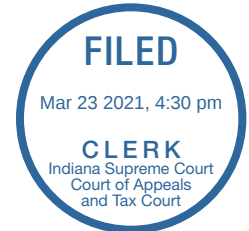


In the Indiana Supreme Court

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

Supreme Court Case
No. 21S-MS-122



Order Approving Amended Local Rule

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

Upon examination of the proposed rule amendments requested by the Marion Circuit and Superior Courts, this Court finds that the proposed rule amendments at LR49-TR3-200 complies with the requirements of Indiana Administrative Rules 1(E), LR49-TR79-224 complies with the requirements of Trial Rule 79(H), and LR49-AR15-307 complies with Administrative Rule 15, and, accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules, LR49-TR3-200, LR49-TR79-224, and LR49-AR15-307, for Marion Circuit and Superior Courts, set forth as an attachment to this Order, are approved effective March 26, 2021.

Done at Indianapolis, Indiana, on 3/23/2021.

Loretta H. Rush
Chief Justice of Indiana

LR49-TR3-200 RANDOM FILING OF CIVIL CASES

A. All civil cases filed with the Marion County Clerk's Office designated by statute or rule as being required to be filed in certain named Courts shall be so assigned.

B. Cases involving a petition for specialized driving privileges pursuant to I.C. § 9-30-16 in which the suspension of the driving privileges was not imposed by or recommended by a court imposing a sentence in a criminal case, and was not based upon delinquent child support or the person's status as a student under I.C. § 9-24-2, shall be filed in the Marion Circuit Court; all other petitions or requests for specialized driving privileges shall be filed in the court in which the charges are pending or in which the sentence was imposed, in the court in which the issue of child support is docketed, or in Marion Superior Court, Family Division Courts D09 and D15 if the suspension was based upon the person's status as a student under I.C. § 9-24-2.

C. Civil Plenary (PL), Mortgage Foreclosure (MF), Civil Collections (CC), Civil Torts (CT), and Domestic Relations (DR) cases shall be allocated at follows:

1. Civil Plenary (CP/PL) cases

- a. 1% shall be randomly filed in Circuit Court, and
- b. 99% shall be filed in Superior Court, divided randomly and evenly among Courts D01, D02, D03, D04, D05, D06, D07, D11, D12, and D13.

2. Mortgage Foreclosure (MF) cases

- a. 5% shall be randomly filed in Circuit Court, and
- b. 95% shall be filed in Superior Court, divided randomly and evenly among Courts D01, D02, D03, D04, D05, D06, D07, D11, D12, and D13.

3. Civil Collections (CC) cases

- a. 1% shall be randomly filed in Circuit Court, and
- b. 99% shall be filed in Superior Court, divided randomly and evenly among Courts D01, D02, D03, D04, D05, D06, D07, D11, D12, and D13.

4. Civil Torts (CT)

Shall be assigned to Superior Court, divided randomly and evenly among Courts D01, D02, D03, D04, D05, D06, D07, D11, D12, and D13.

5. Protective Order (PO) cases that do not involve a relationship as defined by IC 35-31.5-2-128 shall be assigned to Superior Court, divided randomly and evenly among Courts D01, D02, D03, D04, D05, D06, D07, D11, D12, and D13.

5. Family Cases

a. DC and DN cases shall be assigned to the Marion Superior Court, Family Division Courts D09, D10, D14, D15, and D16.

b. JP cases shall be assigned in the following manner:

1. 30% of JP filings, not initiated by the Prosecutor's Office shall be assigned to the Marion Superior Court, Family Division Courts D09, D10, D14, D15, and D16.

2. JP filings initiated in conjunction with an existing juvenile case shall be assigned to the Court that houses the accompanying juvenile case.

3. All other JP filings shall be assigned to the Marion Circuit Court.

c. Juvenile case types, with the exception of those detailed in paragraph (b)(3) of this rule shall be assigned to the Marion Superior Court, Family Division Courts D09, D10, D14, D15, and D16.

d. Protective order cases that are domestic in nature (those that involve a relationship as defined by IC 35-31.5-2-128) shall be divided and randomly assigned to Courts D10, D14, and D16.

1. When there is an existing DN, DR, DC, or JP case, any related PO filing shall be assigned to the same court as the existing family case.

D. Marion Superior Court, Civil Division D13 shall be assigned the following case filings:

1. Any civil case where the environment is involved as the lead issue or where a decision of an environmental administrative agency is being appealed;

2. Any civil action that includes a count based upon or involving Indiana Code Title 13/ Environment or Title 14/ Natural and Cultural Resources;

3. Any civil action requiring judicial review from final agency action involving an environmental matter;

4. Department of Revenue UST and solid waste fee tax warrants;

5. Common law theories of recovery such as toxic torts, property contamination cases alleging nuisance, trespass, negligence and environmental cleanup and contribution actions;

6. Open Door and Public Record suits or appeals related to IDEM, DNR, ISHD, State Fire Marshall or the Fire Prevention and Building Safety Commission; and

7. Contract or other disputes involving a substantive environmental issue.

E. Civil cases involving judicial review of a zoning decision pursuant to IC 36-7-4-1601 et seq. shall be assigned to Court D07.

