

Newton County

Local Rules of Court



Hon. Jeryl F. Leach
Circuit Court Judge

Hon. Daniel J. Molter
Superior Court Judge

Officers of the Courts

Circuit Court

Jeryl F. Leach, *Judge*

Lindy Fausset, *Court Reporter*

Pamela Vanderwall, *Court Administrator*

Richard Harris, *Bailiff*

Superior Court

Daniel J. Molter, *Judge*

Shelley Murphy, *Court Reporter*

Pauline M. Ciancanelli-Acres, *Court Administrator*

Rick Younger, *Bailiff*

Newton Circuit and Superior Courts
79th Judicial Circuit

IN THE MATTER OF)
RULES FOR PRACTICE AND)
PROCEDURE IN THESE COURTS)

It is ORDERED that all existing Local Rules of the Newton County Courts shall be and the same hereby are revoked as of 4:30 p.m. on December 31, 2004.

IT IS FURTHER ORDERED that the following Local Rules relating to practice and procedure in these Courts be and hereby are adopted, effective 4:30 p.m. December 31, 2004.

ORDERED this 7th day of December, 2004.

/s/ Jeryl F. Leach, Judge
Newton Circuit Court

/s/ Daniel J. Molter, Judge
Newton Superior Court

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LR-56-1 Citations

1.1. Any citation to these Rules shall include the following:

- (A) The designation that the cite is to a local rule - “LR”;
- (B) The county identifier as designated by the Indiana Supreme Court - “56”;
- (C) The number assigned the specific Local Rule.

1.2. Following each of the Local Rules is a cite to the state level rule from which the local rule originated, if such a state level rule existed at the time of the creation of these Local Rules.

LR-56-2 Pleadings

2.1 Times New Roman, Courier, Arial or similar type shall be used on all pleadings.

No script or elaborate fonts will be accepted. **(Ind. TR. 10)**

2.2 With the exception of criminal matters, all original copies of pleadings must be executed with an original signature. No signature stamps or reproduced signatures will be accepted. **(Ind. TR. 11)**

2.3 All pleadings in cases involving a Special Judge shall have the phrase “SPECIAL JUDGE” typed directly under the cause number on the right-hand side of the caption. Directly under the phrase “SPECIAL JUDGE” shall appear the Special Judge’s name. **(Ind. TR. 10)**

2.4. Absent an emergency, the Court will not accept pleadings by fax. A pleading accepted by fax will not be automatically granted and it is the responsibility of the proponent to check the disposition of the pleading. The parties sending a fax to the Court must do so in accordance with Administrative Rule 12 of the Supreme Court. In addition, a party submitting a pleading by fax must immediately forward to the Court the original and an appropriate number of copies to be file marked pursuant to Administrative Rule 12. **(Ind. TR. 5)**

2.5. Parties may notify the Court by fax that they have agreed to settle or continue a matter. Such a notification will be deemed a mere correspondence and not a pleading officially filed in the pending cause. The parties must submit original pleadings confirming the notification which will be file marked upon

receipt by the Court or as otherwise dictated by statute or rule. Fax notification does not remove a cause from the Court's calendar. It is the responsibility of the parties to check the status of the pending cause. **(Ind. TR. 5)**

2.6. All pleadings requesting Court action without a hearing shall be accompanied by a proposed order. All proposed orders seeking a hearing date and time shall set forth the projected amount of Court time needed and shall contain blanks for the date and time. **(Ind. TR. 5)**

2.7. After summons is issued, a party shall not submit any pleading to the Court without including an addressed and stamped envelope for each party or their counsel. This requirement does not apply when service upon a party is requested by means other than regular mail or when any party's attorney maintains an attorney box for service purposes at the Court. **(Ind. TR. 5)**

2.8. A plaintiff whose case has been stayed due to a Bankruptcy filing shall notify the Court upon disposition of the Bankruptcy case. **(Ind. TR. 7)**

