

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

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**Notice of Proposed Local Rule Amendment and Finding Good Cause to  
Deviate From Established Schedule  
August 15, 2022**


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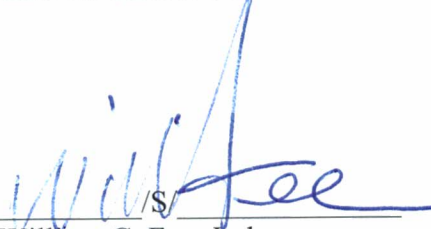
The judges of the Steuben Circuit and Superior Courts, pursuant to Trial Rule 81(B), give notice of amendments to the local court rules and find good cause to deviate from the schedule for amending local rules under Trial Rule 81(D). All new text is shown by underlining and deleted text is shown by ~~striketrough~~.

Notice has been given to the public by posting on the website of the Steuben County Clerk and on the Indiana Judicial Website, and by furnishing a copy to the officers of the Steuben County Bar Association. Comments may be made beginning August 24, 2022 until September 22, 2022, to: Hon. William Fee, Judge of the Steuben Superior Court, Attn: Public Comment on Local Rules, Steuben County Courthouse, 55 S. Public Square, Indiana; or [supcrt@co.steuben.in.us](mailto:supcrt@co.steuben.in.us).

These rule amendments will be effective on September 23, 2022, and after approval of the Indiana Supreme Court for those rules requiring approval.

DATED this 15th day of August, 2022 on behalf of the Judges of Steuben County.

  
Allen Wheat, Judge  
Steuben Circuit Court

  
William C. Fee, Judge  
Steuben Superior Court

cc: Steuben County Bar Association President, Marylyn Ernsberger

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## CIVIL RULES

### **LR76-AR00-1      Scope**

**A.** Pursuant to Ind. Trial Rule 81, the Steuben Circuit Court and the Steuben Superior Court (Court) do hereby adopt the following Local Civil Rules, repealing any Local Civil Rules heretofore promulgated by the Court. These rules do not apply to small claim, domestic relation, traffic infraction or juvenile cases.

### **LR76-AR00-2      Citation**

**A.** All further reference to the Ind. Trial Rules shall be preceded by the designation T.R. followed by the rule number. These Local Civil Rules shall be cited as L. Civ. R. followed by the rule number.

### **LR76-AR00-3      Case Filings**

By mutual agreement between the Courts the following cases shall be filed in the Court as designated:

**A.** All probate, adoption or juvenile cases shall be filed in the Steuben Circuit Court.

**B.** All small claim or traffic infraction cases shall be filed in the Steuben Superior Court. All EV cases shall be filed in the Steuben Superior Court and shall be assigned to small claims under the authority of the magistrate.

C. To the extent permitted by law, all new cases not set forth above shall be assigned a Court by the Clerk through the Odyssey system on a random draw basis.

D. The presiding judge in advance of the filing of any case in the Circuit or Superior Court may consent to the filing of that case only in his Court upon good cause shown.

E. In the event that an existing criminal case exists in either the Circuit or Superior Court, subsequent cases shall be filed in the same court.

**LR76-AR00-4          Preparation of Pleadings, Motions and Other Papers**

For the purpose of uniformity, convenience, clarity, and durability, the following requirements shall be observed in the preparation of all pleadings, motions, and other papers:

**A. Spacing of Text.** Except for quotations, which shall be indented and single-spaced, the text of all pleadings, motions, orders, memoranda and other papers shall be double-spaced.

**B. Signature.** ~~Neither typewritten nor Facsimile signatures shall~~ may be accepted on original documents requiring a signature, at the judge's discretion, facsimile signatures are permitted on copies. All such documents ~~shall~~ should contain the written signature of the attorney, if any; the printed name; Indiana Attorney Registration Number; the name of the firm, if any, with whom the attorney is associated; address; telephone number; and, designation of the party represented. The following format is recommended:

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JOHN DOE  
Indiana Attorney Number: 1111-45  
DOE, ROE AND SMITH  
Suite 35, Blackacre Building  
Angola, Indiana 46703  
TX: (260) 555-3000  
Attorney for Plaintiff

**LR76-AR00-5      Filing/Service**

**A. Attorney Boxes.** The Court designates the attorney boxes located in the Court office as an alternative suitable means for making service of all legal papers by counsel or by the Clerk.

**LR76-AR00-6      Motions**

**A. Briefs.** All motions filed pursuant to T.R. 12 and T.R. 56 shall be accompanied by separate supporting briefs with citation to appropriate legal authority. An adverse party shall have thirty (30) days after service of the initial brief in which to serve and file an answer brief, and the moving party shall have ten (10) days after service of the answer brief in which to serve and file a reply brief. With regard to all other motions or matters submitted to the Court, and so long as consistent with the Ind. Trial Rules, an adverse party wishing to respond shall do so within ten (10) days after service. The moving party shall have ten (10) days after service of the response within which to reply. Failure to file an answer brief or reply brief within the time prescribed above shall be deemed a waiver of the right to do so.

**B. Oral Arguments.** The granting of a motion for oral argument, unless required by the Ind. Trial Rules, shall be discretionary with the Court.

**C. Separate Motions and Orders; Service.** Motions shall not be ruled upon unless accompanied by a separate form of order.

