

**STATE OF INDIANA – COUNTY OF ALLEN
IN THE ALLEN CIRCUIT AND SUPERIOR COURTS**

**NOTICE OF PROPOSED AMENDMENTS
TO LOCAL FAMILY LAW RULES**

October 1, 2021

In accordance with Trial Rule 81 (D) of the Indiana Court Rules, and in finding good cause to deviate from the uniform annual schedule for changes to local rules, the Allen Circuit and Superior Courts hereby give notice to the bar and the public that the Courts propose to amend the Local Family Law Rules of the Allen Circuit and Superior Courts effective **November 1, 2020**. All new text is shown by underlining and deleted text is shown by ~~striketrough~~.

Comments by the bar and the public should be made in writing by email to:
Magistrate Ashley N. Hand
Allen Circuit Court
ashley.hand@co.allen.in.us

A paper copy of the proposed amended local rule will be made available for viewing in the office of the Clerk of Allen County during normal business hours, Allen County Courthouse, 715 S. Calhoun Street, Fort Wayne, IN 46802. Persons with Internet access may view the proposed amended local rules at the following website:
<http://www.in.gov/judiciary/2994.htm>

For the Courts of Record of Allen County

_____/S/_____
Lori K. Morgan
Judge, Allen Superior Court

LR02-TR3-1-2 Appearances: See T.R.s 3.1, 11, and applicable Trial Rule on E-Filing

LR02-TR4-4 Service of Process

A. **Summons, Complaint and Appearance.** The party filing the initial pleadings (summons, complaint, appearance, etc.) shall file by way of the Indiana E-filing System and pursuant to Trial Rules regarding service and e-filing.

- (1) **By Certified Mail, Private Process, Sheriff (excluding the Allen County Sheriff), Publication and other Methods.** The initiating party must file a Certificate of Issuance of Summons. If the certified mail service of process is utilized, the initiating party must cause the green return receipt card to be returned to the initiating party, not returned to the Clerk.
- (2) **By Allen County Sheriff.** Once the signed Summons is returned from the Clerk and the fee for Service of Process by Sheriff has been paid to the Clerk, it is the initiating party's obligation to deliver the document(s) to the Allen County Sheriff to be served. It is the requesting party's responsibility to provide the Allen County Sheriff with three copies of any document(s) to be served along with a proof of payment for this service. Documents may be hand-delivered or mailed to the Allen County Sheriff. See T.R. 4.12.

Once the document(s) are served by the Allen County Sheriff, the Allen County Sheriff shall forward the document(s) to the Clerk for entry into the Chronological Case Summary.

If the Allen County Sheriff service method is utilized, the initiating party is not required to file a Return of Service.

B. **Certificate of Issuance of Summons.** See applicable Trial Rules on E-Filing. Once service is initiated, a Certificate of Issuance of Summons must be filed. See Appendix A(1).

C. **Return of Service.** After proof of service is returned to the initiating party, a Return of Service must be filed so that it will appear on the Chronological Case Summary. (See above exception, under A(2)). See Appendix A(2). Note: if e-filing the Return of Service, the file must specify in the comment field the name of the document(s), the party's name who service was attempted on, and an indication whether service was either served or not served.

D. **Serving Non-Registered Persons.** A person who has not registered or otherwise cannot access the Indiana Electronic Filing System but who is entitled to service of paper or pleading in a matter shall be served in accordance with the applicable Trial Rule regarding service.

Adopted effective November 1, 2021.

LR02-TR16-7 Case Management

A. An initial Case Management Conference (CMC) shall be set in every case where at least one-half day of trial is sought. When either party requests a Case Management Conference, the CMC shall typically be scheduled to occur within 30 days of the request. Absent leave of Court, trial dates for those matters of at least one-half day will not be assigned until after the CMC is held and after mediation has occurred. Trial dates for such cases will be assigned at a Pre-Trial Conference (PTC).