2.9. Agreed matters shall be submitted in a written Order, accompanied with any other appropriate document such as a Decree, a Wage-Withholding Order, or a Qualified Domestic Relations Order. If the parties reach a settlement "on the courthouse steps," then the Court may accept evidence of that settlement on the record, and enter the appropriate order upon preparation and filing by counsel within a period of time set by the Court. If an agreement is not set forth on the record, each party (not just their attorney) must sign the agreement. **(Ind. TR. 7 AND 10)**

LR-56-3. Discovery

3.1. In all relevant family law matters, including dissolutions, separations, post-decree and support proceedings, each party shall prepare and exchange, within 45 days of the initial filing of the action or within 30 days of the filing of any post-decree matters, a Newton County Financial Declaration Form (see Appendix A). These time limits may be extended or shortened by Court order for good cause shown. **(Ind. TR. 26)**

(A) The Financial Declaration Form need not be exchanged if:

- (1) The parties agree in writing to waive exchange;
- (2) The proceeding is post-decree and concerns issues without financial implications;
- (3) The opposing party does not appear in a new action or does not respond in a modification action.

(B) Each party shall attach to the Financial Declaration Form all supporting information reasonably available; including recent bills, wage and tax records, and bank, pension and yearend mortgage statements. "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. Appraisals of real estate and pensions, or of personal property such as jewelry, antiques or special collections (stamps, coins or guns, for example), are not required. However, once an appraisal is obtained, it must be exchanged. Moreover, the Court may direct that an appraisal be obtained, just as it may designate the appraiser.

(C) Pursuant to Trial Rule 26(E) (2) and (3), Financial Declaration Forms shall be supplemented if additional material becomes available.

(D) Trial Rule 37 sanctions shall apply to the exchange of Financial Declaration Forms.

3.2. Interrogatories shall be limited to a reasonable number based on the type and complexity of the litigation. **(Ind. TR. 33)**

3.3. Once information has been elicited by a party in discovery, the same information shall not be sought in other forms of discovery. The use of Requests for Admissions or Financial Declaration Forms shall be exempt from this limitation on duplicative discovery. **(Ind. TR. 26)**

LR-56-4. Pre-Trial Conferences

4.1. Case Management Conference (CMC)

(A) A CMC shall be held in every civil plenary and civil tort action. The Plaintiff shall request a CMC after the filing of all Answers and not more than ninety days after the filing of the Complaint. Any extension of time to answer granted a defendant shall similarly extend the time for plaintiff to request a CMC. No CMC is required where a

defendant fails to answer the complaint and the plaintiff moves for default.

(B) A CMC may be requested by either party in a family law matter reasonably anticipated to go to trial. The CMC must be held at least sixty days prior to final hearing on the issues.

4.2. Final Pre-Trial Conference (FPTC)

(A) A FPTC, conducted pursuant to Trial Rule 16, shall be held in all matters proceeding to trial.

(B) Plaintiff/Petitioner shall be responsible for seeking the setting of the FPTC which must be held no more than thirty days prior to trial date. **(Ind. TR. 16)**

LR-56-5. Hearings on Motions and Trials

5.1. Only the Court may set a time and date for hearing or trial. **(Ind. TR. 73)**

5.2. In order to avoid conflicts, Special Judges shall consult the Court before setting a hearing or trial. **(Ind. TR. 73 AND 79)**

5.3. Any party planning to submit more than three exhibits at hearing or trial shall have their exhibits marked for identification with standard exhibit stickers prior to hearing or trial. Moving parties shall mark their exhibits using numbers and responding parties shall mark their exhibits using letters. **(Ind. TR. 16)**

5.4. If parties are not prepared to begin their hearing or trial within fifteen minutes of the scheduled time, the Court may: proceed to hear the matter without any party present; make a decision without hearing; continue the matter to a later date and time and/or impose appropriate sanctions. **(Ind. TR. 73)**

LR-56-6. Jury Rules (Ind. Jury Rules)

6.1. The Judges of the Newton County Courts shall, pursuant to the Indiana Jury Rules, jointly administer the jury assembly process.

