requires.

LR33-TR32-1 DEPOSITIONS

(A) VIDEOTAPES. Subject to the Court's right to impose sanctions pursuant to T.R. 37, all videotapes and any expense incurred in placing said tapes in evidence at the time of trial shall be paid for by the moving party and not be taxed as Court costs. When videotapes are offered into evidence, the offering party shall file with the Court a transcript of the testimony contained therein.

(B) AGREED USE OF DEPOSITIONS IN LIEU OF TESTIMONY AT TRIAL. Attorneys frequently express the opinion or belief that depositions are taken for discovery purposes only, the concept of "discovery deposition" does not exist in the trial rules. The Court, however, desires to encourage the taking of depositions with the anticipation that they may be used in lieu of oral testimony at time of trial. In the event an agreement to use depositions in such manner is reached, pursuant to T.R. 32(A)(3)(f), such agreement shall be noted within the context of the deposition. This rule is not to be construed as a limitation on the use of depositions at trial under those circumstances delineated in T.R. 32(A)(3).

LR33-TR33-1 INTERROGATORIES

(A) NUMBER LIMITED. Interrogatories propounded pursuant to T.R. 33 shall be limited in number to a total of twenty-five (25) with no more than four (4) subparagraphs per interrogatory. Subparagraphs shall relate directly to the subject matter of the interrogatory. Interrogatories shall be used solely for the purpose of discovery and shall not be used as a substitute for the taking of a deposition. For good cause shown, and upon leave of Court first obtained, additional interrogatories may be propounded.

(B) ANSWERS AND OBJECTIONS. Answers and objections to interrogatories under T.R. 31 or 33 shall set forth in full the interrogatories being answered or objected to immediately preceding the answer or objection with the interrogatory numbers identified.

(C) INTERROGATORIES NUMBERED AND DUPLICATED FORMS. All interrogatories shall be consecutively numbered and be applicable to the cause in which the same are filed and served. No Xeroxed or otherwise duplicated forms containing interrogatories shall be served unless they

comply with the provisions of this Rule.

LR33-TR37-1 MOTIONS TO COMPEL

(A) DISCOVERY AND PRODUCTION OF DOCUMENTS. The Court encourages cooperation of counsel in effecting informal discovery and compliance with discovery requests in a timely manner.

(B) TENDERED ORDER. A motion to compel discovery shall be accompanied by a tendered order compelling discovery with blank date lines for use by the Court in setting a deadline for compliance.

(C) AWARD OF EXPENSES OF MOTION PURSUANT TO T.R. 37(A)(4). A party who seeks an award of expenses or attorney's fees in conjunction with the filing of a Motion to Compel, shall make said request in a separate written petition. The petition will not, however, be summarily granted. The opposing party shall have a period of ten (10) days after service of the petition in which to respond and request a hearing.

A failure to respond may result in a summary granting of the petition. The Court may, however, in its discretion, set hearing upon any such petition and response.

(D) CONTENT OF MOTIONS TO COMPEL AND RESPONSES.

(1) Motions to Compel. All motions to compel discovery shall contain the precise question or request propounded and the responsive answer or objection.

(2) Responses to Motions. All responses to motions to compel discovery shall set forth the respective question or request propounded and the response or objection. Additionally, a recitation of the legal grounds in support of the response shall be provided.

(3) Summary Ruling. Motions to compel and responses or objections which merely make reference to the moving party's discovery motion and the opposing party's response or objection shall be subject to summary ruling.

LR33-TR52-1 FINDINGS OF FACT AND CONCLUSIONS OF LAW

In all cases where counsel has requested findings of fact and conclusions of law under Trial Rule 52, counsel shall be required to submit proposed findings and conclusions both in written form and on disc formatted for Word Perfect.

LR33-TR53.5-1 CONTINUANCES.

(A) GENERAL. Motions for continuance are discouraged. Parties are not entitled to

continuances as a matter of right, and the granting of a continuance for one party does not entitle opposing parties to a continuance as a matter of right.