**LR76-AR00-7          Withdrawal of Appearance**

**A. Motion, Notice, Waiver.** All withdrawals of appearance shall be in writing and by leave of Court. Except for good cause shown, no Motion to Withdraw shall be granted unless filed within thirty (30) days prior to any scheduled hearing. Permission to withdraw shall be given only after the withdrawing attorney has given the client ten (10) days written notice of his/her intention to withdraw. A copy of the notice of intention to withdraw shall be attached to the motion seeking leave to withdraw. This rule may be waived by the Court if withdrawal is at the written request of the client; accompanied by the appearance of successor counsel; or, for other good cause shown. All withdrawals shall fully comply with the Rules of Professional Conduct, Rule 1.16.

**B. Withdrawal Will Not Effect Continuance.** Withdrawal of counsel, in and of itself, shall not effect a continuance of any pending matter.

**C. Automatic Withdrawal of Appearance.** In Domestic Relation cases, Paternity cases and Criminal cases, an attorney's Appearance in the case shall automatically be deemed to be withdrawn thirty-five (35) days after the conclusion of the pending action, i.e., Final Decree,



Modification, Citation, Conviction, or post-conviction or similar final adjudication. If a new action, i.e., Modification, Citation, revocation or other post-judgment or post-conviction action is filed more than thirty-five (35) days after the conclusion of a prior action, an attorney will need to re-enter his or her Appearance to represent a party in the new action. This automatic withdrawal does not apply in matters involving other civil judgments (collection matters).

**LR76-AR00-8            Removal of Records - Law Library**

**A.** Consistent with the intent of Administrative Rule 10, neither the Case File, Chronological Case Summary, nor contents of the Record of Judgments and Orders shall be removed from the custody of the Court or Clerk.

**B.** Books located in the law library maintained in the Courthouse shall not be removed from the Courthouse, and shall be promptly reshelved following use.

**LR76-AR00-9            Continuances - Extensions of Time to Answer**

**A. Motion.** In all cases where the parties are represented by counsel, no motion for continuance will be acted upon by the Court unless it is made to appear in the body of the motion that moving counsel has attempted to arrange with opposing counsel a mutually satisfactory date and time to hear the continued matter and the new date and time has been confirmed as available by Court staff. The new date and time should appear in the order tendered to the Court for signature.

If counsel are unable to arrive at a mutually satisfactory date and time to continue the matter, then, this fact shall be made to appear in the body of the motion and the Court shall then rule upon the merits of the motion.

**B. Time for Filing.** A motion for continuance must be filed as soon after the cause for continuance is discovered, and not later than ten (10) days before hearing or trial, unless the reason for the continuance is shown to have first occurred within that period.

**C. Automatic Extension for Answer.** Provided it is timely filed, the entry of an appearance by a party or counsel in response to a summons in an action that requires an answer shall effect an automatic extension of thirty (30) days from the filing thereof within which to answer or otherwise respond.

#### **LR76-AR00-10      Discovery**

**A. Commencement and Extensions.** In general, counsel are expected to begin discovery promptly, and shall be granted extensions only upon a showing of diligence and good cause. Notice of compliance with Discovery should NOT be filed with the court.

**B. Interrogatories and Request for Admissions.**  
Interrogatories shall be tailored specifically to the cause in which they are served and numbered consecutively to facilitate response. No party shall serve on any other party more than sixty (60) Interrogatories or more than sixty (60) Request for Admissions (other than those relating to the authenticity or genuineness of documents), including subparagraphs, without leave of Court. Subparagraphs shall

relate directly to the subject matter of the Interrogatory or Request for Admission. Any party desiring to serve additional Interrogatories or Request for Admissions shall first file a written motion with the Court which specifically shows the necessity for additional Interrogatories or Request for Admissions.

**C. Attorney Conference.** Strict compliance with T.R. 26 through 37 is required. The discovery process is intended to be largely self-actuating with minimal court supervision. Therefore, the Court will not rule on motions related to discovery disputes unless moving counsel represents that after personal or telephonic conference, in a good faith effort to resolve differences, counsel are unable to reach accord. If counsel advises the Court, by way of motion or response thereto, that opposing counsel has refused or delayed resolution of the discovery dispute, the Court may, after hearing, impose appropriate sanctions.

**LR76-AR00-11          Pre-Trial Procedure**

**A. Mediation.** All civil plenary and civil tort cases shall be referred to mediation unless waived by the Court.

**B. Pre-Trial Conference.** Upon being advised that mediation was unsuccessful, the Court shall schedule a preliminary pre-trial conference. Each party shall be represented at this conference, which may be telephonic, by an attorney familiar with the case, who shall be prepared to discuss and enter into stipulations concerning:

- (1) a discovery schedule;

- (2) the necessity of further mediation;
- (3) ~~(2)~~ the necessity for amendments to the pleadings;
- (4) ~~(3)~~ time limits for the exchange of preliminary witness and exhibit lists;
- (5) ~~(4)~~ time limits for filing dispositive motions;
- (6) ~~(5)~~ the scheduling of a final pre-trial conference; and,
- (7) ~~(6)~~ the scheduling of the trial date.

**C. Case Management Order.** At the conclusion of the preliminary pre-trial conference, the Court shall enter a Case Management Order setting forth:

- (1) a time limit for completion of discovery;
- (2) any further mediation orders;
- (3) a time limit for joinder of additional parties and amendment of pleadings;
- (4) ~~(3)~~ a time limit for the exchange of a preliminary witness and exhibit list;
- (5) ~~(4)~~ a time limit for filing all pre-trial dispositive motions;
- (6) ~~(5)~~ the scheduling of a final pre-trial conference; and,
- (7) ~~(6)~~ the scheduling of the trial date.

