

MADISON COUNTY COURTS OF RECORD

County of Madison, Indiana

Local Rule

50th CIRCUIT JUDICIAL DISTRICT

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ADMINISTRATIVE RULES

LR48-AR00-01 JURISDICTION OF DIVISIONS

A. Dockets for each division of the Court shall be assigned as follows:

Civil dockets	Divisions 1, 2, 3, 4, 5, and 6.
Criminal dockets	Divisions 1, 3, 4, 5, and 6.
Probate dockets	Divisions 1, 3, and 6.
Juvenile dockets	Division 2

B. Civil cases may be filed in any appropriate division in accordance with the caseload plan for Madison County (see LR48-AR00-02. Division selection in criminal cases will be effectuated randomly by the Clerk of the Court, in accordance with LR48-AR1-03.

C. Requests for Trial De Novo filed in a Circuit Court shall automatically be transferred by the Madison County Clerk to the Madison Circuit Court, in the same manner as criminal cases are assigned.

LR48-AR00-02 CASELOAD PLAN

In compliance with Administrative Rule 1(E), the following chart reflects the caseload allocation for the Madison Circuit Court. No part of this rule shall prohibit the transfer of individual cases to promote efficiency, fair distribution, or the timely resolution of cases.

Caseload Allocation

Offense	Circuit 1	Circuit 2	Circuit 3	Circuit 4	Circuit 5	Circuit 6
F1	25%		25%	25%		25%
F2	25%		25%	25%		25%
F3	25%		25%	25%		25%
F4	25%		25%	25%		25%
F5	25%		25%	25%		25%
F6	15%	Educational Neglect	15%	15%	40%	15%
MR	25%		25%	25%		25%
CM	12.5%	Compulsory Attendance	12.5%	12.5%	50%	12.5%
MC						
RF	100%					
PL	33.3%		33.3%			33.3%

MF	33.3%		33.3%			33.3%
CC	Over \$3,000		Over \$3,000	Under \$3,000	Under \$3,000	Over \$3,000
CE						100%
CT						
SC				50%	50%	
EV				50%	50%	
DC	17.5%	10%	17.5%	17.5%	20%	17.5%
DN	17.5%	10%	17.5%	17.5%	20%	17.5%
GV						
DC DN (Pro se)	20%		20%	20%	20%	20%
RS						
MH						
AD						
ES/EU						
EM						
GU		* see below				
GM						
TR						
TP			100%			
RF	100%					
PO	25%		25%	25%		25%
MI	20%		20%	20%	20%	20%
OV						
XP						
RA						
JC		100%				
JD		100%				
JS		100%				
JP		20% **	40%			40%
JM		100%				
JT		100%				

* Circuit 2 added to GU case type for GU cases with an accompanying CHINS case.

** JP case w/accompanying CHINS case must be assigned to Circuit 2.

In civil cases, where no percentage cap exists and that division is not blacked out, the filer may select any division of the court with no restriction.

LR48-AR1-03 CRIMINAL DOCKETS (ASSIGNMENT)

A. All felonies and misdemeanors filed in the Madison Circuit Court shall be assigned and docketed in accordance with this Rule. Charges shall be filed and assigned pursuant to

Section B, if applicable. If Section B is not applicable, charges shall be filed and assigned in accordance with Section C. Effective as of July 1, 2014: Unless Section B applies, cases with multiple defendants or with co-defendants shall be considered one case for filing purposes and shall be assigned to a single court, although each defendant may be given a separate cause number.

B. New felony and misdemeanor charges shall be filed in the Court where other charges are pending against the defendant or where the defendant is on probation or otherwise under supervision. However, only level 6 felonies and misdemeanor charges shall be filed in Circuit Court 5 under this provision.

C. Level 1 felonies, Level 2 felonies, Level 3 felonies, Level 4 felonies, and Level 5 felonies shall be randomly filed pursuant to the Madison County caseload allocation table. Capital cases, Murder cases, Life without parole cases will be filed according to the fixed rotation:

Circuit Court, Division 4
Circuit Court, Division 3
Circuit Court, Division 6
Circuit Court, Division 1

Codefendants in such cases are to be filed in the same court division. If codefendants are filed in the same court division, then each defendant shall count as a separate filing for the fixed rotation schedule. For example, if two codefendants are filed in Division 4 then Division 4 is removed for two full rotations. No other exceptions apply to the fixed rotation, including when a defendant has a pending case filed in a different court division.

D. When a case requires a change of Judge, the Clerk shall randomly select a new Judge from the remaining judges exercising comparable jurisdiction. The Clerk shall so notify the new Judge of the appointment as Special Judge. If a selected Special Judge is unable to accept jurisdiction due to conflict of interest, or the Special Judge is later disqualified, the Clerk shall select a successor Special Judge at random from the remaining Judges of the Circuit Court. In the event the Clerk cannot select a special judge from the Judges of the Circuit Court, then the Clerk shall select on a rotating basis a special judge from a list of full-time judicial officers from the following counties: Grant, Delaware, Henry, Hancock, Hamilton, Tipton.

In the event no Judge is available for assignment or reassignment of a criminal case, such a case shall be certified to the Indiana Supreme Court for appointment of a special judge. In the event the presiding Judge in a criminal case concludes that the unique circumstances presented in such a preceding require appointment of a special Judge, the presiding Judge may request that the Indiana Supreme Court make such an appointment
(Effective 8/15/2022)

LR48-AR15-04 COURT REPORTER SERVICES

A. Salaries and Per Page Fees.

1. Court reporters shall be paid an annual salary for time spent working under the control, direction, and direct supervision of their supervising Judge during regular work hours or overtime hours. The supervising Judge shall enter into a written agreement with the court reporter which outlines the manner in which the court reporter is to be compensated for overtime hours.

2. The maximum per page fee a court reporter may charge for the preparation of a non-expedited transcript shall be \$5.30 per page. Expedited transcripts charges are as follows:

\$6.30 per page for completion within 14 days,
\$7.00 per page for completion within 7 days,
\$8.00 per page for completion within 3 days,
\$9.00 per page for completion within 1 day.