(B) MOTION. A Motion for Continuance, unless made in open Court, shall be in writing and verified unless the Court directs otherwise. The motion shall set forth the date and time of the existing hearing and the specific reasons for the requested continuance. A motion which contains only general assertions, e.g., "Unavailability" or "other commitments", with no additional specificity may be subject to summary denial.

(C) SIGNING REQUIREMENT BY PARTY TO SUIT. The Court may require any written Motion for Continuance to be signed by the party requesting the continuance in addition to counsel.

(D) TIME FOR FILING. Motions for Continuance shall be filed as soon after the cause for continuance is discovered by the party seeking same, and no later than five (5) business days before the date assigned for trial, unless the reasons therefor are shown by affidavit to have occurred within said five (5) day period. Faxed motions for Continuance filed less than five days prior to a hearing and which are contested by the opposing party must state an emergency basis for continuance or are subject to summary denial.

(E) CONSULTATION WITH OPPOSING COUNSEL. Prior to filing a Motion for Continuance, the movant's counsel shall contact all opposing counsel of record and apprize them of the fact that a continuance will be sought and the reasons for the same. A Motion for Continuance shall recite that a consultation was sought and the position of opposing counsel to the sought continuance. Mere statements that attempts to reach opposing counsel have been unsuccessful without showing specific followup attempts may result in a summary denial of the motion.

(F) BY AGREEMENT OF COUNSEL. Where all counsel of record agree to the continuance, such agreement shall be submitted to the Court in a denominated "Agreed Motion for Continuance" signed by all counsel of record or by recitation within the text and title of the Motion that all counsel agree. Agreed Motions should be filed at least seven (7) days before the date of the hearing where feasible in order to permit the Court to schedule other matters.

(G) PAYMENT OF COSTS. The Court, in its discretion, may assess any costs and expenses necessarily incurred by the Court or parties as a result of continuances or delays.

(H) TENDER OF ORDER. All Motions for Continuance shall be accompanied by a tendered order sustaining same. The order shall identify the date and time of the existing hearing to be vacated and reset and contain appropriate blanks for the continued hearing to be completed by the Court.

LR33-TR56-1 MOTIONS - SUMMARY JUDGMENT.

(A) MOTIONS FOR SUMMARY JUDGMENT - BRIEFS. Motions for Summary Judgment

shall be accompanied by a brief. An adverse party shall have thirty (30) days after service of the movant's brief to file an Answer brief and any opposing affidavits. Extensions of time for filing briefs shall be granted only by order of the Court.

(B) MATERIAL IN SUPPORT OF AND IN OPPOSITION TO SUMMARY JUDGMENT. At or prior to the time of filing a Motion for Summary Judgment and Brief in support thereof or an opposing brief, counsel shall insure, that all supporting or opposing materials, including affidavits, are made a part of the record in the cause.

(C) BRIEFS. Briefs in support of and in opposition to Motions for Summary Judgment shall make specific reference to materials relied upon to support or oppose the Motion. Wherever feasible, copies of said materials should be attached to the respective briefs of the parties. When reference is made in a brief to a pleading, counsel shall indicate to the Court the filing date of said pleading. When reference is made to interrogatories or deposition, copies of the pertinent questions and answers shall be attached to the brief. Failure to comply with the provisions of this rule shall subject such motions and responses to summary ruling.

(D) TIME FOR FILING MOTIONS. Although the rules of civil procedure permit early filing of Motions for Summary Judgment, counsel should refrain from filing Motions for Summary Judgment until discovery is sufficiently complete to permit a proper assessment of the Motion and Response. When Motions for Summary Judgment are prematurely filed, the Court may delay ruling and hearing thereon until a time subsequent to the Pre-trial Conference.

(E) WAIVER OF HEARING. The provisions of Rule 4(C) hereof, permitting waivers of hearings, shall apply to Motions for Summary Judgment.