B. At the Case Management Conference, the Court will address and very likely order mediation, discuss family law arbitration, inquire of the matters at issue, discuss discovery, and schedule a Pre-Trial Conference. Absent leave of Court, mediation must occur before the PTC is conducted. ~~(XXXXXX Please insert exact language from 8/21 discussion)~~

C. Should the case not be resolved at mediation, then at the PTC, the Court will inquire of the matters at issue, schedule primary and/or secondary trial dates, schedule a Final PTC, and establish discovery and other deadlines.

D. Hearings requiring less than one-half day may be set upon request without a CMC. However, if the case involves matters where mediation is required regardless of the length of the hearing, such as one involving any issue concerning parenting time (e.g., parenting time modification, custody modification, contempt regarding parenting time, child support modification where the number of overnights is an issue) mediation must occur prior to the hearing unless prior leave of Court is otherwise obtained. When mediation is required for hearings of less than one-half day, the moving party shall also file a motion for mediation prior to, or with the notice of hearing.

E. Case Management Conferences may be set in any matter and at any procedural phase if helpful to assist the parties and the Court in efficient management of the case. Parties represented by counsel need not personally appear at the CMC or PTC unless otherwise ordered by the Court. The party requesting the CMC shall submit a "Notice of Case Management Conference" (similar to a Notice of Hearing) when requesting the date for the CMC.

Adopted effective November 1, 2021.

LR02-TR73-24 Hearings

A. Hearings will be limited to the time scheduled on the calendar, and it shall be the responsibility of the moving party to ensure adequate time is reserved for the completion of the hearing. Should the parties be unable to complete the hearing within the scheduled time, the hearing will be continued and reset on the calendar, unless otherwise directed by the Court. In the event a party files subsequent motions after the matter is set for hearing, said motions will be heard at that hearing only upon agreement of the parties or by order of the Court.

B. Not all family relations hearings are electronically recorded. It is the parties' responsibility to request an electronic recording if they desire the same. Absent such a request, the recording might not be made.

C. At a hearing for provisional orders, a party may elect to present evidence in a summary manner or by direct testimony. If evidence is presented in a summary manner, then the party presenting the evidence shall be sworn under oath and verify the representations made by counsel. The rules of evidence with respect to hearsay shall apply unless waived by the parties. If an attorney makes a representation by an individual who is not a party during a summary presentation of evidence, that individual must be present to verify the statement.

D. Protective Order hearings shall not be heard in summary manner absent leave of Court. However, Protective Order hearings must be concluded in the time allotted. The Court may set parameters to ensure the timely conclusion of the hearing.

E. Subject to approval by the Court, the parties by agreement may present evidence at any hearing in a summary manner consistent with the procedures used for a provisional orders hearing.

F. At any provisional order hearing each party shall be allotted one half of the total hearing time, including cross examination, with the initiating party having the right to reserve a portion of ~~the~~ their allotted time for rebuttal.

Adopted effective November 1, 2021.

LR02-TR33-11 Discovery Requests

A. Interrogatories, Request for Production of Documents, and Request for Admissions shall be tailored to the case in which they are served and numbered consecutively to facilitate response.

B. The recipient of Interrogatories may file a Motion for Protective Order (T.R. 26(C)) or a Motion to Strike specific interrogatories after fully complying with T.R. 26(F). Any such Motion shall be scheduled for hearing and does not extend the time for answering unobjectionable Interrogatories.

~~C. Any party desiring to serve interrogatories more than fifty (50) Interrogatories or twenty-five (25) Request for Production of Documents shall either:~~

- ~~1. File a stipulation of the parties, agreeing to the additional interrogatories; or~~
- ~~2. If an agreement cannot be obtained, file a written motion requesting leave of the Court to serve more than fifty (50) interrogatories or twenty-five (25) Request for Production of Documents; the motion shall set forth those additional proposed interrogatories, and shall explain their necessity; full compliance with T.R. 26(F) is required.~~

C. Limit on Interrogatories. In any initial cause of action, a party may serve on any other party no more than a cumulative total of fifty (50) written interrogatories, including subparts, without leave of the Court or written agreement of the parties. For purposes of this rule, each question asked, as well as each subpart, constitutes a separate interrogatory, regardless of whether that part is logically or factually related to another subpart. The following interrogatories shall not be counted against the above-set fifty (50) interrogatory limit: (a) general identifying and background information of a party concerning a party's full name, address, birth date, education history, employment history, criminal history, and past lawsuits or claims; (b) interrogatories identifying expert witnesses, the name and, if known, the address and telephone number of each individual who may be called as a witness (expert or otherwise), and/or who has discoverable information; (c) interrogatories asking to identify and describe by category and location all documents, electronically stored information, photographs, videos, written or recorded statements and tangible things that may be used to support a party's claims or defenses; and (d) interrogatories asking to identify any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy any judgment.

