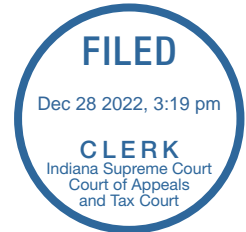


In the Indiana Supreme Court

In the Matter of the Approval of Local
Rules for Adams County

Supreme Court Case No.
22S-MS-441



Order Approving Amended Local Rules

The Judges of the Adams County Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Indiana Administrative Rule 1(E), for court reporter services in accordance with Administrative Rule 15, for special judge assignments in accordance with Trial Procedure Rule 79, and for criminal special judge assignments in accordance with Criminal Procedure Rule 13. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Adams County Circuit and Superior Courts, this Court finds that the proposed rule amendments at LR01-AR01-01 complies with the requirements of Indiana Administrative Rule 1(E), LR01-AR15-01 through -07 comply with Administrative Rule 15, LR01-TR79-01 complies with Trial Procedure Rule 79, and LR01-CR2.2-04 complies with Criminal Procedure Rule 13, and, accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules, LR01-AR01-01, LR01-AR15-01 through -07, LR01-TR79-01, and LR01-CR2.2-04, for the Adams County Circuit and Superior Courts, set forth as attachments to this Order, are approved effective January 1, 2023.

Done at Indianapolis, Indiana, on 12/28/2022 .

Loretta H. Rush
Chief Justice of Indiana

LR01-AR01-1 ADAMS COUNTY CASELOAD ALLOCATION PLAN

(A) CRIMINAL, INFRACTION AND ORDINANCE VIOLATION CASES

Criminal Cases shall be filed pursuant to LR01-CR2.2-01 et seq. All infraction and ordinance violation cases shall be assigned to the Adams Superior Court.

(B) PROBATE AND RELATED CASES

All Estate, Guardianship, Adoption and Trust cases shall be assigned to the Adams Circuit Court.

(C) JUVENILE CASES

All juvenile cases, including paternity cases, shall be assigned to the Adams Circuit Court.

(D) SMALL CLAIMS AND EV CASES

All small claims and EV cases shall be filed in the Adams Superior Court.

(E) PROTECTIVE ORDER CASES

Protective orders cases may be filed in either court; however, if a domestic relations case, paternity case or CHINS case is pending or has been determined involving the same parties, then the protective order case shall be filed in that court or reassigned if filed in the other court.

(F) CIVIL CASE TYPES PL, MF, CC, CT, DC, DN, RS, MH, MI

Cases other than those mentioned in the preceding paragraphs may be filed in either the Adams Circuit Court or the Adams Superior Court, at the discretion of the filing party. Domestic relations cases may be filed in either court, however, if a protective order case, CHINS case, CHINS termination case or Paternity is pending or has been determined involving the same parties then the domestic relations case shall be filed in that court or reassigned if filed in the other court. Emergency detention for mental health cases may be filed in either court; however, temporary and regular commitments shall be filed in Circuit Court.

However, nothing in this rule shall prohibit a judge of said Court from transferring a case from that Court to the other as allowed by statute, or rule of trial procedure, or to ensure an even distribution of judicial workload between the courts of record in the county.

On or before May 1 of each year the Judge of the Adams Circuit Court and the Judge of the Adams Superior Court shall meet to review the Weighted Caseload Measures statistics as calculated by the Division of State Court Administration for the preceding calendar year. The utilization of the two Courts shall be compared and if the utilization variance is within 0.25 of one another, it shall be presumed that no action is necessary to reduce the disparity. If the utilization variance between the courts is more than 0.40 in a calendar year or more than 0.25 for two consecutive years, it will be presumed that the disparity must be reduced, unless the judges agree otherwise after discussing and evaluating the various relevant factors.

(G) REFILED CASES

Except when a change of venue is necessary, whenever a case is dismissed by action of the originating party, the case, if re-filed, must be assigned to the same court that received the original case.

LR01-AR15-01 COURT REPORTER SERVICES

Pursuant to Administrative Rule 15, the Court adopts the following plan governing all Court Reporter services:

Definitions: The Court adopts the definitions indicated in Administrative Rule 15, which are set forth below:

(A) *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.

(B) *Equipment* means all physical items owned by the court or other government 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* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.

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

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

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

(G) *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.

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

(I) *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.

(J) *Court* means the particular court for which the court reporter performs services. Depending upon the county, *Court* may also mean a group of courts, i.e. "X county Courts".

(K) *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. The county indigent transcript will also include any requests from the Local Prosecutor's Office.

(L) *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.

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

LR01-AR15-02 *Annual Salary:*

Each Court Reporter shall be paid an annual salary for the time spent working under the control, direction and direct supervision of the Court during any regular work hours or overtime hours. Said salary shall be set by the Court each year and incorporated in the county salary ordinance.

LR01-AR15-03 *Indigent transcripts:*

Considering the past experience of the Courts, it is anticipated that most indigent transcripts will be required to be prepared at a time other than regular work hours. For any such transcripts prepared by the Court Reporter at a time other than regular work hours, said Court Reporter shall be paid a per page fee of \$5.50 per page. For these services, the Court Reporter shall submit a claim directly to the county for any county indigent transcript and shall submit a claim to the state for any state indigent transcripts. If any indigent transcript is prepared during regular work hours, the Court Reporter shall be paid the regular salary and no per page fee shall be submitted or allowed.