A reporter may charge \$1.00 per page for copies of transcripts. If any public facilities, supplies or equipment are used in the recording, transcribing, or preparation of any transcript, the reporter shall reimburse the county at the rate of .10 per page. If such transcript is not paid out of county funds, the reporter shall reduce the fee invoiced by .10 per page. If such transcript is not paid out of county funds, the reporter shall bill at the full rate and remit the .10 per page portion to the county.

3. A minimum fee up to \$35.00 per transcript is permissible.

4. Index and Table of Contents pages should be charged at the per page rate being charged for the rest of the transcript.

5. An additional labor charge of \$25.00 per hour will be charged for the time spent binding the transcript and the exhibit binders.

6. A court reporter shall not be compensated for transcripts prepared during regular working hours. Private transcripts shall not be prepared during regular working hours.

7. At separation of employment, the court reporter forfeits all future claim to income derived from requested copies of previously typed transcripts.

8. Upon payment for an indigent transcript, the court reporter shall transfer the original electronic media containing the fully transcribed record to the custody of the court.

B. Private Practice.

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

- a. The reasonable market rate for the use of equipment, workspace and supplies;
- b. The method by which records are to be kept for the use of equipment, workspace and supplies, and
- c. The method by which the court reporter is to reimburse the court for the use of the equipment, workspace and supplies.

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

C. Court Transcription Policy.

1. Any person who is a court reporter or any other responsible person directed to prepare certified transcripts of court proceedings shall be administered a court reporter's oath before said person is entitled to prepare certified transcripts of proceedings.

2. Only Court employees are authorized to make certified transcriptions from recordings for the purpose of facilitating and expediting the trial of causes and appeals.

3. The court reporter or other designated person causing a matter to be recorded shall have the first right of refusal to prepare any necessary certified transcriptions from said recording.

If the person with the first right of refusal to prepare a certified transcript declines to prepare said transcript, then other competent persons in the court of said recording's origination shall have, on a rotating basis, the next right of refusal to prepare said certified transcript.

If no person in the originating court exercises their option to prepare said certified transcript, then the person who caused the matter to be recorded shall select another responsible and competent court reporter employed by the Court to prepare said certified transcript.

4. The person who prepares the certified transcript from recordings shall be the person who certifies the transcript as being complete and accurate.

5. All court reporters must use the same invoice for submission of payment (format on file in court administration).

6. The invoice must be accompanied by a copy of the transcript (to verify page numbers) and the minute entry approving the transcript.

7. The transcript shall be certified by the Court Administrator and signed by the judge of the court of origination unless the originating judge does not require the transcript to be first approved.

LR48-AR10-05 PLEADING REQUIREMENTS

A. Signature on Pleadings

All pleadings to be signed by an attorney shall contain an original written signature of the attorney, printed name, attorney number, firm name (if applicable), mailing address, telephone number, email address and a designation of the party for whom the attorney appears.

B. Distribution Lists

All documents for which distribution is requested shall include a distribution list at the end of document. Distribution may not be made to parties not included on the distribution list.

C. Certificates of Service

Certificates of Service which are required by the trial rules shall set out with specificity the names of the lawyers or litigants who have been served, the means of service and the address, whether real or electronic, used to effectuate service. The generic and generalized language "served upon counsel of record" shall not be acceptable compliance with the trial rule.

D. Two-Sided Pleadings

Two-sided pleadings, motions, orders or decrees will not be accepted with the exception of court-approved forms relating to small claims matters.

E. Caption Requirement

In any matter being heard by special judge, magistrate, senior judge, or other judicial officer who is not the presiding Judge, the judicial officer's name shall appear in the caption, and below the cause number as follows:

"Before Hon. _____"
(Title – Special Judge, etc.)

F. Adequate Notice to Court

A copy of any pleading or motion filed less than five days before a scheduled hearing shall be served personally upon the presiding Judge of the case.

G. Post-judgment collection documents intended for distribution by mail

In proceedings to enforce money judgments, any post-judgment documents to be distributed by first class mail (such as motions for proceedings supplemental directed to employers or financial institutions, show cause orders, attachments, etc. . .) must be submitted with a postage pre-paid envelope addressed to each party to receive the document. Documents to be sent by certified mail must be accompanied by an addressed envelope bearing proper postage, or postage payment to the Clerk.

LR48-AR00-06 TRIAL AND MEDIATION

Civil trials expected to last a full day or more shall be referred to mediation unless for good cause shown.

LR48-AR7-07 EVIDENCE HANDLING, RETENTION AND DISPOSITION

A. Preamble

In all cases, the court shall proceed pursuant to these Rules unless the court directs a longer retention period after motion by any party or on its own motion.

B. Civil Cases, Including Adoption, Paternity, and Juvenile Proceedings

1. All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the court, after the case is decided unless an appeal is taken.
2. If an appeal is taken, all such exhibits shall be retained by the court reporter until termination of the appeal, retrial, or subsequent appeal and termination, whichever is later.
3. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.

C. Criminal Cases

1. All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence except as otherwise ordered by the court, after the case is dismissed, the defendant found not guilty, or the defendant is sentenced, unless an appeal is taken.
2. If an appeal is taken, all such exhibits shall be retained by the court reporter for sixty (60) days from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending.
3. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.

D. Non-documentary and Oversized Exhibits

1. Non-documentary and oversized exhibits shall not be sent to the appellate level court but shall remain in the custody of the trial court or administrative agency during the appeal.
2. Under no circumstances should drugs, currency, or other dangerous or valuable items be included in appellate records.

E. Biologically Contaminated Evidence

A party who offers biologically contaminated evidence must file a pretrial notice with the trial court and serve all the parties so that the court can consider the issue and rule

appropriately before trial. A party can show contaminated evidence or pass photographs of it to jurors, but no such evidence, however contained, shall be handled or passed to jurors or sent to a jury room.

F. Notification and Disposition

1. The court may, without notice to attorneys of record and parties if unrepresented by counsel, destroy evidence not retrieved after the period during which the court reporter is required to retain the evidence has lapsed.

2. Nothing in this rule prevents the court reporter from immediately disposing of any documentary exhibits after they have been electronically imaged.