**D. Mandatory Final Pre-Trial Conference.** A final pre-trial conference shall be held in every civil plenary or civil tort case at which each party shall be represented by the attorney who will conduct the trial.

**E. Contents of Proposed Pre-Trial Order.** Counsel shall prepare a proposed pre-trial order which shall be executed by counsel for all parties and filed not later than five (5) days prior to the final pre-trial conference. The proposed final pre-trial order shall set forth

the following sequence:

- (1) the jurisdiction of the Court;
- (2) the pleadings raising the issues;
- (3) any motions or other matters requiring action by the Court;
- (4) a concise statement of stipulated facts;
- (5) a concise statement of issues of fact which remain to be litigated;
- (6) a concise statement of issues of law which remain for determination by the Court;
- (7) the plaintiff's contentions;
- (8) the defendant's contentions;
- (9) the plaintiff's list of trial exhibits;
- (10) the defendant's list of trial exhibits;
- (11) the plaintiff's list of trial witnesses, with addresses. Expert witnesses shall be so designated; and,
- (12) the defendant's list of trial witnesses, with addresses. Expert witnesses shall be so designated.

When, for any reason, the final pre-trial order is not executed by all counsel, each counsel shall file no later than three (3) days prior to the final pre-trial conference a written statement of the reasons therefore and accompanied with their proposed final pre-trial order.

**E. Pre-Trial Order.** At the conclusion of the final pre-trial conference, the Court shall enter a final pre-trial order which, when entered, shall control the course of the trial and may not be amended except by order of the Court to prevent manifest injustice.

**F. Proposed Jury Instructions.** Proposed preliminary and final

jury instructions, and all motions in limine, shall be filed and served no later than five (5) days prior to the final pre-trial conference. Instructions covering issues arising at trial which could not reasonably be anticipated in advance of trial may be submitted during the trial. Each instruction shall be accompanied by citations to legal authority.

Written objections to proposed jury instructions shall be submitted to the Court no later than three (3) days before the final pre-trial conference. The written objections shall make reference to the number of the instruction being objected to; state specifically the nature of the objection; and, be accompanied by citations to legal authority.

**G. Sanctions.** Failure of the parties or their attorneys to be prepared for the preliminary pre-trial conference, the final pre-trial conference, or to otherwise comply with this Local Civil Rule, may be sanctioned pursuant to T.R. 16(K).

#### **LR76-AR00-12 Attorney Fee Requests**

**A. Affidavits.** When attorney fees are requested from the opposing party, the requesting attorney shall submit a fee affidavit. The Court shall admit the fee affidavit into evidence subject to cross-examination.

**B. Contents of Affidavit.** The fee affidavit shall state:

- (1) the requested fee and how calculated;
- (2) the amount, to date, counsel has received from all sources; and

- (3) a copy of the written fee contract, if any, shall be attached to the fee affidavit and be deemed a part thereof.

## **DOMESTIC RELATION RULES**

### **LR76-DR-1 Scope**

**A.** Pursuant to Ind. Trial Rule 81, the Steuben Circuit Court and the Steuben Superior Court (Court) do hereby adopt the following Local Domestic Relation Rules, repealing any Local Domestic Relation Rules heretofore promulgated by the Court.

### **LR76-DR-2 Citation**

**A.** All further reference to the Ind. Trial Rules shall be preceded by the designation T.R. followed by the rule number. These Local Domestic Relation Rules shall be cited as L. Dom. Rel. R. followed by the rule number.

### **LR76-DR-3 Cooperation**

**A.** In all proceedings involving custody or parenting time of children, this rule shall require the parties to first utilize cooperative approaches to resolving the dispute, prior to adversarial proceedings.

### **LR76-DR-4 Dissolution of Marriage**

**A. Temporary Restraining Order.** The Court will only in extraordinary circumstances issue an ex parte restraining order, except

as permitted by T.R. 65(E). ~~Strict compliance with T.R. 65(E) is required.~~ The body of the motion must demonstrate what efforts have been made to notify the opposing party that an ex parte order will be sought, or why efforts at notification would be futile, and demonstrate why justice demands relief be given without notification to the opposing party.

**B. Provisional Relief Hearing.** If each party is represented by counsel, then counsel shall before the date and time set for hearing on a Motion for Provisional Orders meet and attempt to resolve all provisional matters by way of Agreed Entry. At the beginning of each provisional order hearing counsel will be asked whether this meeting between counsel has occurred. If not, except upon a showing of good cause, counsel will be directed to a conference room and the meeting shall occur forthwith.

On or before the date the Motion for Provisional Orders is set for hearing each party, if applicable, shall file with the Court the Child Support Obligation Worksheet and Parenting Time Credit Worksheet set forth at Appendix 1. If a temporary division of marital assets and/or debts is to be at issue at the hearing, then, each party shall file with the Court the Verified Asset and Expense Statement set forth at Appendix 2.