If Court Reporter is requested to prepare an expedited transcript, the maximum per page fee shall be \$8.50 per page where the transcript must be prepared within 24 hours or less and \$8.00 per page where the transcript must be prepared within 7 days. A minimum fee of \$50.00 will be charged for transcripts less than 10 pages in length. The time spent binding the transcript, exhibit and index volumes will be at an hourly rate of what the employee earns at an hourly rate. The Court Reporter may charge up to \$1.00 per page for a copy of a transcript or an exhibit.

LR01-AR15-04 *Private transcripts:*

Considering the past experience of the Courts, it is anticipated that most private transcripts will be required to be prepared at a time other than regular work hours, just as is done with indigent transcripts mentioned above. Therefore, for any such private transcripts prepared by the Court Reporter at a time other than regular work hours, said Court Reporter shall be paid a per page fee of \$5.50 per page. The Courts do not anticipate that said private transcripts will be prepared during work hours, but if this does occur, the Court Reporter shall be paid regular salary and the per page fee of \$5.50 shall be paid to the county.

If Court Reporter is requested to prepare an expedited transcript, the maximum per page fee shall be \$8.50 per page where the transcript must be prepared within 24 hours or less and \$8.00 per page where the transcript must be prepared within 7 days. A minimum fee of \$50.00 will be charged for transcripts less than 10 pages in length. The time spent

binding the transcript, exhibit and index volumes will be at an hourly rate of what the employee earns at an hourly rate. The Court may charge up to \$1.00 per page for a copy of a transcript or an exhibit.

LR01-AR15-05 *Court Reporter reports:*

Each Court Reporter shall submit a report, at least on an annual basis to the Indiana Supreme Court Division of State Administration, on forms prescribed by the Division, all transcript fees (either county indigent, state indigent or private) received by the Court Reporter.

LR01-AR15-06 *Gap and overtime hours:*

The Court Reporters in the Adams County Courts work 40 hours per week and, therefore, there is no “gap time”. Over-time hours shall be paid at one and one-half (1½) times the equivalent of the hourly rate or as prescribed by county government rules, ordinances, or by state statute. Over-time also may be compensated by compensatory time and said compensatory time shall be utilized within 180 days of the approval of said time. (The Court recognizes that the county might require use of compensatory time in the week following its accrual, but such a requirement cannot be utilized by the Court. For example, a week-long jury trial might require extensive over-time, but the jury trial might also delay many hearings and trials to the following week when the presence of the Court Reporter is absolutely necessary and, therefore, compensatory time, to be effective, must be utilized at a later date). Any overtime that is satisfied by compensatory time shall be one and a half times the hours worked overtime, for example, four hours overtime would be compensated by six hours of time off regular work hours.

LR01-AR15-07 *Use of equipment:*

The Courts recognize that relatively few transcripts are prepared by a Court Reporter during the course of a year. The Courts also recognize that depositions for private individuals other than Court related transcripts are not prepared by the Court Reporters. Therefore, it is not feasible for the Court Reporters to purchase machines, other equipment, paper, etc. for the preparation of transcripts, depositions and other matters. These transcripts are prepared by

the Court Reporter solely in the official capacity as Court Reporter. Therefore, the “per page” charge which is set forth above anticipates that the Court Reporter is entitled to utilize the equipment and materials of the Court and that the compensation is, therefore, solely for the Court Reporter’s labor.

LR01-TR-79-01 SPECIAL JUDGE APPOINTMENT /TRIAL RULE 79(H)

Pursuant to TR 79(D) – Within seven (7) days of the notation on the Chronological Case Summary (CCS) of an Order granting a change of judge or an order of disqualification, the parties may agree to the appointment of an eligible special judge. An eligible special judge is a judge, a full-time judicial officer, or a senior judge assigned to the Court.

The agreement of the parties must be in writing and filed in the Court where the case is pending.

If the selection of a special judge is not agreed upon, then the remaining full-time judge in the County shall be named as special judge. If that judge cannot serve, then the case will be reassigned in consecutive order on a rotating basis from a list of full-time judicial officers serving within Administrative District 9 (Huntington, Wabash, Wells), Jay County or senior judges pursuant to TR 79(H).

LR01-CR2.2-04 REASSIGNMENT

(A) Circuit Court In the event a change of Judge is granted where it becomes necessary to assign another Judge in any felony or misdemeanor proceeding in Adams Circuit Court, the case shall be reassigned to Adams Superior Court.

(B) Superior Court In the event a change of Judge is granted or it becomes necessary to assign another Judge in any felony or misdemeanor proceeding in Adams Superior Court, the case shall be reassigned to Adams Circuit Court.

(C) Alternative In the event that a reassignment cannot be accomplished pursuant to the rules set forth above, then the case will be reassigned in consecutive order on a rotating basis from a list of full-time judicial officers serving within Administrative District 9 (Huntington, Wabash, Wells), contiguous counties (Allen and Jay) or senior judges pursuant to CR 13.