- a. Paper: shredding or burning.
- b. Drugs: to Sheriff for disposal.
- c. Guns: to Sheriff for auction or destruction.
- d. Plastic, glass, stone or stone-like objects, wood: to County Dump.
- e. Money: per statute
- f. Jewelry or other valuables: Notify owner to retrieve or sale at Sheriff's auction.
- g. For any other material: The presiding Judge shall make written instructions for disposal.
- h. For any of the above, or for any item not mentioned, the presiding Judge may give written instructions for disposal.

CRIMINAL RULES

LR48-CR2.2-09 PROBLEM SOLVING COURTS

A. The Madison Circuit Court shall operate a single Problem-Solving Court with a single presiding Judge. The single Problem-Solving Court shall encompass the Mental Health Court, Drug Court, and Re-Entry Court programs and shall operate under guidelines and certifications of the Indiana Supreme Court and its agencies. Policies, Procedures and Personnel for the Problem-Solving Court shall be subject to supervision by the presiding Judge of the Problem-Solving Court, subject to advice and approval by a majority of the Circuit Court judges.

B. The Judge of Madison County Circuit Court, Division 1 shall be appointed to preside over the Problem-Solving Court until such time that a majority of the Madison County judges determine there is good cause to appoint a different judge. A review of this appointment shall take place every three years with the next review taking place in December 2022 and every three years thereafter. If the presiding judge resigns or is otherwise unable to serve, a majority of the

Judges shall appoint one of their colleagues as the new presiding judge subject to the same three-year review cycle.

C. The Circuit Court may also establish and administer additional Problem-Solving Courts as the need arises. The presiding Juvenile Judge shall establish rules for the operation of said courts and shall be the presiding Judge subject to the approval of the majority of the Judges of the Circuit Court.

D. Participants do not accrue a Court User Fee for the first six (6) weeks of their participation in Problem Solving Court, thereafter the following fees are assessed:

Drug Court: Monthly Court User Fee of \$40.00

Mental Health Court: Monthly Court User Fee of \$40.00

Re-entry Court: Monthly Court User Fee of \$40.00

Court User Fees are due the 10th of each new month.

(Amended effective March 1, 2013)

LR48-CR00-10 EXPUNGEMENT OF CONVICTION PROCEDURE

A. This rule shall apply to all Petitions to Expunge a conviction as set forth in Ind. Code 35-38-9 et seq.

B. Upon filing a Petition to Expunge, the Petitioner shall direct a summons to be served upon the Madison County Prosecuting Attorney with a copy of the petition attached, other than a Petition to Expunge filed pursuant to Ind. Code 35-38-9-1 in which case the court issues the summons to the prosecuting attorney.

C. Not less than thirty (30) days from the filing of a Petition to Expunge a conviction, the Petitioner, or counsel for the Petitioner shall schedule and conduct an informal pretrial conference with the Deputy Prosecutor assigned to the court in which the petition has been filed.

D. Immediately following the pretrial conference, the parties shall report to the court a "Notice of Pretrial Conference Regarding Petition to Expunge a Conviction" (hereinafter "Notice of Pretrial") as set forth in Exhibit A of the Madison County Local Rules.

E. If a Notice of Pretrial Conference is not filed within thirty days (30) of the petition being filed, the court shall enter a docket entry notifying the parties that the cause of action shall be dismissed in ten days (10) without prejudice if a pretrial conference is not conducted.

F. The State shall make objections as to the form of the petition at the time of the pretrial conference. Objections as to form shall be defined as any statutory defect in the Petitioner's

petition, including failing to allege, or fulfill a statutory requirement, or failure to attach a necessary exhibit.

- G. Upon receipt of the Notice of Pretrial to expunge the court may do the following:
1. Grant any Petition for Expungement in which the State of Indiana indicates it has no objection; or
 2. Set the petition for a hearing.
- H. Upon receipt of the Notice of Pretrial the court shall do the following if requested:
1. Grant leave for additional time in which for the State to answer or otherwise file a response to the petition.
 2. Grant leave to the Petitioner to amend the petition as to form.
 3. Grant leave to the Petitioner to withdraw the Petition for Expungement.

The court shall not grant a Petition to Expunge or set the matter for hearing until a notice of pretrial has been filed.

JURY RULES

LR48-JR04-11

JURY PANELS

The panel of potential jurors shall be derived from the Madison County portion of the Statewide Master Jury List reflecting the combined records of Bureau of Motor Vehicles and Department of Revenue or such additional records as may be designated.

FAMILY LAW RULES

LR48-FL00-12

MEDIATION IN FAMILY LAW MATTERS

1. Mediation in Family Law Matters shall be governed by the Indiana Rules for Alternative Dispute Resolution.
2. Petitions for dissolution of marriage, unless otherwise ordered by the court, may be referred to mediation upon the fifteenth (15th) day after the period allowed for peremptory change of judge under Trial Rule 76(B) has expired. Any contested issues remaining after mediation may be:

- a. resolved through a court-approved summary dissolution decree or
 - b. submitted to the Court for final hearing.
3. Preliminary hearing requests and emergency matters shall be determined by the Court and not by mediation.
4. Upon filing, all petitions for legal separation and all non-contempt, post-decree, child-related issues shall be referred to mediation.
5. At least seven (7) days prior to the mediation conference, each party shall complete the Mediation Conference Information set forth below. The Mediation Conference Information shall be presented in writing to the mediator and shall set forth the information necessary for an informed evaluation of the case. The Mediation Conference Information shall be presented on an ex-parte basis to the mediator and must not be filed with or presented to any judicial officer in the Court in which the case is filed.
6. The mediation process shall be completed no later than ninety (90) days after the selection of the mediator.
7. If mediation fails to resolve all issues raised in the dissolution action; petition for legal separation or non-contempt post-decree child-related dispute, then any remaining issues may be scheduled for hearing with the court.
8. The mediator shall be selected in accordance with Alternate Dispute Resolution Rule 2.4.
9. Unless agreed by the parties or ordered by the Court, the mediator's fee shall be allocated between the parties according to each party's proportionate share of their combined weekly gross income. If settlement occurs within three (3) days of the scheduled mediation date, the mediator may charge a fee up to and including two (2) hours of billable time. The mediator shall inform the parties of the mediator's compensation rate and compensation schedule with which each party shall timely comply.
10. If a party fails to appear for mediation or fails to participate in good faith during the mediation, the entire cost of the mediation may be assessed against that party. This assessment determination shall be made by the Court after considering a mediator's report on the matter. Each party's counsel of record shall attend all mediation sessions.
11. Parties may object to the application of this Local Rule in compliance with Indiana Alternative Dispute Resolution Rule 2.2. Moreover, this Local Rule may be waived for good cause shown, as determined by the Court, after written request and proper notice by a party.
12. This local rule shall not apply to:

- a. Actions to annul voidable marriages
- b. Pro-se family law matters

13. Each party shall submit the following Mediation Conference Information in writing to the mediator at least seven (7) days prior to the mediation:

- a. A copy of all pending pleadings, unless the matter is post-decree.
- b. A copy of any controlling orders sought to be modified or enforced, if the matter is post-decree.
- c. A copy of the party's Madison County Verified Financial Declaration.
- d. A completed Child Support Obligation Worksheet and Parenting Time Credit Worksheet, if child support is at issue.
- e. A statement of the matters at issue, a statement of the outcome the party would like to achieve, and a summary of the party's argument for such an outcome.
- f. Copies of essential exhibits, relevant pleadings, pertinent case law and statutes, as well as related substantive orders.

**LR48-FL00-13 REQUIRED EXCHANGE OF BASIC DISCOVERY/FINANCIAL
DECLARATIONS/SUPPORT WORK SHEETS**

Financial Declarations on forms adopted by the Madison Circuit Court and Indiana Child Support worksheets shall be completed in full, dated and filed prior to trial in all contested matters involving child support or disposition of assets. Financial Declarations, with current pay stub attached, shall be filed with the Court two (2) days before any preliminary or final hearing. Child support worksheets shall be filed with the Court on the hearing date. Absent objection, the financial declaration shall be considered as received in evidence subject to cross-examination. Direct examination on matters in the financial declaration shall be confined to unusual items or factors requiring explanation or correction.

LR48-AR00-14 CHILDREN AND DISSOLUTION PROCEEDINGS

A. In all dissolution and separation actions where there are minor children of the marriage, the Petitioner and Respondent shall separately attend a dissolution education workshop approved by the court. Seminars must be completed within forty-five (45) days after a petition for separation or dissolution is filed.

B. Children over the age of 6 and under the age of 17 shall attend the court approved dissolution education program for minor children.

C. Seminar scheduling shall be arranged with the Office of Court Administration (phone 641-9503), Room 417, Courthouse, Anderson, Indiana. Each party shall pay a fee of forty- five dollars (\$45.00) for the dissolution education seminar. Seminar fees may be deferred upon a showing of indigence. The Clerk shall maintain a trust account for the collection of these fees and said fees shall be disbursed by Court order.

D. The Clerk shall bring this rule to the attention of all dissolution and separation petitioners and shall collect the petitioner's fee at the time of filing. The respondent's fee is due at the time of scheduling. The Clerk shall cause a copy of the rule to accompany the summons for service upon respondents.

E. Failure to comply with this rule may be considered civil contempt and may delay the issuance of a final decree.

F. Upon its own motion or upon the motion of a party, the Court may require compliance in any case involving the custody of children or in re-docketed cases.

TRIAL RULES

LR48-TR53-15 COURT COMMISSIONERS

Preliminary matters may be scheduled on a commissioner's calendar. There shall be no automatic right to have preliminary matters set on the calendar of the presiding Judge or removed from the Commissioner's calendar to the Judge's calendar.

LR48-TR79-16 SPECIAL JUDGE SELECTION

A. A copy of each pleading or each paper filed with the Court after a Special Judge has qualified shall be mailed or delivered by counsel to the office of that Special Judge with service to that Special Judge indicated on the certificate of service.

B. Pursuant to Trial Rule 79, should all remedies listed under 79 (D), fail to produce a special judge then the appointment of an eligible special judge shall be made pursuant to local rule, as follows, in accordance with 79 (H)

C. The Madison County Clerk, on a rotating basis in consecutive order, shall appoint the eligible judge in Madison County as follows:

For all domestic relations, paternity cases, and all other civil case types:

Presiding Judge of Circuit Court 1

Presiding Judge of Circuit Court 2

Presiding Judge of Circuit Court 3

Presiding Judge of Circuit Court 4

Presiding Judge of Circuit Court 5

Presiding Judge of Circuit Court 6

Madison County Magistrate # 1

Madison County Magistrate # 2

Madison County Juvenile Magistrate

D. Should none of the above referenced judges accept jurisdiction due to disqualification pursuant to the Code of Judicial Conduct, ineligibility for service under this rule Trial Rule 79 or excused from service by the Indiana Supreme Court, then the appointment shall be made at random by the Clerk from eligible Judges and Magistrates within Administrative District 14 (Grant County Circuit Court, Grant County Superior Court Divisions 1, 2, 3).

E. In the event that no judicial officer within Administrative District 14 is eligible to serve as special judge or the particular circumstances of the case warrant selection of a special judge by the Indiana Supreme Court, the judge of the court in which the case is pending shall certify the matter to the Indiana Supreme Court for appointment of a special judge.
(Effective June 30, 2024)

LR48-TR06-17 AUTOMATIC ENLARGEMENT OF TIME

An initial written motion for enlargement of time, pursuant to Trial Rule 6(B)(1), to respond to a claim shall be automatically allowed for an additional thirty (30) days from the original due date without written order of the Court. Any motion filed pursuant to this rule shall state the date when such response is due and the date to which time is enlarged. Said motion and accompanying order must be filed on or before the original due date or this rule shall not apply. An enlargement in excess of thirty (30) days will be permitted by the Court only upon a showing of necessity. This rule does not apply to matters on the small claims docket.