**C. SUMMARY EXPEDITED HEARING.** The first scheduled provisional order hearing in a DC case regarding custody, parenting time or child support shall be set as a summary hearing, expedited in nature with. Counsel shall be fully prepared to advise the Court of all relevant facts which will be necessary for the Court to enter a provisional



order. All summary expedited hearings will be held in open court and on the record. All summary expedited hearings involving child support shall occur within twenty (20) days of filing. These summary expedited hearings are not evidentiary hearings. It shall be the responsibility of counsel to advise the Court if they will need court time for a non-expedited summary provisional order hearing. At ~~this time~~ the summary expedited hearing, the parties shall also be expected to show compliance with the requirement regarding parent education programs and the requirements of this rule concerning mediation.

**D. ~~C.~~ Child Support.** All orders establishing or modifying child support shall be effective as of the date the motion for said establishment or modification was filed except for good cause shown. All orders establishing or modifying child support shall be made in accordance with the Indiana Child Support Guidelines established by the Indiana Supreme Court and Ind. Code § 31-16-6-1 or Ind. Code § 31-14-11-2.

**E. ~~D.~~ Custody Evaluations.** Unless waived by the Court no case involving the issue of contested child custody will be set for final hearing until there is filed with the Court a custodial evaluation prepared by an expert approved by the Court. Upon request, the Court will allocate costs subject to review at final hearing. The written report of the expert shall be deemed admitted into evidence subject to cross-examination. However, no custody evaluation may be conducted, ordered by the Court or requested by any party unless and until cooperative approaches, such as mediation, have been exhausted. Alternate Dispute Resolution funds are available to assist in the cost

of ADR custody evaluations.

**F. ~~E.~~ Property, Indebtedness, and Earnings Disclosure Forms.**

The Court has prepared and makes available to counsel a Property, Indebtedness, and Earnings Disclosure Form as set forth at Appendix 3.

**G. ~~F.~~ Court Time.** Court time for a final contested hearing on a Petition for Dissolution of Marriage will not be scheduled until a party has fully completed and filed a Property, Indebtedness and Earnings Disclosure Form. Thereafter, the following rules apply:

(1) A copy of said form, when served upon the opposing party, if represented by counsel, shall be deemed to be a Request for Admissions by the opposing party that the information contained on said form is true.

(2) The opposing party shall respond to such Request for Admissions by completing such party's respective portion of the disclosure form and filing same with the Court within thirty (30) days from date of service. The responding party shall make his or her disclosures on a copy of the **SAME FORM** served by the opposing party so that the copy filed with the Court by the responding party contains both parties' disclosures on the same form.

(3) In the event that the party being served with the initial Property, Indebtedness and Earnings Disclosure Form does not, within thirty (30) days from the date of service, file his or her respective portion of the disclosure form, if represented by counsel, the information contained in the Property, Indebtedness and Earnings Disclosure Form then on file shall be deemed to be admitted as fact by all parties.

**H. ~~G.~~ Parenting Time Schedule.** Unless the Court enters specific orders to the contrary, any order of the Court providing for custody of children shall be deemed to provide, by operation of this rule, for the implementation of parenting time with said child(ren) by the non-custodial parent in accordance with the Indiana Parenting Time Guidelines~~-~~ , that are in existence on the date the order is entered.

Subsequent revisions of the Parenting Time Guidelines do not change the parenting time order.

**I. ~~H.~~ Verified Submission of Child Support Information.** If not previously filed, on or before the date of the final hearing on any Petition for Dissolution of Marriage, Petition to Establish Paternity or Petition to Modify Child Support, the parties shall submit to the Court a completed copy of the Child Support Obligation Worksheet and Parenting Time Credit Worksheet set forth at Appendix 1. All numbers shall be rounded to the nearest whole dollar.

**J. ~~I.~~ Mandatory Exchange of Information.** Within thirty (30) days after counsel for Respondent enters an appearance, both counsel shall voluntarily exchange the following information for their clients:

- (1) Federal and state income tax returns, with all supporting schedules, for the preceding three (3) years;
- (2) Pay stubs for the preceding four (4) weeks;
- (3) Bank statements showing balances in all accounts as of the date the petition was filed;
- (4) Pension valuations showing those benefits which were vested as of the date of marriage, and, which were vested as of the date of filing the petition;
- (5) Copies of all deeds, mortgages, and land contracts;
- (6) Copies of all real estate and personal property appraisals done within the preceding five (5) years;
- (7) Copies of all financial statements provided to any financial institution within the preceding five (5) years;
- (8) A list of all marital debts showing the name of the creditor, whether the debt is joint or individual, monthly payments, and payoff as of date of filing the petition; and,

- (9) All other relevant information in the party's possession pertaining to custody, support, parenting time or marital assets or marital debts.

**K. ~~J.~~ Education Program.** In any dissolution, legal separation or paternity case where orders are requested regarding unemancipated children, both parents shall register to attend ~~in person~~, the Court approved co-parenting program designed to lessen the adverse impact of divorce upon the child(ren). A registration form is attached as Appendix 4.

Counsel for the responding party shall on the date his/her appearance is filed certify to the Court in writing that his/her client has completed the registration form necessary to attend the Court approved parenting program.

A party unrepresented by counsel shall be advised by the Court that he/she must attend the parenting program and be provided with the necessary registration form.

The Clerk of the Steuben Circuit / Superior Court shall distribute to any party the registration form upon the case being filed.

Failure of a party to attend the educational program may result in that party being found in contempt.