F. Civil cases requiring judicial review of a final State Agency decision under Article 21.5 of the Indiana Administrative Orders and Procedures Act (I.C. 4-21.5 et seq.) shall be randomly assigned.

G. Civil cases requiring judicial review of an administrative decision of the Bureau of Motor Vehicles pursuant to I.C. § 9-30-10 shall be filed in the Marion Circuit Court.

H. Civil cases requiring judicial review of an administrative decision of the Bureau of Motor Vehicles pursuant to I.C. § 9-24-2 shall be filed in Marion Superior Court, Family Division Courts D09 and D15.

I. Cases involving a petition for change of name filed under I.C. § 34-28-2 shall be filed in the Marion Circuit Court.

All civil cases other than those listed above filed with the Marion County Clerk's Office for the Marion Superior Court shall be assigned to an individual courtroom on a random basis. The process for the random assignment shall be done through the Court and Clerk's automated case management system.

LR49-TR79-224. APPOINTMENT BY CLERK

Upon the parties not reaching an agreement or the agreed upon judge not accepting the case under Local Rule 225, the appointment of an eligible special judge shall be made by means of the Marion County Clerk selecting a name of the next judge from lists of judges from Marion County maintained by the Clerk. A separate list shall be kept for domestic and juvenile cases.

All judges of the Marion Circuit and Superior Court Civil Division are eligible persons under this rule except as follows: the judge of the Marion Circuit Court shall not be named on the list for domestic relation cases; the judges of the Family Division shall be the only judges on the lists for domestic relations and juvenile cases.

Should the next judge on the list be disqualified pursuant to the *Code of Judicial Conduct*, ineligible for service under this rule, or excused from service by the Indiana Supreme Court, the clerk shall continue down the list until all judges on the list have been exhausted. Upon exhaustion of the list, the judge from whom the change of judge was taken, or who is ineligible or disqualified, shall certify the case to the Indiana Supreme Court for the appointment of a special judge by the Court. Further, the judge may certify a case directly to the Indiana Supreme Court where the particular circumstances of the case warrant selection by the Court without reference to the clerk for selection from a list.

LR49-AR15-307 Court Reporter Services: Model One

Application of Rule. All courts of record in Marion County, Indiana hereby adopt the following local rule by which all Court Reporter services shall be governed.

A. Definitions. The following definitions shall apply under this local rule:

1. A *Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
2. *Equipment* means all physical items owned by the Court or other governmental entity and used by a Court Reporter in performing court-reporting services. Equipment

- shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
3. *Work Space* means that portion of the Court's facilities dedicated to each Court Reporter, including but not limited to actual space in the courtroom and any designated office space.
 4. *Page* means the page unit of transcript, which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 28A. A *page* does not include an Exhibit Page.
 5. *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
 6. *Regular hours worked* means those hours which the Court is regularly scheduled to work during any given work week. Depending on the particular Court, these hours may vary from Court to Court within the county but remain the same for each work week.
 7. *Gap hours worked* means those hours worked that are in excess of the regular hours worked but are hours not in excess of forty (40) hours per work week.
 8. *Overtime hours worked* means those hours worked in excess of forty (40) hours per workweek.
 9. *Compensatory Time* means that time off to which an employee may be entitled by reason of the employee having worked gap hours and/or overtime hours as defined herein, and for which an employee would otherwise be entitled to receive regular pay and/ or overtime pay. An employee's compensatory time off for gap hours worked shall be computed at an hour for hour basis. Compensatory time off for overtime hours worked shall be computed at a rate of one and one half compensatory time for each hour of overtime hours accrued. An employee shall receive compensatory time off for gap hours and/or overtime hours in lieu of gap and/or overtime pay.
 10. *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
 11. *Court* means the particular court for which the court reporter performs services. In Marion County, pursuant to LR49-AR00 Rule 301, the Courts are broadly grouped into divisions. The divisions are as follows: Civil Division, Criminal Division, and Family Division.
 12. *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

13. *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.
14. *Private transcript* means a transcript, including but not limited to a deposition transcript that is paid for by a private party.
15. *Expedited Transcript* means a transcript that is to be completed within seven (7) days of the request for the transcript.
16. *Schedule of Transcript Supplies* means those supplies and or services necessary for the binding of the transcript and exhibit binders pursuant to Appellate Rules 28 and 29. Transcript supplies shall include, but not be limited to CD ROM disks, software disks, tabs and binders.
17. *Minimum Transcript Fee* means the minimum fee charged for the preparation of a transcript or any portion thereof.
18. *Exhibit Page* means all documentary, non-documentary and oversized exhibits and includes an index of exhibits pursuant to Appellate Rule 29.
19. *Court Reporter Agreement* means a contractual agreement between Marion County Circuit and Superior Courts, by and through its Executive Committee and Supervising Judge with the Court Reporter outlining and defining the reporter's terms of employment.
20. *Government transcript* is a transcript requested by an agent of the county or state on behalf of an indigent party, or by a prosecutor.
21. *Indigent transcript* means any transcript the Court has ordered to be prepared at no cost. (See also Appellate Rule 40.)