6.2. The Newton County Clerk is appointed as Chief Assistant Jury Administrator.

6.3. The Newton County Judges shall approve or deny requests for clerical assistants by the Chief Assistant Jury Administrator

6.4. The Chief Assistant Jury Administrator shall compile a jury pool and jury panels in accordance with the Indiana Jury Rules

6.5. The Chief Assistant Jury Administrator shall utilize the two-tier approach established in the Indiana Jury Rules for Notice and Summons to prospective jurors.

6.6. The Newton County Courts may create any forms necessary to implement this Rule and the Indiana Jury Rules.

LR-56-7 Selection of Special Judge-Non-Criminal (Ind. TR. 79)

7.1. In the event it is necessary to select a Special Judge pursuant to Trial Rule 79 (H), the selection shall be made as follows:

- (A) Where the cause number of the case begins with 56C01, the Judge of Newton Superior Court Shall be appointed;
- (B) Where the cause number of the case begins with 56D01, the Judge of Newton Circuit Court shall be appointed;
- (C) In the event the Special Judge selected by this Rule is unable to serve, the Clerk of the original Court shall sequentially select a Special Judge from an alphabetical list of Judges from Porter, Benton or Jasper Counties or any Senior Judge appointed to the Court who has agreed to serve as a Special Judge;
- (D) It shall be the duty of the Newton County Clerk to maintain a record of Special Judge selections made pursuant to Section (C) in order to insure that the case load is evenly distributed.

7.2. In cases where no Judge is eligible to serve as a Special Judge pursuant to this Rule, or when the particular circumstances of a case warrant, the presiding Judge shall certify the case to the Indiana Supreme Court for appointment of a Special Judge.

(Effective September 1, 2013)

LR-56-8 Criminal Rules (Ind. CR. 2.2)

8.1. All criminal cases shall be filed in the Superior Court, except that cases involving charges related to nonsupport of a child may be filed in the Circuit Court.

8.2. All juvenile cases shall be filed in the Circuit Court. In the event that a juvenile is waived to criminal jurisdiction, the Circuit Court shall retain jurisdiction in that case.

8.3. Each matter filed in each of the Courts shall routinely be assigned to the Judge elected or appointed to serve in that respective Court. Despite routine assignment of cases, the Judges herein reserve the right to assign any case at any time to the other sitting Judge, subject to acceptance by the assigned Judge. In the event either a juvenile or criminal case is reassigned to another Judge without prior consent of the parties and after the time has lapsed for requesting a change of Judge under Criminal Rule 12, the parties shall have five days from the reassignment to file a motion for change of Judge.

8.4. Once a case has been filed and assigned to a particular Court and Judge then that Court and Judge shall retain jurisdiction over every matter relating to the disposition of the case, including matters and motions relating to the dismissal and refiling of charges or allegations.

8.5. In the event a motion for change of Judge is granted by the regular presiding Judge or successor Judge assigned pursuant to LR-56-8.3, then that Judge shall reassign the case to the other sitting Judge in the County. If the other sitting Judge in the county is disqualified or ineligible to serve, then a Special Judge shall be sequentially selected by the Clerk from an alphabetized alternative assignment list composed of Judges from contiguous counties and Senior Judges assigned to that court who have agreed to serve as a Special Judge. The Clerk shall maintain a list of Senior Judges who have agreed to serve in the event they are assigned a case under this Rule.

(September 1, 2013; amended effective September 15, 2017)

LR-56-9. Estates

9.1. The Social Security number of the Personal Representative or Guardian must be provided to the Court at the time of opening an Estate or Guardianship.

9.2. In all instances in which real estate is to be sold, a current written appraisal setting forth the fair market value thereof should be filed with the Court at the time of the filing of the Petition seeking such sale and must be filed no later than at the time of the hearing approving such sale.