LR48-TR53-18 CONTINUANCES

A. Unless made in open Court, motions for continuance shall be in writing and shall include the following information:

1. The date and time of the hearing or trial for which a continuance is being sought and the reason for the request.

2. Whether opposing counsel (or party) agrees with or objects to said request.
3. If the opposing party or their counsel do not consent to the continuance, the date and time opposing counsel (or pro se opponent) was advised that a continuance would be requested.
4. If the continuance is requested because of conflicts on counsel's trial calendar: the conflicting cause number, current status of the conflicting cause, and the date said conflicting cause was set for hearing.

B. No motions for continuance will be considered unless filed at least five (5) days before a bench trial or hearing, unless good cause is shown, and at least ten (10) days before a jury trial, unless good cause is shown. No case shall be continued or removed from the trial calendar without approval of the court.

C. The continuance of a preliminary hearing is not favored and will NOT be granted when requested less than five (5) days before the hearing. A motion for change of venue from the Judge or county shall NOT cause a preliminary motion hearing to be continued where immediate or emergency relief may be required.

D. Unless otherwise indicated in the motion, a signature by an attorney on the request for continuance is certification by that attorney that their client has been notified of the request and of the reason for which the continuance is sought. If the client was not notified, the attorney shall state the specific reason(s) notice could not be given, and that the client will not be prejudiced by the continuance.

LR48-TR33-19 LIMITATION ON INTERROGATORIES

Interrogatories shall be limited to a total of fifty (50), including subparts, and be used solely for the purpose of discovery and shall NOT be used as a substitute for the taking of a deposition. For good cause shown, additional interrogatories may be permitted.

LR48-TR3.1-20 ENTRY AND WITHDRAWAL OF APPEARANCE

A. Upon entering a cause, an attorney or law firm shall file a notice of appearance with the Court. In addition to the firm name, address, and phone number, said appearance shall include the individual name and attorney number of the lawyer who is to be identified on the Chronological Case Summary as principal counsel for purposes of notice or other Court communication. For a public defender appointed to the case, their appointment shall be considered their appearance.

B. Unless otherwise ordered by the court, a public defender appointed to the case shall be considered and shown to be withdrawn upon the entry of the sentencing order in criminal case or the entry of order determining the civil issue for which they were appointed. Otherwise, an attorney's appearance for a party will be withdrawn upon the filing of a motion, if:

1. Another attorney simultaneously appears for the party;
2. The attorney provides satisfactory evidence that the party has discharged the attorney;
or
3. The party acquiesces to the withdrawal.

C. In all other circumstances, an attorney seeking permission to withdraw an appearance shall file a written motion stating justification for the withdrawal. The attorney shall give the party ten (10) day written notice of the attorney's intention to seek permission to withdraw. This notice shall (1) inform the party that failure to secure new counsel may result in dismissal of the party's case or in entry of a judgment or ruling against the party, (2) set forth the date of any scheduled hearing or trial, and (3) include any other pertinent information.

D. Except for good cause shown, a withdrawal of appearance shall not be granted within 5 days of trial commencement.

LR48-TR40-21 TRIAL AND PROVISIONAL HEARING SETTINGS

A. Causes shall be calendared in consultation with opposing counsel and the Court. In the event counsel are unable to agree upon a trial setting, the moving party may file a motion for trial setting with the Court. A proposed CCS entry shall be submitted by moving counsel, or party, confirming the hearing date, time, and hearing officer.

B. All motions for trial setting shall include:

1. a statement indicating whether the matter is to be tried by jury or by the Court;
2. a statement indicating the estimated time required for trial;
3. a statement indicating efforts to set the cause by agreement have been unsuccessful.

C. Except by special leave of Court, provisional hearings shall be scheduled not less than fifteen (15) days after the filing of the motion.

LR48-TR05-22 TITLE IV-D

All pleadings, motions and other documents related to Title IV-D proceedings shall be filed with the Clerk of the Court, regardless of the Court of origin, and then taken to the Court

Administrator's office. When the Title IV-D Prosecutor's Office intervenes in an existing cause of action, the Office shall file a written appearance with a Title IV-D court reporter.

LR48-TR64-23 WRITS OF BODY ATTACHMENT

A. Requests for Body Attachments – An application for a writ of body attachment must be sworn or verified and include the following:

1. An allegation that the target of the body attachment failed to appear at a hearing to show cause why the target should not be held in contempt for failure to appear at a prior hearing,
2. An allegation that the target of the body attachment received service of the order to show cause, including the date and manner of service,
3. The amount of the judgment still owing at the time the body attachment is requested, and
4. Only if service of the order to appear at the show cause hearing was not by personal service, and the service address was neither an address where the party has previously received good service in this case nor an address provided to the Court by the party, an allegation explaining how the service address is known to be the party's actual address.

B. The party seeking the body attachment must also complete a civil warrant information sheet on forms provided by the Clerk before a Writ of Body Attachment can be issued.

C. Expiration of Writs of Body Attachment - A writ of body attachment expires 2 years after its issuance. An expired writ may be reissued only upon good faith information being presented to the court justifying legitimate reasons for renewal. (*Amended effective June 25, 2016*)

D. Proceedings Supplemental Stop While Body Attachment Outstanding – After the issuance of a body attachment for a party against whom a judgment has been rendered, no further hearings or other collection proceedings shall be scheduled for that party, nor shall any order garnishing wages issue until such time as the writ of body attachment is withdrawn, executed, or expires. This rule shall not prevent either attachments of the party's assets or third-party discovery related to the party's income or assets.

LR48-TR10-24 PRO SE LITIGANTS (FORM OF PLEADING)

No pleading, motion, or proposed CCS entry, shall be accepted for filing from a pro se party unless the litigant's current address and phone number and the current address and phone number of the opposing party appear on the pleading.

LR48-TR10-25 ORDERS/DECREES (FORM OF)

- A. The second and subsequent pages of all proposed orders shall contain an abbreviated case caption including the complete cause number.
- B. Proposed judgments or decrees submitted to the Court in MF case types shall include a proposed CCS entry.