**L. ~~K.~~ Income Withholding Orders.** No divorce settlement agreement or post-divorce modification agreement involving minor children will be approved by the Court unless accompanied by an Income Withholding Order, fully completed, and ready for immediate activation, unless it is made to appear that such would not be in the best interest of the minor child(ren), or is otherwise not required by law. The fact that the parties have joint custody, standing alone, is an insufficient

basis not to have in place an Income Withholding Order.

**LR76-DR-5    Mediation**

It is the policy of the Court to refer appropriate custody and parenting time issues to mediation. The Court may excuse from mediation cases that may be inappropriate for mediation, e.g., domestic violence. This policy shall be implemented as follows:

**A.    New Divorces and Paternity Proceedings .**

- (1) The Court shall enter a mediation order in every case except if both counsel advise the Court that the parties are negotiating in good faith and a Settlement Agreement appears eminent, or, it is made to appear to the Court that a party has been the subject of domestic violence and mediation would be counter-productive.
- (2) Alternative Dispute Resolution Rule 2 shall govern the conduct of the parties and the mediation process.
- (3) Recognizing that driving long distances can itself present unique problems to successful mediation, the Court will endeavor to make available rooms in the Courthouse within which to conduct the mediation sessions if requested. Zoom mediation is permitted.
- (4) Once a case is referred to mediation, it shall not be set for contested final hearing until, in addition to all other requirements of these Local Domestic Relation Rules being met, the Court receives a written report from the mediator. The report shall advise the Court what, if any, issues have been successfully resolved through mediation. All issues which have been resolved shall be set forth in writing by the mediator, signed by the parties and their counsel, and, shall serve as stipulations of the parties at any contested final hearing.
- (5) As officers of the Court, the attorneys shall explain to their clients the benefits of mediation, all projected costs, including attorney fees, to be anticipated in preparing for and concluding a contested final hearing, and, that the agreement which they make concerning the issues in their case could be more satisfactory to them than one fashioned

by the Court following a contested final hearing.

**B. Post-Dissolution.**

- (1) All post-dissolution petitions or counter petitions which seek a modification of child custody shall immediately be referred to mediation.
- (2) Paragraphs A2, A3, A4 and A5 set forth above shall each be applicable to post-dissolution mediation.

**CRIMINAL RULES**

**LR76-CR-1 Scope**

**A.** Pursuant to Ind. Trial Rule 81, the Steuben Circuit Court and the Steuben Superior Court (Court) do hereby adopt the following Local Criminal Rules, repealing any Local Criminal Rules heretofore promulgated by the Court.

**LR76-CR-2 Citation**

**A.** All further reference to the Ind. Criminal Rules shall be preceded by the designation Crim. R. followed by the rule number. These Local Criminal Rules may be cited as L. Crim. R. followed by the rule number.

**LR76-CR-3 Appearance/Waiver**

**A.** Defendant shall appear in person, and by counsel, if counsel has entered an appearance, at the initial hearing in all felony and misdemeanor cases, subject to Crim. R. 3B.

**B.** A defendant appearing with counsel may waive appearance at

the initial hearing by filing a written waiver signed by defendant and counsel in a misdemeanor case. A form of waiver is set forth at Appendix 5. A defendant shall appear in person at all subsequent hearings.

#### **LR76-CR-4 Withdrawal of Appearance**

**A.** In all criminal cases withdrawal of representation of a defendant by counsel shall be done in accordance with the provisions of Ind. Code § 35-36-8-2.

#### **LR76-CR-5 Pre-Trial Procedures**

**A. Felonies/Misdemeanors.** The initial hearing in criminal cases shall be held before the Magistrate unless otherwise directed by the Circuit or Superior Court.

**B.** At the conclusion of the initial hearing, if a plea of not guilty is entered, the Judicial Officer will set the case for pre-trial conference in the appropriate court and assign the case an omnibus date.

**C.** At the conclusion of the initial hearing, if a valid guilty plea is entered, the Magistrate may adjudicate a conviction and conduct a sentencing hearing as permitted by law and as he/she deems appropriate.

**D.** All misdemeanor cases will be set for bench trial unless the State or defendant complies with the requirements of Crim. R. 22.

**E.** In all cases to be tried to a jury motions in limine and proposed jury instructions, if any, shall be filed with the Court no later than five (5) days prior to trial, except for good cause shown.

**F.** No criminal case, except for good cause shown, will be set for a change of plea hearing unless the defendant first files with the Court a written motion which seeks leave of Court to withdraw his/her former plea of not guilty and to enter a plea of guilty together with a fully executed copy of the proposed plea agreement. ~~Pre-sentence reports shall be prepared by the Probation Department prior to the change of plea hearing in all felony cases.~~

#### **LR76-CR-6 Discovery/Character Evidence**

**A.** In all criminal cases, the State and the defendant shall comply with the terms of the standing Criminal Discovery Order set forth at Appendix 6.

**B.** All character evidence which the State intends to offer pursuant to Ind. Rules of Evidence 404(b) shall be made available to defendant no later than the date scheduled for the initial pre-trial conference, except for good cause shown.

#### **LR76-CR-7 Bail Policies and Schedule**

**A.** All persons charged with a criminal offense, other than murder, or attempted murder, shall be admitted to bail in an amount fixed by the Court and endorsed upon the warrant of arrest.