9.3. All Deeds submitted to the Court for approval must be signed by the Fiduciary and the signature notarized prior to its submission. All such Deeds are to be submitted with the Report of Sale of Real Estate or at the time of hearing on the Final Account. Copies of such Deeds must be filed for the Court records.

9.4. No fee request will be considered as a part of the Final Account in any Estate or Guardianship proceedings. A separate petition must be filed requesting such fee determination.

9.5. No fee, whether in whole or in part, in any proceeding except in the Unsupervised Administration of a Decedent's Estate, shall be paid without the prior approval of the Court.

9.6. The name and address of the Insurance Agency providing the corporate surety must be typed on all corporate bonds filed.

9.7. When a bond is required, the Court will determine and set the amount of the bond and in no event shall it be less than that required to protect creditors and taxing authorities.

9.8. No Attorney will be accepted as surety on any bond required to be filed in Court.

9.9. It shall be the responsibility of the Attorney and/or the Personal Representative to provide notice of the opening of the Estate to any reasonably ascertainable creditor.

9.10. Proof of publication of all notices required to be published shall be filed with the Court by the Attorney and/or the Personal Representative for the Estate. It is the Attorney's and/or the Personal Representative's responsibility to

ensure that publication was timely made, and proof thereof is properly filed with the Court.

9.11. If the Personal Representative has filed a claim in the Estate, the claim may be allowed by the Court if all interested parties have consented thereto. In the event the consents have not been obtained, a hearing on the claim will be held as prescribed by statute.

9.12. The Court shall have no involvement, other than for opening, closing, determining Indiana Inheritance Tax due and hearing petitions regarding fees (if sought) in an Unsupervised Administration of a Decedent's Estate. If the jurisdiction of the Court is invoked for any other matter, the Administration shall become a Supervised Administration from there on for all remaining matters.

9.13. No Attorney or Personal Representative fees will be determined and authorized for payment by the Court in any Unsupervised Administration of a Decedent's Estate, unless a petition for fees or objection to fees is filed with the Court. If such a petition or objection is not filed, the Court will not become involved in the determination of fees in an Unsupervised Administration of a Decedent's Estate.

9.14. Any Attorney or Personal Representative fees determined to be due by reason of jointly held assets shall be assessed against the owner of the jointly held asset.

9.15. Although not required by law, the Federal Estate Tax Closing letter and/or the countersigned receipt, or a photocopy thereof, showing payment of the Indiana Inheritance Tax liability in the Estate, executed and sealed by the Indiana Department of the State Revenue, should be attached to the Final Report at the time of filing.

9.16. When a verified closing statement has been filed, an affidavit executed by the Personal Representative stating that no proceedings are pending shall be filed with the Court upon the expiration of the three-month statutory waiting period.

9.17. In the event a petition is filed requesting that an Estate be closed as insolvent, a hearing shall be held thereon. The Attorney or Personal Representative shall give Notice to the Newton County Assessor, all interested parties, all claimants and all reasonably ascertainable creditors.

LR-56-10. Guardianships

10.1. Rule 9.1 through Rule 9.6, of these Local Rules shall also apply to Guardianships.

10.2. Prior to appointment of a Guardian, a written acknowledgment containing the specific duties, responsibilities and powers of the Guardian must be signed by the proposed Guardian and filed with the Court.

10.3. In all Guardianships filed for the purpose of declaring an adult incapacitated, supporting medical testimony is required. At a minimum, an acceptable Affidavit, executed by the Doctor treating the alleged incapacitated person, must be submitted at the time the petition is filed or on the hearing date.

10.4. A bond shall be required to the full extent of the value of the personal property assets and one year's estimated income from all assets in the Guardianship.

10.5. Where a restricted account has been created, an acknowledgment of or acquiescence to the restriction by the financial institution involved must be filed by the Guardian or Attorney within ten (10) business days of the Court Order creating such an account.

10.6. In the event an individual is appointed Guardian to handle the financial affairs of a protected person, the Guardian shall file his/her first current Account within thirty (30) days after the first anniversary of the date on which the letters were issued.