DECREES AND ORDERS SIGNED BY NON-PRESIDING JUDGES

- C. All proposed orders or decrees filed by counsel following a hearing before the Magistrate, Commissioner, or Referee shall include the following language:

“This matter comes before the Magistrate/Commissioner, etc... (name) for hearing . . . ” At the end of the decree or order, the following language should appear, followed by a line for the Magistrate/Commissioner’s, etc... signature “Recommended for Approval”. The following entry should appear after the Hearing Officer’s signature: “COMES NOW THE COURT AND ENTERS JUDGMENT ON THE COMMISSIONER’S FINDINGS AND RECOMMENDATIONS.”

/s/ _____
Judge

Commentary: This rule does not apply to Senior Judges, Temporary Judges, or Pro tems.

- D. Notwithstanding the above, timely objections filed pursuant to Trial Rule 53(E)(2) will be given due consideration by the presiding Judge.
- E. All Judgments or Decrees for the foreclosure of a Real Estate Mortgage shall provide (and if inadvertently omitted therefrom shall be deemed to provide) as follows:
1. Counsel for the Mortgagee shall submit a form of Sheriff’s Deed, with appropriate blanks for the name and address (for purpose of real estate tax billings) of the Purchaser to be filled in by the Sheriff (or his or her Deputy) immediately after the sale;
 2. That the Sheriff shall include as part of the costs of the Sale the recording and transfer fees for the recording of the Sheriff’s Deed.
 3. That the Sheriff shall cause the Sheriff’s Deed to be promptly recorded after the completion of the Sheriff’s Sale.
 4. A copy of the Sheriff’s return and the Sheriff’s Deed shall be provided to the respective court’s filing clerk for filing in the Court’s case file.
- F. On proposed orders, counsel shall submit the names and mailing addresses of all

distributes. When such distribution list and addresses are included in the proposed order, the court reporter is responsible to forward the signed order to the Clerk's office to be mailed to all non-party distributes. If such distribution list and addresses are not included in the proposed order, the court reporter shall distribute the order electronically to parties, and the party seeking the order shall be responsible for further distribution to non-parties.

LR48-TR16-27 PRE-TRIAL CONFERENCE

A. All trials which are scheduled for a full day or more on the trial calendar may be docketed by counsel for pre-trial conference before the Court at least ten (10) days before the date of trial. Counsel should review the requirements of Trial Rule 16 in anticipation of the pre-trial conference.

B. In small claim matters, all cases, except suits for possession of real estate, shall first be set for an informal trial where issues may be identified for purposes of a later formal trial, or where evidence may be heard and the case decided.

LR48-TR45-28 SUBPOENAS AND NOTICE OF HEARING

A. Except in an emergency, a subpoena or notice of hearing will not be served by the Bailiff unless the same has been filed four (4) working days prior to a scheduled hearing. All subpoenas shall state a time and date calculated to minimize unnecessary delay and inconvenience to prospective witnesses.

B. The failure to notify a subpoenaed witness that a cause has been continued or settled may result in an assessment of mileage and costs against counsel responsible for the failure.

LR48-TR3.1-29 DUTY TO UPDATE SERVICE ADDRESS

After a party has initiated a lawsuit, been served process, intervened or otherwise appeared as a party to an action, that party has an ongoing obligation to keep the Court and other parties advised of any change in that party's residential address or other address provided by law as appropriate for service of process. This obligation continues until such time as that party is dismissed from the action, the litigation is concluded without a judgment against that party, or until any judgment entered against the party is satisfied or released.

LR48-TR4.11-30 REQUIREMENTS FOR SERVICE BY CERTIFIED MAIL

For service by certified mail, the attorney, or litigant pro se, shall provide a typed certified mail card and envelope for each litigant.

LR48-TR67-31 POST-JUDGMENT INTEREST

PAYMENT OF MONEY JUDGMENTS

- A. If the court orders a judgment debtor to make all payments through the Clerk's office and the judgment creditor does not in fact accept any payments toward a money judgment directly from the payor, then post-judgment interest will be automatically calculated by the Clerk's office and added to the amount due under the judgment without further action by the judgment creditor.
- B. If a judgment creditor accepts payments in satisfaction of a money judgment directly from the payor, as opposed to payment being made through the Clerk's office, then post-judgment interest shall not be amended to existing judgments or otherwise added to the calculated amount due until such time as the original judgment amount and costs have been paid and the judgment creditor then submits to the Clerk a statement of post-judgment interest due. (Effective January 1, 2011)

LR48-TR86-32 ELECTRONIC FILING AND ELECTRONIC SERVICE

All duly admitted and licensed attorneys entering an appearance in any case in Madison County shall be a Registered User, as defined in Trial Rule 86(A)(11)(b).

MADISON COUNTY LOCAL PROBATE RULES

LR48-PR00-33 NOTICE

- A. Whenever notice by publication and/or written notice by U.S. Mail is required to be given, the attorney shall prepare such notice and shall ensure that such notice is properly published and/or served by mail. In all respects, the notice shall comply with all statutory requirements. It shall be the attorney's responsibility to ascertain and provide adequate proof thereof regarding whether notice was properly served prior to bringing a matter to the Court.
- B. Copies of petitions or motions shall be sent with all notices where the hearing involved arises from the matters contained in the petition or motion.
- C. Whenever any estate or guardianship account (including a final account in a supervised estate) is set for hearing, copies of the account must be served with the notice of hearing.

D. Notice of the opening of an estate shall be sent by First Class United States Mail to all reasonably ascertainable creditors; however, the use of “certified mail, return receipt requested,” to serve such notice is recommended.

E. Notice of the hearing to be held on a Petition to determine an estate insolvent may be served on all interested parties, at the discretion of the Court.

LR48-PR00-34 FILING OF PLEADINGS

A. When pleadings are filed by mail or left with the Court for filing, a self-addressed, stamped envelope shall be included for return of documents to the attorney, unless Courthouse mail is available.

B. All parties are required to prepare orders for all proceedings except when expressly directed otherwise by the Court.

C. Upon the opening of an estate or guardianship, the attorney shall provide a copy of the Court’s instructions to all personal representatives and guardians.

D. The fiduciary must file the signature page from the Instructions to the Personal Representative or Guardian, signed by the fiduciary with the Court within 10 days of the issuance of the Letters.