(F) UNTIMELY MOTIONS FOR SUMMARY JUDGMENT. Due to congestion of Court calendars, any Motion for Summary Judgment filed less than thirty (30) days before the trial may not be considered by the Court.

(G) PARTIAL SUMMARY JUDGMENT.

(1) Any Motion for Partial Summary Judgment shall be accompanied by proposed findings of fact and conclusions of law.

(2) Responses to Motions for Partial Summary Judgment shall similarly be accompanied by proposed findings of fact which reflect the genuine issues which a party contends exist in a cause.

(3) Each finding shall be accompanied by specific reference to the material that supports said finding.

(4) Conclusions of law shall make reference to statutory or case citations supporting same.

The Court reserves the right to request proposed findings of fact and conclusions of law when it determines that pursuant to the filing of a general Motion for Summary Judgment, a Partial Summary Judgment may be in order.

LR33-TR73-1 TELEPHONE CONFERENCING.

(A) PURPOSE AND SETTING. In order to expedite the Court's business, the Court encourages in conjunction with Trial Rule 73, the use of telephone conferencing for the hearing of motions, for the conducting of Pre-Trial Conferences and for other matters which may be reasonably conducted by use of telephone and shall be set at the discretion of the Court upon the Court's motion or upon request of a party.

(B) HEARING ON MOTIONS. Within ten (10) days after receipt of the notice of hearing, any party may request that the Court conduct the hearing in a manner different from that established in the notice. In the event, the Court sets hearing upon a motion by means of a telephone conference, it shall be the obligation of the party requesting their appearance by telephone, or moving party, to arrange and place the call at the time designated by the Court.

(C) SANCTIONS. Should the Court elect to set hearing upon motions for Pre-Trial conference by telephone, all counsel shall treat said setting as if the hearing or conference was to be conducted in open Court. Therefore, the Court reserves the right to order payment of the telephone call or of attorneys' fees in the event it determines that abuses have occurred in that counsel have failed or refused to cooperate in the placement of or coordination for said call.

LR33-TR79-1 SPECIAL JUDGE IN CIVIL AND JUVENILE CASES.

Pursuant to Trial Rule 79(H) of the Indiana Rules of Trial Procedure, the Circuit and Superior Courts of Henry County adopt the following rule for the selection of special judges in civil and juvenile cases.

In civil cases and in the absence of 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 select (on a rotating basis) one of the judges from the following available panel of judges from this and contiguous counties (omitting the judge from whom change of venue is being taken):

a. Presiding Judge, Henry Circuit Court.
b. Presiding Judge, Henry Superior Court No. 1.
c. Presiding Judge, Henry Superior Court No. 2.
d. Presiding Judge, Hancock Circuit Court
e. Presiding Judge, Hancock Superior Court 1
f. Presiding Judge, Rush Circuit Court
g. Presiding Judge, Rush Superior Court
h. Presiding Judge, Randolph Circuit Court
i. Presiding Judge, Randolph Superior Court

In the event that a special judge selected from the rotating list should decline appointment then the regular sitting judge shall select (on the rotating basis) the next judge on the list. In the event that no judicial officer within the above list is eligible to serve as special judge or the particular

circumstances of the case warrant selection of a special judge by the Indiana Supreme Court, the judge of the Court in which the case is pending shall certify the matter to the Indiana Supreme Court for appointment of a special judge.

In juvenile cases, should none of the above methods produce a special judge, the regular sitting judge shall transfer the cause to the remaining Henry County judge exercising juvenile jurisdiction unless one of the parties objects. The available panel of judges from Henry County exercising juvenile jurisdiction consists of the following:

a. Presiding Judge, Henry Circuit Court.
b. Presiding Judge, Henry Superior Court No. 1.