D. Limits on Request for Production of Documents: In any initial cause of action, a party may not serve more than twenty-five (25) requests for productions of documents, including subparts, on another party.

E. Limit on Requests for Admission. In any initial cause of action, a party may serve on another party no more than a cumulative total of thirty (30) requests for admission

without leave of the Court or written agreement of the parties. For purposes of this rule, requests seeking admission of the authenticity of a document shall not be counted against the above-set thirty (30) request limit.

F. Successive Claims for Relief. The discovery limits set forth in this rule shall reset (i) upon the dissolution of the parties' marriage; and (ii) upon the entry of each and every order granting a modification of custody, modification of parenting time, or modification of child support; provided, however, that in the case of any such reset, the limits shall be reduced, and each party shall have the right, without leave of the Court or agreement of the parties, to serve up to a cumulative total of twenty-five (25) interrogatories, fifteen (15) requests for production of documents, and/or fifteen (15) requests for admission.

G. Serving in Excess of the Limit. The Court, for good cause shown, may increase the discovery limits set forth in this rule. Any party desiring to serve more than the applicable limits on interrogatories, requests for production of documents, and/or requests for admission shall, after full compliance with T.R. 26(F), either:

1. File a stipulation of the parties, agreeing to the additional interrogatories, requests for production of documents, and/or admissions; or
2. If an agreement cannot be obtained, file a written motion requesting leave of the Court to serve more than the applicable limit on interrogatories, requests for production of documents, and/or requests for admission. Any such motion shall set forth the additional proposed interrogatories, requests for production of documents, and/or requests for admission, and shall explain their necessity. A party is required to fully comply with T.R. 26(F) prior to filing any such motion.

Adopted effective November 1, 2021.

LR02-FL00-26 Attorney Fees

A. All requests for attorney fees shall be presented to the Court by way of affidavit or oral testimony, as the Court allows. The affidavit shall be admitted into evidence subject to cross-examination. In addition, the affidavit shall have attached to it a billing statement which includes an itemization of services, the total fee for the services, payments received for the services, and the account balance.

B. In assessing preliminary attorney fee awards, the Court may determine the award by comparing the gross incomes of the respective parties and such other financial and non-financial matters as the Court deems appropriate.

C. An award of additional preliminary attorney fees, expert witness fees, and similar expenses may be granted upon proof of extensive discovery, significant negotiations, preparation of more than the usual number of documents, the preparation for or the conduct of contested preliminary matters or final hearings, the complexity of the case or other factors necessitating such an award.

D. The Court may enter an order making funds available for payment of preliminary attorney fees, while reserving for trial whether such an order represents either an award against a party or advancement in favor of the requesting party.

E. In contempt matters where attorney fees are requested, counsel shall provide the Court with appropriate evidence of time, services and value rendered as part of the fee request. Said evidence may be made by affidavit.

F. In order for an Attorney Fee Lien to attach, a judgment must have already been entered. Once a judgment has been entered, the attorney must file a Notice of Intent to File Attorney Fee Lien or similar document pursuant to I.C. 33-43-4-2.

Adopted effective November 1, 2021.

LR02-FL00-26 Attorney Fees

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K. In contempt matters where attorney fees are requested, counsel shall provide the Court with appropriate evidence of time, services and value rendered as part of the fee request. Said evidence may be made by affidavit.

L. In order for an Attorney Fee Lien to attach, a judgment must have already been entered. Once a judgment has been entered, the attorney must file a Notice of Intent to File Attorney Fee Lien or similar document pursuant to I.C. 33-43-4-2.

Adopted effective November 1, 2021.