E. The affidavit of compliance with the notice provisions directed to creditors in an estate proceeding shall be timely filed with the Clerk of the Court.

LR48-PR00-35 ATTENDANCE OF PROPOSED FIDUCIARIES

A. All proposed Pro Se personal representatives and guardians who are residents of Indiana shall appear before the Court to qualify.

B. All personal representatives or guardians are under a continuing order of the Court to personally advise the Court and the attorney of record, in writing, as to any change of any required information such as name, address, or telephone number.

LR48-PR00-36 REPRESENTATION OF FIDUCIARIES BY COUNSEL

No personal representative or guardian of an estate may proceed without counsel, without court approval.

LR48-PR00-37 BOND

A. If a bond is required in an estate or guardianship, the fiduciary, prior to the issuance of letters, shall file a corporate surety bond in an amount determined by the Court after considering the following factors: (a) the value of the personal property to be administered; (b) the probable value of annual rents and profits of all property of the estate; (c) the rights of creditors, taxing authorities and devisees.

B. No bond shall be required in any supervised estate or guardianship in which a corporate banking fiduciary qualified by law to serve as such is either the fiduciary or one of several co-fiduciaries.

C. In lieu of a bond, and upon the fiduciary's request, the Court may restrict transfer of all or part of the estate or guardianship liquid assets by placing those assets in a federally insured financial institution or in a court approved investment with the following restriction placed on the face of the account or in the investment document:

"NO PRINCIPAL OR INTEREST SHALL BE WITHDRAWN WITHOUT WRITTEN ORDER OF
_____ COURT OF _____, INDIANA."

The fiduciary shall thereafter file with the Court, within ten (10) days of the order authorizing the creation of the account or investment, a certification by an officer of the institution at which the account or investment has been created, affirming that the account or investment is restricted as required by the Court order and is in compliance with this rule.

D. All petitions to open an estate or guardianship shall set forth the probable value of the personal property plus the estimated annual rents and profits to be derived from the property in the estate or guardianship.

E. The name and address of the insurance agency providing the corporate surety shall be typed or printed on all corporate bonds in any estate or guardianship.

LR48-PR00-38 INVENTORY

A. An inventory shall be filed by the fiduciary in estates and guardianships as follows: Supervised estates, within sixty (60) days; guardianships, within ninety (90) days for permanent guardians and within thirty (30) days for temporary guardians. All times relate to the date of appointment of the fiduciary.

B. In the event a partial inventory is filed, all subsequent inventories must contain a recapitulation of prior inventories.

C. In the event that the personal representative should request that an inventory be sealed, the Court may, in its sole discretion, seal such inventory. If an inventory is sealed, it shall be maintained in the court reporter's evidence file in the Court in which such estate is filed.

LR48-PR00-39 REAL ESTATE

A. In all supervised estates and guardianships in which real estate is to be sold, if required by the Court, a written professional appraisal shall be filed with the Court at the time of filing the Petition for Sale, unless such appraisal was filed with the inventory. Such written appraisal shall include as a minimum the following elements:

A brief description of the property interest being appraised, including the full and legal description thereof.

Purpose or objective of the appraisal.

Date for which fair market value is determined.

Data and reasoning supporting the fair market value.

Fair market value determined.

Statement of assumptions and special or limiting conditions.

Certification of disinterest in real estate.

Signature of the appraiser.

B. All such appraisals if required by the Court shall be made within one year of the date of the Petition for Sale.

C. All deeds submitted to the Court for approval in either estate or guardianship proceedings shall be signed by the fiduciary and the signature notarized prior to its submission.

LR48-PR00-40 SALE OF ASSETS

A. In all supervised estates and guardianships, no Petition to Sell Personal Property shall be granted unless a written appraisal prepared by a person competent to appraise such property and setting forth the fair market value thereof, is filed with the Court at the time of the filing of the Petition to Sell, unless such appraisal was filed with the inventory. This rule shall not apply to personal property which is sold at public auction.

B. All appraisals required by the Court shall be made within one year of the date of the Petition to Sell.

C. No written appraisal shall be required for the sale of assets which are traded in a market and the value of which is readily ascertainable. Such assets include, but are not limited to, stocks, bonds, mutual funds, commodities, and precious metals.

LR48-PR00-41 ACCOUNTING

A. All social security or Medicare benefits received on behalf of an incapacitated person shall be included and accounted for in the guardianship accounting unless court approval has been previously granted to allow said funds to be paid directly to a residential or health care facility, or because of the amount of such funds, the Court finds that such funds can only be used by the guardian or designated person for the benefit of, or use by, such incapacitated person.

B. In all supervised estate and guardianship accountings, a notation shall be placed by each expenditure indicating the reason for or nature of the expenditure unless the payee's name indicates the nature of the expenditure.

C. All court costs shall be paid and all claims satisfied and released before the hearing on the Final Account.

LR48-PR00-42 FEES OF ATTORNEY AND FIDUCIARY

A. No fees for fiduciaries or attorneys shall be paid out of any supervised estate or guardianship without prior written order of the Court.

B. All orders for fees in estates shall provide that said fees are to be paid only after approval of the Final Accounting except as otherwise ordered by the Court.

C. A guardian or guardian's attorney may petition for fees at the time of filing an inventory, or as otherwise provided by the Court.

D. No attorney or fiduciary fees will be determined and authorized for payment by the Court in any unsupervised administration of a decedent's estate.

E. Where contracts for legal services have been entered into prior or subsequent to the opening of an estate or guardianship, the awarding of such fees shall require the approval of the Court.

F. All petitions for fees for the attorney and/or fiduciary shall conform to the fee guidelines set forth by this Court.

G. Unjustified delays in carrying out duties by the fiduciary and/or attorney may result in a reduction of fees.

H. Attorney fees for representing a minor in settlement of a claim for personal injuries are subject to court approval. If the entire attorney fee is to be paid at the same time a structured

settlement is approved, the amount of the fee must be based on the present value of the settlement.