In juvenile cases, and in the absence of agreement as to a particular special judge or an agreement to have the regular sitting judge appoint a special judge or transfer as set forth herein, the regular sitting judge shall select (on a rotating basis) one of the judges from the following available panel of judges from contiguous counties:

a. Presiding Judge, Hancock Circuit Court
b. Presiding Judge, Wayne Superior Court No. 3
c. Presiding Judge, Rush Circuit Court
d. Presiding Judge, Madison Superior Court No. 2
e. Presiding Judge, Randolph Circuit Court

In the event that a special judge selected from the rotating list should decline appointment then the regular sitting judge shall select (on the rotating basis) the next judge on the list. In the event that no judicial officer within the above list is eligible to serve as special judge or the particular circumstances of the case warrants selection of a special judge by the Indiana Supreme Court, the judge of the Court in which the case is pending shall certify the matter to the Indiana Supreme Court for appointment of a special judge.

The Henry County Clerk shall maintain separate civil and juvenile lists, in the order of rotation as set forth in this rule, from which the regular sitting judge can determine the appropriate appointment in civil and juvenile cases.

RULES OF CRIMINAL PROCEDURE

LR33-CP00-1 CRIMINAL CASE ASSIGNMENT

All misdemeanors cases not filed in Knightstown Town Court and involving misdemeanors only shall be filed in Henry Superior Court No. 2. All Class D felonies shall be filed in Henry Superior Court No. 2 except the following:

1. **Neglect of a dependent and offenses against the family under I.C. 35-46-1-1 et. seq.**
2. **Felony non-support, I.C. 35-46-1-5**

3. Welfare fraud, I.C. 35-43-5-7
4. Failure to Register as a Sex Offender, I.C. 5-2-12-9; and
5. Theft, D Felony where value of property exceeds $10,000.00, I.C. 35-43-4-2

All Class A, B, C, and D Felonies outlined above shall be filed randomly in Henry Circuit Court or Henry Superior Court No. 1. The case shall be assigned according to the highest class charge. Cases filed against other defendants arising out of the same fact situation which are joinable by law shall be filed in the same court.

All homicide cases shall be filed alternately in Henry Circuit Court and Henry Superior Court No. 1. The first such homicide shall be filed in Henry Circuit Court with the second in Henry Superior Court No. 1 alternating thereafter. The order of filing shall continue on an alternate basis according to the existing rule in effect prior to the adoption of these rules.

In the event that a filing in Henry Superior Court No. 2 causes the Judge in that Court to believe that the matter cannot be tried within 3 days or less, then that Judge shall have the option of causing that case to be reassigned to either Henry Circuit Court or Henry Superior Court No. 1. The case to be reassigned will be sent to the Henry County Clerk's office for reassignment based upon the random manner set forth herein.

The Henry County Clerk shall maintain a lottery system using pieces of paper or other devices by which certain designations for Henry Circuit Court and Henry Superior Court No. 1 shall be placed thereon. The Clerk shall cause an equal number of pieces of paper or other devices to be placed in a container. At the time a case is filed or reassigned requiring that the Court be selected randomly, the Clerk or the Clerk's representative shall pull out of the container one piece of paper or other device and assign the case to the Court designated on the paper or other device pulled out by the Clerk or the Clerk's representative. Due to the random nature of such a system, it may become necessary for the undersigned Judges to adjust the number of pieces of paper or devices in the Clerk's container.

Once a case has been assigned in accordance with the provisions set out herein, the case cannot be assigned to another judge by dismissal and refiling if the second filing is based on the same underlying incident.

LR33-CP00-2 CRIMINAL PRE-TRIAL CONFERENCES.

Pursuant to T.R. 81, the following Local Rule is adopted with the intent to expedite criminal cases.

Step 1. At the Initial hearing, the Court will set the Omnibus date, Pre-Trial Conference and Jury Trial date. Defendants will be advised of these dates and the consequences of failing to appear.

Step 2. The Rules on Automatic Discovery will apply. The Automatic Discovery Rules require a discovery disclosure by the State within 30 days of the Initial hearing and a discovery disclosure by the Defendant within 10 days thereafter.

Step 3. The objective of the Pre-Trial Conference is to resolve the case by agreement or to be in a position to proceed to trial.