- B.** Persons entitled to bail may be admitted to bail by:
- (1) executing a bail bond with sufficient solvent sureties as required by Ind. Code § 35-33-8; or,
  - (2) depositing cash in an amount equal to the bail; or,
  - (3) providing any other bond or surety as may be approved by the Court.



**C.** Except where restriction is endorsed on the warrant, or as set forth below, a defendant may be admitted to bail by executing a Personal Appearance Bond with ten percent (10%) Cash Deposit Surety Agreement as set forth at Appendix 7, and depositing with the Clerk cash equal to ten percent (10%) of the aggregate bail or fifty dollars (\$50.00), whichever is greater. However, a ten percent (10%) cash bond is authorized only when:

- (1) the defendant is a resident of the State of Indiana;
- (2) the defendant is charged with a Class C, Level 3 or lesser crime;
- (3) the defendant has no prior conviction for a felony known to the detaining officer; or,
- (4) the defendant is not charged with a crime of violence involving personal injury.

**D.** In any case in which a full cash bond or ten percent (10%) cash bond has been deposited:

- (1) The full cash bond or ten percent (10%) cash bond deposit shall be posted by the defendant only and in the defendant's name only and shall be considered a personal asset of the defendant.
- (2) The full cash bond or ten percent (10%) case bond deposit, after final judgment of conviction, shall be applied as follows:
  - (a) payment of the Clerk's administrative fee;
  - (b) payment of public defender fees;
  - (c) payment of fines, court costs, restitution and initial and monthly probation user fees;
  - (d) payment of administrative fees;
  - (e) payment of any other fees as ordered by the Court; and,
  - (f) The balance shall be released to the

defendant.

**E.** Individuals arrested without a warrant may post bail according to the bail schedule set forth below, including a ten percent (10%) cash bond, without being first brought before the Court if the standards of paragraph C above are satisfied. All other individuals arrested without a warrant shall be brought before the Court no later than the day of arrest if the Court is in session, or, the next day Court is in session following arrest for his/her initial hearing.

**F.** No individual arrested while intoxicated shall be released or brought before the Court until sober.

**G.** Juveniles (individuals under 18 years of age) shall not be held to bail and are to be released to the recognizance of a parent or guardian upon approval of the Court or Probation Officer. Juveniles who are detained shall be brought before the Court for a prompt detention hearing in accordance with law.

**H.** The following bail schedule determines presumptively reasonable bail that shall be set pursuant to paragraph E above for offenses occurring before July 1, 2014. This bail schedule is superseded by bail endorsed upon a warrant or otherwise set by order of the Court.

Murder . . . . .	presumptively not bailable
Class A Felony . . . . .	\$100,000.00
Class B Felony . . . . .	\$ 50,000.00
Class C Felony . . . . .	.\$ 20,000.00
Class D Felony . . . . .	.\$ 5,000.00
Class A Misdemeanor . . . . .	\$ 2,500.00

Class B Misdemeanor . . . . .	\$ 1,000.00
Class C Misdemeanor . . . . .	\$ 500.00

**I.** The following bail schedule determines presumptively reasonable bail that shall be set pursuant to paragraph E above for offenses occurring on or after July 1, 2014. This bail schedule is superseded by bail endorsed upon a warrant or otherwise set by order of the Court.

Murder . . . . .	presumptively not bailable
Level 1 Felony . . . . .	\$100,000.00
Level 2 Felony . . . . .	\$ 50,000.00
Level 3 Felony . . . . .	.\$ 25,000.00
Level 4 Felony . . . . .	.\$ 10,000.00
Level 5 Felony . . . . .	.\$ 5,000.00
Level 6 Felony . . . . .	.\$ 3,000.00
Class A Misdemeanor . . . . .	\$ 2,500.00
Class B Misdemeanor . . . . .	\$ 1,000.00
Class C Misdemeanor . . . . .	\$ 500.00

**J.** Pursuant to Indiana Code 35-33-8-3.2, a Judicial Officer assessing bail may also require reasonable conditions for bail. The conditions may include:

- (1) Reasonable restrictions on the activities, movements, associations, and residence of a defendant during the period of release.
- (2) A requirement that a defendant be refrained from any direct or indirect contact with an individual.
- (3) Placing a defendant under the reasonable supervision of a probation officer or other appropriate public official.
- (4) Releasing a defendant into the care of a qualified

person or organization responsible for supervising the defendant and assisting the defendant in appearing in court.

**LR76-CR-8            LOCAL TRAFFIC VIOLATION**

**A.** If a Defendant fails to appear after having been provided notice of the initial hearing date or subsequent hearing dates, he may be defaulted. The Court shall notify the Clerk of the Defendant's failure to appear. The Clerk shall notify the Defendant of the judgment entered, and shall notify the Defendant that he/she must pay the scheduled fine and costs within thirty (30) days. Should the Defendant fail to make the required payment within this thirty (30) day limit, the Clerk shall certify to the Bureau of Motor Vehicles that the Defendant failed to appear and failed to pay any fine and costs, and that the Defendant's driving privileges should be suspended until the fine and costs are paid in full.

**B.** Any judgment so entered may also be sought through a levy of execution, proceedings supplemental or any other method appropriate to the collection of civil judgments.

**C.** All judgments levied by the Court shall be payable in cash, money order or law firm check. Any judgment not paid in the time required is also subject to all statutory interest, late fees or similar fees allowed by law.