- B.** The Court Reporter shall type all transcripts outside of regular work hours and receive payment via the Court's approved transcript ordering site by the ordering party for all transcripts completed at the per page rate, with the exception of those transcripts prepared pursuant to paragraph B(9) below. Work on transcripts shall be considered and treated as private practice, except the Court Reporter shall advise the Judge when they receive a transcript request.

A Court Reporter Agreement shall be entered addressing the following topics and any other terms of employment:

1. Court Reporters shall be paid an annual salary for time spent working under the control, direction, and direct supervision of the Court during any regular work hours, gap hours, or overtime hours.

2. The annual salary paid to the court reporter shall be based upon 37.5 working hours per week.

3. The amount of the annual salary shall be set by the Marion Superior Court salary classification schedule.

4. Court Reporters shall not type any transcripts during regular work hours, except for indigent transcripts. The Court Reporter will receive payment directly from the ordering party for transcripts, except for indigent transcripts, pursuant to the per page fee schedule.

5. A Court Reporter shall be entitled to additional compensation beyond regular salary if the court reporter works beyond the regular work hours of the court, but not for preparing transcripts, except for indigent transcripts. Additional work shall be compensated under one of the two options set forth as follows:

(a) Gap hours shall be paid in the amount equal to the hourly rate of the annual salary and overtime hours shall be paid in the amount of one and one-half (1 ½) times the hourly rate of the annual salary OR

(b) Compensatory time off from regular work hours shall be given in the amount equal to the number of gap hours worked; and compensatory time off from regular work hours shall be given in the amount of one and one-half (1 ½) times the number of overtime hours worked.

6. The Marion Circuit Court through its Circuit Court Judge and the Marion Superior Court, by and through its Executive Committee and the Supervising Judge shall determine which of the preceding two (2) options listed in paragraph 5 shall be utilized.

7. If a Court Reporter elects to engage in private practice through recording a deposition and/or preparing a deposition transcript, such private practice shall be conducted outside of regular working hours.

8. If a Court Reporter elects to engage in private practice through recording a deposition and/or preparing of a deposition transcript, then the Court may agree to the use of court equipment for such purposes. The Court Reporter Agreement must, at a minimum designate the following:

(a) the reasonable market rate for the use of equipment, work space and supplies;

(b) the method by which records are to be kept for the use of equipment, work space and supplies;

(c) the method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.

9. A Court Reporter shall prepare all indigent transcripts, as ordered by the Court, during regular working hours. There shall be no per page charge to the Court for preparation of indigent transcripts.

C. Per Page Fees: For preparation of a transcript of any proceeding in the Marion Circuit and Superior courts, the following fees shall be charged to the requester:

1. For the preparation of a county indigent transcript --- Three Dollars (\$3.00).
For the preparation of a county indigent transcript --- Three Dollars and Fifty Cents (\$3.50). *Effective January 1, 2020.*
For the preparation of a county indigent transcript --- Four Dollars (\$4.00). *Effective January 1, 2021*
For the preparation of a county indigent transcript --- Four Dollars and Fifty Cents (\$4.50). *Effective January 1, 2022.*
2. For the preparation of a state indigent transcript --- Three Dollars and Fifty Cents (\$3.50).
For the preparation of a state indigent transcript --- Four Dollars (\$4.00). *Effective January 1, 2020.*
For the preparation of a state indigent transcript --- Four Dollars and Fifty Cents (\$4.50). *Effective January 1, 2021.*
3. For the preparation of a transcript for the County Prosecuting Attorney --- Four Dollars (\$4.00).
For the preparation of a transcript for the County Prosecuting Attorney transcript --- Four Dollars and Fifty Cents (\$4.50). *Effective January 1, 2020*
4. For the preparation of a private transcript --- Four Dollars and Fifty Cents (\$4.50).
5. For all expedited transcripts, (those to be completed within seven (7) days of the date of the request) --- Five Dollars and Fifty Cents (\$5.50).
6. For the preparation of all daily transcripts, (those to be completed within 24 hours of the request) --- Eight Dollars (\$8.00). A Court Reporter may charge a minimum transcript fee of Fifty Dollars (\$50.00).
7. The Court Reporter's time spent assembling the transcript and exhibit binders shall be set forth and charged at the Court Reporter's regular hourly rate based upon the court reporter's annual compensation.
8. The maximum fee for copies of any transcript shall be One Dollar (\$1.00) per page.
9. The maximum fee for preparing a compact disc recording of a proceeding is one dollar (\$1.00), which should be paid to the Court.
10. The transcript supplies used in the preparation and assembly of the transcript and

exhibit binders shall be itemized and charged in accordance with the fee schedule set out in the Schedule of Transcript Supplies and Fees on file in the Court Administrator's office.

11. Each Court Reporter shall, on an annual basis, file a written report with the Indiana Supreme Court, Office of State Court Administration disclosing all transcript fees received by the Court Reporter for the preparation of County indigent, State indigent or private transcripts. The report shall be made on forms prescribed by the Division of State Court Administration and timely filed with that office.