Step 4. (A) If a plea agreement or plea without agreement is intended, a date of disposition may be assigned or a plea may be taken at the Pre-Trial Conference.

(2) Absent a plea by agreement or otherwise, the case will be confirmed for a trial date unless a continuance of the Pre-Trial Conference is agreed to by the State, Defendant and the Court. The continuance will not exceed four (4) weeks.

(3) At all times, the Defendant's right to a speedy trial shall be honored.

(4) Absent obtaining prior approval from the Court, the use of telephone conferencing for the hearing of Pre-Trial conference is prohibited. The Defendant, Defendant's attorney and the prosecutor assigned to the case shall physically appear at the Pre-Trial Conference.

(5) If the case is to proceed to trial, the Pre-Trial Conference should resolve or schedule resolution of pre-trial issues, discuss length of trial, jury selection issues, evidentiary issues, instructions, possible lesser included offenses and any other matters necessary to expedite the trial.

(6) Cases involving extensive discovery or delayed discovery may require Criminal Rule 4 special consideration.

LR33-CR00-2 AUTOMATIC CRIMINAL DISCOVERY RULES

1. GENERAL PROVISIONS

a. Upon the entry of an appearance by an attorney for the Defendant, the State shall disclose and furnish all relevant items and information under this rule to the Defendant within thirty (30) days from the date of the appearance, subject to Constitutional limitations and such other limitation as the Court may specifically provide by separate order, and the Defendant shall disclose and furnish all relevant items and information under this rule to the State within ten (10) days after the State's

disclosure.

b. No written motion is required, except:

(1) To compel compliance under this rule
(2) For additional discovery not covered under this rule;
(3) For a protective order seeking exemption from the provisions of this rule; or,
(4) For an extension of time to comply with this rule.

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

2. STATE DISCLOSURES

a. The State shall disclose the following materials and information within its possession or control:

(1) The names and last known addresses of persons whom the State intends to call as witnesses along with copies of their relevant written and recorded statements;
(2) Any written, oral, or recorded statements made by the accused or by a co-defendant, and a list of witnesses to the making of statements;
(3) If applicable, the State shall disclose the existence of grand jury testimony of any person whom the Prosecuting Attorney may call as a witness at any trial or hearing in the case. In addition, the State shall provide a copy of those portions of any transcript of grand jury minutes, within the State's possession, which contain the testimony of such witness or witnesses. If such transcripts do not exist, the Defendant may apply to the Court for an order requiring their preparation;
(4) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons;
(5) Any books, papers, documents, photographs, or tangible objects that the Prosecuting Attorney intends to use in the hearing or trial or which were obtained from or belong to the accused; and,
(6) Any record of prior criminal convictions that may be used for impeachment of the persons whom the State intends to call as witnesses at any hearing or trial.

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

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

3. DEFENDANT DISCLOSURES

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

(1) The names and last known addresses of persons whom the Defendant intends to call as witnesses along with copies of their relevant written and recorded statements;
(2) Any books, papers, documents, photographs, or tangible objects Defendant intends to use as evidence at any trial or hearing;
(3) Any medical, scientific, or expert witness evaluations, statements, reports, or testimony which may be used at any trial or hearing;
(4) Any defense, procedural or substantive, which the Defendant intends to make at any hearing or trial; and,
(5) Any record of prior criminal convictions known to the Defendant or defense counsel that may be used for impeachment of the persons whom the defense intends to call at any hearing or trial.

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

4. ADDITIONS, LIMITATION AND PROTECTIVE ORDERS

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

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

c. Matters not subject to Disclosure

(1) Work Product: Disclosure hereunder shall not be required of legal research or records, correspondence, reports, or memoranda to the extent of its legal or investigative staff, or of defense counsel or counsel's legal or investigative staff; and,
(2) Informants: Disclosure of an informant's identity shall not be required where there is a paramount interest of non-disclosure and

where a failure to disclose will not infringe upon the Constitutional rights of the accused. Disclosure shall not be denied hereunder of the identity of witnesses to be produced at trial or hearing. This rule does not supersede any existing case law in this area.
(3) Protective Orders: Either the State or defense may apply for a protective order for non-disclosure of discovery required hereunder or any additional requested discovery.