**LR76-CR-9            COMMUNITY CORRECTIONS**

**A.** If a Defendant anticipates serving all or part of his/her executed sentence through Community Corrections he/she should qualify

prior to his/her sentencing hearing.

**LR76-CR-10 PLEA AGREEMENTS**

**A.** Barring extraordinary circumstances, a proposed plea agreement should be tendered by the State to the Defendant no later than the first pre-trial conference.

**B.** When the Court sets a final pre-trial conference date plea negotiations terminate on ~~that~~ the final pre-trial conference date.

**ADMINISTRATIVE RULES**

**LR76-AR-1 Scope**

**A.** Pursuant to Ind. Trial Rule 81, the Steuben Circuit Court and the Steuben Superior Court (Court) do hereby adopt the following Local Administrative Rules, repealing any Local Administrative Rules heretofore promulgated by the Court.

**LR76-AR-2 Citation**

**A.** These Local Administrative Rules shall be cited as L. Admn. R. followed by the rule number.

**LR76-AR-3 Cell Phones/Cameras**

**A.** No cell phones, cameras or recording devices of any nature whatsoever will be permitted into the Courthouse.

**B.** All such devices will be confiscated by security personnel at the front door of the Courthouse, and promptly returned to the owner

upon his/her departure from the Courthouse.

**C.** Courthouse employees, law enforcement personnel and members of the Indiana Bar who are identified as such are exempt from the provisions of this Local Administrative Rule.

**LR76-AR1-4 Caseload Allocation Plan**

**A. Criminal, Infraction and Ordinance Violation Cases**

Criminal cases shall be filed pursuant to LR76-CR2.2-1. All infraction and ordinance violation cases shall be assigned to the Superior Court.

**B. Probation and Related Cases**

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

**C. Juvenile Cases**

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

**D. Small Claims Cases**

All small claims cases shall be filed to the Steuben Superior Court.

**E. Civil Case Types**

Cases other than those mentioned in the preceding paragraphs upon filing shall be assigned by the Clerk by the Odyssey system based upon a random draw to either Circuit Court or Superior 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 Circuit Court and the Judge of the 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.~~ adjustments made as necessary.

**F. 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.

In cases in which no judge is eligible to serve as special judge or the particular circumstances of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.

**G. Consent to hear cases**

The judge of the Steuben Circuit Court may serve as judge of the Steuben Superior Court and vice versa, with consent of the presiding judge of each respective court.

**LR76-CR2.2-1 Criminal Case Filings**

**A.** All felony cases shall be filed on the basis of random selection, except:

- (1) If an active case or cases exist against the individual to be charged, the new case shall be filed in that court, or
- (2) The prosecuting attorney certifies to the clerk that new filings are "companion cases". Companion cases shall denote cases involving co-defendants or cases arising out of the same or closely related transaction or occurrence, or in any other instance where consideration of the case with others in the same forum is in the interests of judicial economy.
- (3) Where a conflict of interest exists, or other good cause is shown, the presiding judge of either court may permit the filing of that case so as to avoid the conflict.

~~(4) In the event a case is dismissed, and later refiled, it should be refilled in the same court.~~

**B.** Pursuant to Ind. Criminal Rule 2.2(D) and Ind. Criminal Rule 13(C), in the event a change of judge is granted or a disqualification or recusal is entered, the case shall be reassigned as follows:

- (1) 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 the Steuben Circuit Court, the case shall be reassigned to the Steuben Superior Court.
- (2) Superior 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 the Steuben Superior Court, the case shall be reassigned to the Steuben Circuit Court.
- (3) Alternative: In the event a reassignment cannot be accomplished pursuant to the rules set forth above, then the case will be reassigned on a rotating basis to a



Judge or Magistrate in District 6.

C. Pursuant to Ind. Criminal Rule 13(D), in the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a Special Judge.

**LR76-TR79-5            Special Judge Appointments**

A. Whenever selection of a special judge is required under Ind. Trial Rule 76 or Ind. Trial Rule 79(H), the following shall be the exclusive method for selecting the special judge.

B. Counsel shall within seven (7) days attempt to agree upon the special judge to be appointed. Counsel shall advise the Court in writing of the special judge agreed upon, or, of their inability to reach agreement.

C. If counsel should be unable to agree upon the appointment of a special judge, the Clerk of the Court shall appoint the special judge from a rotating panel. The panel shall consist of judges and magistrates sitting in Steuben, DeKalb, LaGrange and Noble County.

D. This Local Administrative Rule does not apply to the selection of special judges in criminal cases.

**LR76-JR4-6            Selection of Jurors**

A. The Court utilizes the two (2) tier system for impaneling jurors for trial.

B. Prospective jurors are first notified they have been selected for jury duty and requested to complete and return a juror

qualification form. The jury administrator thereafter sends summons for a particular case at least one (1) week before the scheduled start of the trial.

**C.** In all cases twelve (12) prospective jurors shall be seated in the jury box to commence the voir dire examination.

**D.** The party having the burden of proof shall conduct the first voir dire examination of the panel.

**E.** All challenges of prospective jurors shall be made at the close of each completed round of voir dire examination, and strikes shall be submitted in writing by each party, simultaneously, to the judge at the bench.

**F.** The Court will rule first upon challenges for cause and will then receive peremptory challenges. A peremptory challenge made by a party shall count against such party's total allowed challenges regardless of whether the other party has also made a peremptory challenge of the same prospective juror.