10.7. Where assets are claimed to be in a financial or holding institution, the Guardian's Accounting must contain a certification by an officer of the institution as to the amount and value of the assets remaining in the guardianship

account. The certification must be dated by the officer not more than ten (10) days prior to the date of filing the Accounting.

10.8. All Social Security benefits received on behalf of a protected person must be included and accounted for in the Guardian's Accountings.

LR-56-11. Court Reporters (Ind. AR. 15)

11.1. Definitions:

- (A) "Court Reporters" - 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.
- (B) "Equipment" - All physical items owned by the Courts 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.
- (C) "Work Space" - That portion of the Courts' facilities dedicated to each Court Reporter, including but not limited to actual space in the courtroom and any designated office space.
- (D) "Page" - 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" - The electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
- (F) "Regular Work Hours" - Those hours set by the Newton County Commissioners for the Newton County Courthouse to be opened during a regular, non-holiday Work Week.
- (G) "Gap Hours Worked" - Those hours worked in excess of the Regular Work Hours but not more than forty hours in a week.

- (H) "Overtime Hours Worked" - Those hours worked in excess of forty hours in a week.
- (I) "Work Week" - A period of seven consecutive days that consistently begins and ends on the same days through the year(e.g. Sunday through Saturday or Thursday through Wednesday).
- (J) "Court" - The particular court for which the Court Reporter performs services. Court may also mean all of the Courts in Newton County.
- (K) "County Indigent Transcript" - A transcript that is paid for from county funds and is for use on behalf of a litigant who has been declared indigent by a Court.
- (L) "State Indigent Transcript" - A transcript that is paid for from state funds and is for use on behalf of a litigant who has declared indigent by a Court.
- (M) "Private Transcript" - A transcript, including a transcript of a deposition, that is paid for by a private party.

11.2. 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 Work Hours. The supervising Court shall enter into a written agreement with the Court Reporters 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).

11.3. The maximum per Page fee a Court Reporter may charge for the preparation of a transcript shall be \$3.50. This fee shall be increased to \$6.00 per Page where a Private Transcript is requested to be prepared within twenty-four hours or \$5.00 per Page where a Private Transcript is requested to be prepared within five working days.

11.4. 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.

11.5. A Court Reporter may elect to engage in private practice through the recording of a deposition and/or preparation of a deposition transcript, and may elect to utilize the Court's Equipment, Work Space, and supplies and the Court may authorize the use thereof, provided:

(A) The Court Reporter shall tender to the Auditor of Newton County a sum equal to twenty-five cents for each Page of furnished completed transcription as reasonable reimbursement for the cost of the use of Equipment, Work Space, and supplies;

(B) The Court Reporter shall tender such sums immediately upon receipt of payment in full for services rendered. However, where services are rendered on behalf of an indigent person for whom the Auditor of Newton County is liable for payment, then a sum equal to twenty-five cents for each completed Page shall be deducted from the gross balance due the Court Reporter as reimbursement for the use of Equipment, Work Space, and supplies.

11.6. If a Court Reporter elects to engage in private practice through the recording of a deposition and/or preparation of a deposition transcript, all such private practice work shall be conducted outside of Regular Work Hours. However, a presiding Judge may permit private work during Regular Work Hours where the Prosecuting Attorney or other government entity is a party to the cause and it is in the interest of justice or the expedient resolution of a particular case that the Court Reporter provides such services during Regular Work Hours.

LR-56-12. Small Claims (Ind. S.C. 13)

All parties and their attorneys are responsible for abiding by the provisions of the Newton County Small Claims Manual.

LR-56-13. General Rules (Ind. TR. 81)

13.1. In keeping with the tradition of the Courts and out of respect for the position, the Judge will wear a judicial robe while presiding in open court.

13.2. Male attorneys shall appear in open court wearing a suit coat and tie. Female attorneys shall appear in open court wearing a garment similar in nature to a suit coat.