I. MAXIMUM FEE GUIDELINES FOR SUPERVISED ESTATES

Principles Applicable to Fee Determinations

Although fee guidelines have been promulgated by the court for probate matters, it is important that your attention be directed to certain criteria as they pertain to these Guidelines. The existence of the Guidelines does not assure that all fees allowed by the court will adhere to them. Other factors must be considered by the attorney and his, or her, client. The same factors will also be considered by the court in making its final determination.

The criteria to be considered include the following:

1. The time and labor required, the novelty, complexity, or difficulty of the questions involved, the skill required to perform the services properly, and shall include a determination as to how much of the attorney's time was devoted to legal matters and how much of it was devoted to ministerial functions;
2. The nature and extent of the responsibilities assumed by the attorney and the results obtained, and shall include the considerations of the identity of the personal representative and the character of the probate and non-probate transferred assets;
3. The sufficiency of assets properly available to pay for legal services, and shall consider whether the attorney's duties are expanded by the existence of non-probate assets because of their inclusion for tax purposes, both federal and state;
4. The timeliness with which the necessary services are performed consistent with statutory requirements, the Court's rules of procedure and the Rules of Professional Conduct applicable thereto.

In considering all of these factors, attorneys are urged to discuss their fee and that of the personal representative at the time they are retained in all probate matters.

PERSONAL REPRESENTATIVE FEES

1. PROFESSIONAL

Their applicable reasonable rate shall be reviewed in light of all prevailing circumstances.

2. NON-PROFESSIONAL

An amount not in excess of one-half (1/2) of the attorney's fees.

3. ATTORNEY

When the attorney also serves as the personal representative, an additional amount not in excess of one-half (1/2) of the attorney fee may be allowed.

LR48-PR00-43 UNSUPERVISED ADMINISTRATION

- A. All court costs shall be paid and all claims satisfied and released on or before the date of the filing of the Closing Statement.
- B. An order approving the Closing Statement shall be required.

LR48-PR00-44 GUARDIANSHIPS

- A. In all guardianship matters seeking to declare an adult incapacitated for any reason, the incapacitated person shall be present at the hearing or sufficient evidence shall be presented showing that the incapacitated person is unable to appear. The Court may at any time appoint a guardian ad litem to investigate and protect the best interest of the incapacitated person.
- B. In all guardianship matters seeking to declare an adult incapacitated for any reason, the incapacity must be established either by competent evidence presented at the time of the filing of the petition or by a Physician's Report by the doctor treating the alleged incapacitated person. No determination will be made without competent evidence of incapacity or a supporting medical report.
- C. In every petition for the appointment of a guardian of the person of a minor child, the following information shall be given, in addition to the statutory requirement, if known to the petitioner:
 - 1. The places where the child has lived within the past two years and the names and present addresses of persons with whom the child has lived during that period.
 - 2. General information concerning school, health, etc.
 - 3. Whether any other litigation is pending concerning the custody of the child in this or any other state.
 - 4. Whether any person not a party to the guardianship proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child.

D. Nothing herein shall be deemed as amending, superseding or altering the Probate Rules and Regulations promulgated by the Veteran's Administration of the United States of America, and every fiduciary and attorney shall comply with same, if applicable.

LR48-PR00-45 MINORS' SETTLEMENTS

A. This rule shall govern requests for approval of settlements for minors (pursuant to IC 29-3-9 and/or IC 29-3-4) and guardianships for minors, if such settlements are approved by the Court.

B. A hearing shall be set at the request of counsel in which testimony or evidence is presented so as to fully and independently satisfy the Court that the requested settlement fully protects the minor's rights and interests. The Court may at any time appoint a guardian ad litem to protect the best interest of the minor and investigate such settlement.

C. Once a guardian is appointed, then such guardian shall post bond, unless, in lieu of a bond, a fiduciary places all funds or assets in a restricted account at a federally-insured financial institution or in a court approved investment, designating that no principle or interest may be withdrawn without a written order of the Court, and with the following restriction placed on the face of the account or in the investment document:

“NO PRINCIPAL OR INTEREST SHALL BE WITHDRAWN WITHOUT WRITTEN ORDER OF _____ COURT OF _____, INDIANA.”

The fiduciary shall file the following with the Court:

Prior to issuance of letters, the fiduciary's attorney shall execute an Attorney's Undertaking for such assets.

D. No surety bond or restricted account is required where a corporate fiduciary serves as a guardian of the estate.

LR48-PR00-46 WRONGFUL DEATH ESTATES

All proposed wrongful death settlements must be approved by the Court, whether the estate is supervised, unsupervised, or a special administration for the sole purpose of prosecuting the wrongful death claim.

FORMS

EXHIBIT A

STATE OF INDIANA)

) SS:

COUNTY OF MADISON)

IN THE CIRCUIT COURT OF MADISON COUNTY,

DIVISION _____

TERM, 20_____

BEFORE THE HON JUDGE_____

_____,

Petitioner,

)

v.

)

CAUSE NO. 48C0_-_____-MC-_____

)

STATE OF INDIANA,

Respondent.

)

)

**NOTICE OF PRETRIAL CONFERENCE
REGARDING PETITION TO EXPUNGE CONVICTION**

COMES NOW the Parties, Petitioner _____, proceeding unrepresented (or) by and though counsel _____, and the State of Indiana, by and though _____, Deputy Prosecuting Attorney, and reports to the court that an informal pretrial conference was held between the parties in this cause of action on ____-____-_____. Further the parties report as follows:

Check applicable boxes:

_____ The State of Indiana has no objection to the Petitioner's petition to expunge as to form or substance.

_____ The State of Indiana has no objection to the form of Petitioner's petition; however, reserves the right to object to Petitioner's request as to matter of substance and request this matter be set for hearing.

_____ The State of Indiana objects to the form of Petitioner's petition and has notified the Petitioner of its particular objection(s).

_____ The State of Indiana requests an additional thirty (30) days in which to file an answer to the petition for expungement.

_____ The Petitioner requests leave to amend its petition as to form.

_____ The Petitioner requests the court to dismiss this cause of action without prejudice.

Respectfully Submitted,

Petitioner's Counsel or Petitioner

Deputy Prosecuting Attorney

Date

Date