**G.** A juror who is not removed either for cause or peremptorily on the first occasion for making challenges following the voir dire examination shall be accepted as a juror for the trial by both parties, and may not thereafter be challenged peremptorily, and may be challenged for cause only if such cause is based upon information solicited after the first voir dire examination of the juror.

**H.** Upon the removal of any prospective juror(s) from the panel, additional juror(s) shall be seated to replace the excused juror(s) and voir dire examination of the additional prospective juror(s) shall proceed according to this Rule.

**I.** In all cases where only six (6) jurors, excluding alternate, are to be seated challenges either for cause or peremptorily may be made against any of the twelve (12) prospective jurors. The first six (6) jurors remaining, after challenges, in the order that their names are drawn shall constitute the jury to try the case.

**J.** An alternate juror(s) may be seated in accordance with law, and in the discretion of the Court.

**LR76-AR15-7 Court Reporters**

**A.** Court Reporters have customarily been and shall continue to be paid an annual salary for time spent working under the control and supervision of the Court during any regular working hours, gap hours or overtime hours.

**A.** Court Reporters shall receive \$5.00 per page as Compensation for County indigent transcript preparation.

**C.** Court Reporters shall submit claims directly to the County for the preparation of County indigent transcripts.

**D.** Court Reporters shall receive \$5.00 per page for the preparation of State indigent transcripts.

**E.** Court Reporters shall receive \$5.00 per page for the preparation of private transcripts.

**F.** If a Court Reporter is requested to prepare an expedited transcript the fee per page shall be \$7.00, and the transcript shall be prepared within ten (10) working days.

**G.** Court Reporters shall report at least on an annual basis to the Division of State Court Administration, on forms prescribed by the

Division of State Court Administration, all transcript fees whether they be County indigent, State indigent or private fees received by said Court Reporter.

**H.** Court Reporters shall not engage in private practice through the recording of a deposition and/or preparing a deposition transcript. Court Reporters shall have written agreements with the Court which outline the manner in which the Court Reporter is to be compensated for all gap and overtime hours which shall include either direct monetary compensation, or, compensatory time off regular working hours.

**LR76-AR12B-8      Transcript for Appeal**

**A.** Pursuant to Ind. Appellate Rule 12B the Clerk, at her sole option, may release to counsel either the original or a copy of the transcript. If a copy of the transcript is provided to counsel, it shall be provided without additional cost to counsel. If the original transcript is released to counsel by the Clerk it shall be returned to the Clerk prior to the expiration of the party's briefing schedule. If counsel should receive an extension of time to file briefs they shall notify the Clerk, in writing, of this fact.

**B.** In non-indigent cases, the Court Reporter shall not commence preparation of the transcript until she has received her initial request for compensation. The Court Reporter shall not release the finished transcript until she has been fully compensated.

## CIVIL SMALL CLAIM RULES

### LR76-SC-1      **Service and Appearance**

**A.** Upon failure to obtain adequate service over a party, the party seeking to obtain service shall be granted sixty (60) days to perfect service. Failure to perfect service within such sixty (60) day period may result in the cause or applicable motion being dismissed without prejudice.

**B.** Should a party that is ordered to appear at a proceedings supplemental hearing fail to appear for such hearing, the non-appearing party shall be subject to a Rule to Show Cause (contempt citation) to determine whether a finding of contempt should enter against such party.

**C.** Bail for a body attachment may be set in cash for the amount of the judgment, or \$1,000.00, whichever is less.

**D.** If a party is unable to meet the bail endorsed upon the body attachment, that person shall be brought before the Court immediately for a Rule to Show Cause hearing (contempt hearing). The moving party shall also appear, if possible.

### LR76-SC-2      **Trial Date**

**A.** All small claims ~~shall~~ may be initially set for trial at a time that may be insufficient for an actual trial to take place. Upon entry of an appearance by an attorney for a defendant, upon the filing of a responsive pleading or counter-claim, or upon oral motion for a

contested hearing, the cause shall be set for the next available "contested" trial date.

**LR76-SC-3            Collection**

**A.** The Clerk shall accept no Motions for Proceedings Supplemental for filing less than ten (10) days from the date of judgment, without leave of Court being first obtained.

**LR76-SC-4            Forms**

**A.    Court Forms:** The Court in conjunction with the Clerk of Circuit and Superior Court has prepared forms for use by parties, the Clerk, and the Court. All parties shall use the forms as drafted. The use of a modified or altered form may result in the pleading or motion being struck from the record or denied. Copies of the forms, as updated from time to time, can be obtained at the Small Claims Court (55 South Public Square, Angola, Indiana) and on-line at the Steuben County website, [www.co.steuben.in.us](http://www.co.steuben.in.us) or the State website at <https://in.gov/courts/publications/local-rules>.

**B.    Signature Line:** All proposed orders and forms requiring the signature of a judicial officer shall have a signature line for "Magistrate, Steuben Superior Court".

Pursuant to Ind. Trial Rule 81, the Steuben Circuit Court and the Steuben Superior Court (Court) do hereby adopt the above and forgoing Local Rules, repealing any Local Rules heretofore promulgated by the

Court being in conflict with these Amended Local Rules

ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
Allen N. Wheat, Judge  
Steuben Circuit Court

\_\_\_\_\_  
William C. Fee, Judge  
Steuben Superior Court