5. DUTY TO SUPPLEMENT RESPONSES

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

6. SANCTIONS UPON FAILURE TO COMPLY

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

LR33-CP13-1 SPECIAL JUDGE IN CRIMINAL CASES.

In order to assure random selection of special judges in criminal cases, if a change of judge is required under Criminal Rule 12 or in the event of any type of recusal or disqualification in felony and misdemeanor cases, reassignment of a case to another judge shall be assigned in consecutive order from the following list of judges:

Presiding Judge, Henry Superior Court No. 1
Presiding Judge, Henry Superior Court No. 2
Presiding Judge, Henry Circuit Court
Presiding Judge, Hancock Superior Court No. 1
Presiding Judge, Hancock Superior Court No. 2
Presiding Judge, Hancock Circuit Court
Presiding Judge, Rush Circuit Court
Presiding Judge, Rush Superior Court

Judges who have previously exercised jurisdiction in the case, except as a Pro-Tem or while acting as a Senior Judge, shall not be eligible for reassignment as a Judge.

In the event a judge is not available for assignment from such list or the particular circumstances of the case warrant selection of a Special Judge by the Indiana Supreme Court, the case

shall be certified to the Indiana Supreme Court for the appointment of a Special Judge pursuant to Criminal Rule 13(D).

The Henry County Clerk shall maintain a separate Criminal Special Judge list, in the order of rotation as set forth in this rule, from which the regular sitting judge can determine the appropriate appointment in criminal cases.

Cases shall be automatically transferred by the Clerk to the Court of the Henry County Judge if a Henry County Judge is selected as Special Judge in both civil and criminal proceedings.

Jury Rules

LR33-JR1-1 JURIES

The procedure in Jury Trials shall be governed by the Indiana Jury Trial Rules numbered 1 through 30 effective January 1, 2003 and any subsequent amendments and modifications thereto. The Courts may require Jury Instructions to be submitted on disc formatted for Word Perfect.

Family Law

LR33-FL00-1 FAMILY COURT RULES

(A) CHILD SUPPORT WORKSHEET AND CERTIFICATE OF ATTENDANCE. All divorcing parents with children must attend the required "Loving Your Children Through the Divorce" program and provide the court with the original certificate of attendance at the commencement of their final hearing or accompanying their Waiver of Final Hearing. The parties must also file a child support worksheet to accompany their Decree of Dissolution of Marriage. The Court may, in its discretion, continue the Final Hearing or withhold entering the Final Decree for failure to attend the required class.

(B) CONTESTED FINAL HEARINGS. At contested final hearings, counsel are directed to prepare and submit a list of assets, list of debts, and proposed distribution of assets and debts indicating those items which are in dispute along with any other supporting documents or exhibits. Requests for exemption from this rule will be handled on a case by case basis.

(C) DECREE OF DISSOLUTION OF MARRIAGE INVOLVING MINOR CHILDREN. The written decree must state that the non-custodial parent is responsible for the annual child support docket fee. Two original copies of the decree must be tendered along with sufficient copies for all counsel and parties if unrepresented. The decree must also provide for the payment of uninsured medical expenses pursuant to the child support rules. A child support worksheet must be attached to all decrees.

(D) DECREE PREPARED SUBSEQUENT TO HEARING. A decree prepared following

a hearing at the direction of the court shall be prepared by Counsel for the Petitioner and submitted to counsel for the Respondent who shall both sign the Decree "Approved as to Form."

(E) FRIDAY HEARINGS. Hearings scheduled in provisional matters, IV-D Child Support Matters, Contempt Citation and Visitation matters set on Fridays are not recorded and are set for a maximum of 15 minutes with only the parties as witnesses. If a party desires to have the matter recorded, has additional witnesses or believes the matter will take longer than 15 minutes then a continuance should be requested and the matter set on a day other than Friday.