13.3. All individuals appearing in open court shall be dressed properly and shall act respectfully. Attorneys will be responsible for advising their clients of this Rule.

13.4. No law book shall be removed from the Court library or offices without checking out the same through the Circuit Court Bailiff. Any person failing to timely return any book will be fined for the delay and assessed the cost to replace the book if it is lost or missing for more than two weeks.

13.5. No smoking will be permitted in or near the courtrooms, except that smoking will be permitted in the Bailiff's office directly adjacent to the Circuit Court jury room.

13.6. All parties participating in a case in which child support is ordered must provide to the Clerk of the Court all information necessary to complete the Child Support Intake Sheet. If a party is present when a support order is entered, said party must provide the requisite information immediately to the Clerk. If a party is not present, the party shall have seven days from the date of receipt of the Order establishing support to provide the requisite information to the Clerk.

13.7. The Courts may impose appropriate sanctions for a violation of any of these Local Rules.

13.8. The Courts may waive any Local Rule, or part thereof.

**LR56-14 Newton County Alcohol and Drug Related Offenses
Schedule of Fees**

\$159.00	COURT COSTS
\$200.00	COUNTERMEASURE FEE
\$285.00	DRUG AND ALCOHOL USER FEE (FIRST OFFENSE)
\$320.00	DRUG AND ALCOHOL USER FEE (SECOND OFFENSE)
\$100.00	PROBATION ADMINISTRATIVE FEE (FELONY)
\$100.00	INITIAL PROBATION USER FEE (FELONY)
\$ 30.00	MONTHLY PROBATION USER FEE (FELONY)
\$ 50.00	PROBATION ADMINISTRATIVE FEE (MISDEMEANOR)
\$ 50.00	INITIAL PROBATION USER FEE (MISDEMEANOR)
\$ 20.00	MONTHLY PROBATION USER FEE (MISDEMEANOR)
\$ 25.00	INITIAL FEE ELECTRONIC MONITORED HOME DETENTION
\$ 7.00	PER DAY FEE ELECTRONIC MONITORED DETENTION (NEWTON COUNTY CASE)
\$ 8.00	PER DAY FEE ELECTRONIC MONITORED DETENTION (COURTESY SUPERVISION)
\$ 25.00	DRUG TEST ADMINISTERED BY PROBATION DEPARTMENT RESULTS OBTAINED BY TOXICOLOGIST

LR-56-15 Caseload Allocation Plan

(A) Criminal Caseload Allocation Plan

All Adult Criminal and Juvenile Delinquency cases shall be filed pursuant to LR-56-8.

(B) Civil Caseload Allocation Plan

- (1) All cases designated by statute to be filed in a particular Court shall be filed in the Court so designated by statute.
- (2) All Traffic cases shall be filed in Superior Court.

- (3) Any Ordinance Violation cases may be filed in Circuit or Superior Court.
- (4) All Juvenile cases shall be filed in Circuit Court.
- (5) All Civil Collection cases shall be filed in Circuit Court.
- (6) All Protective Order cases shall be filed in Circuit Court.
- (7) All Small Claims cases shall be filed in Circuit Court.
- (8) All Adoption, Reciprocal Support, and Domestic Relations cases shall be filed in Circuit Court.
- (9) All Eviction cases shall be filed in Circuit Court.
- (10) All other cases may be filed as has been traditional, in either Circuit or Superior Court.

(Amended effective August 1, 2022)

(C) Review of Caseload allocation Plans

The Judges of Circuit and Superior Courts shall review the new case filings each quarter to determine if any disparity in Court caseloads exist and if any adjustments need to be made to the above Allocation Plans.

LR-56-AR1-16 Acting Judge Election

The Judges of the Newton Circuit and Superior Courts hereby elect to sit as acting judge in the Jasper Circuit and Superior Courts, as provided in Administrative Rule 1, upon request from the Judge of the Jasper Circuit or Superior Court.