(F) GUARDIAN AD LITEMS. The Courts shall utilize the Henry County Guardian Ad Litem/CASA office for the appointment of a Guardian Ad Litem. A separate order will be issued by the court and the CASA appointed by the Court should file a written report with the court, with a copy to all counsel and parties of record, within 2 days of any scheduled hearing. The Guardian Ad Litem should be available for hearing.

Small Claims Rules

LR33-SC00-1 SMALL CLAIMS COURT RULES

Current Small Claims Court Rules as promulgated by the Indiana Judicial Center can be obtained from the Superior Court II Court Administrator.

Administrative Rules

LR33-AR00-1 LATE PAYMENT FEE ON FINES AND COSTS

The Henry County Clerk shall be permitted to collect a late payment on fines and costs pursuant to I.C. 33-19-6-20.

LR33-AR09-2 INTERNET POSTING OF NON-CONFIDENTIAL COURT INFORMATION

The Henry County Clerk shall be permitted to seek and obtain approval from the Division of State Court Administration for the posting of non-confidential court information on the Internet through service providers including, but not limited to, Doxpop and any state sanctioned case management system. The Henry County Clerk shall seek appropriate renewals to remain in compliance and shall comply with Administrative Rule 9.

LR33-AR00-3 DISPOSITION OF TRIAL MATERIALS.

(A) MATERIALS NOT IN EVIDENCE. Trial materials left in the courtroom following trial and not admitted into evidence, will not be the responsibility of the Court or the Court Reporter. Counsel and parties are responsible for removing all materials related to the trial which were not

offered into evidence.

(B) MATERIALS OFFERED AND/OR ADMITTED INTO EVIDENCE. The Court Reporter will retain all trial materials admitted into evidence or offered into evidence. Such materials will be disposed of pursuant to the Supreme Court Rules regarding retention of exhibits as follows:

(1) During period less than 60 days following Judgment: Materials will be released by the Court Reporter to a party or the parties counsel within the 60-day period following judgment in which a Motion to Correct Errors might be filed, only by written agreement of all parties or counsel; or upon Order of the Court pursuant to application. When parties are permitted to withdraw exhibits, receipts should be prepared in advance for signature and provided to the Court Reporter in exchange for the exhibits withdrawn.

(2) More than 60 days following Judgment: Exhibits and trial materials will be released to counsel or parties pursuant to a receipt executed by counsel and upon proof that 10 days prior notice has been given to opposing counsel. The Court Reporter may dispose of trial materials at any time after 60 days following judgment, provided 10 days notice is given to all counsel of record.

LR33-AR15-04 COURT REPORTERS.

(1) *A Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.

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

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

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

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

(6) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.

(7) *Gap hours* worked means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.

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

(9) *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.

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

(11) *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(12) *State indigent* transcript means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

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

SECTION TWO. SALARIES, GAP TIME AND OVERTIME PAY

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

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

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

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

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

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

(2) Compensatory time off from regular fixed work hours shall be given in the amount of one and one-half (1-

1/2) times the number of overtime hours worked.

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

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

SECTION THREE. PRIVATE PRACTICE

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

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

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

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

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

SECTION FOUR. FEES

(1) The maximum per page fee a court reporter may charge for private practice work shall be Four Dollars ($4.00), which shall be payable to the Henry County Treasurer.

(2) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be Four Dollars ($4.00), which shall be payable to the Henry County Treasurer.

The foregoing local rules containing local rules on Special Judge cases, caseload assignment and Court Reporters are hereby adopted and recommended for approval by the Indiana Supreme Court this _____day of May, 2006.

MICHAEL D. PEYTON, JUDGE
HENRY SUPERIOR COURT I

MARY G. WILLIS, JUDGE
HENRY CIRCUIT COURT

BOB A. WITHAM, JUDGE
HENRY SUPERIOR COURT II