

**LOCAL CIVIL RULES OF  
THE ALLEN SUPERIOR & CIRCUIT COURTS  
hereinafter referred to as COURT**

Adopted September 8, 2000, Effective November 1, 2000  
Including Amendments Received Through January 1, 2015  
Including Amendments Through October 10, 2018

Rule

<b>LR02-TR01-01</b>	<b>Applicability and Citation of Rules</b>
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APPENDIX A Consent to Alternate Service Form – Courthouse Boxes  
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APPENDIX D Initial Motion for Enlargement of Time to Answer Complaint  
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APPENDIX H Waiver and Consent to Allow Fees in Excess of Local Rule  
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APPENDIX I Proposed Order of Consolidation Form  
APPENDIX J Modified Indiana Civil Model Jury Instruction 101  
APPENDIX K Questions Concerning Juror Use of Technology During Trial  
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- A. Scope.** The following rules shall apply to civil cases filed in the Allen Superior Court Civil Division or the Allen Circuit Court (herein after referred to as “Court”), but shall not apply to family or criminal cases. Nothing in these rules shall limit the general jurisdiction of any judge.
- B. Citation.** These local rules may be cited as Allen County Local Civil Rule \_\_\_\_ or A.C. L.Civ.R. \_\_\_\_\_. The Indiana Rules of Trial Procedure are hereinafter referred to as Trial Rule \_\_\_\_\_ or T.R. \_\_\_\_\_.
- C. The Indiana Rules of Trial Procedure shall govern in the event of any conflict with the Allen County Local Civil Rules.**

*Adopted as Superior Civil Rule 2, September 8, 2000, effective November 1, 2000.  
Renumbered as Superior and Circuit Civil Rule AR00-1, and amended effective  
December 7, 2006. Amended October 3, 2008, effective January 1, 2009.  
Renumbered as Superior and Circuit Civil Rule AR00-01 effective January 1, 2015.  
Amended in 2018, renumbered as Local Civil Rule LR-02-TR01-01, and effective  
December 1, 2018.*

**A. Summons, Complaint, and Appearance.** The party filing the initial pleadings (summons, complaint, appearance, etc.) shall (unless exempted) file by way of the Indiana E-Filing System and pursuant to Trial Rules 4 and 86.

**(1) By Certified Mail, Private Process, Sheriff (excluding the Allen County Sheriff), Publication, other Methods.** The initiating party must file a Certificate of Issuance of Summons as set forth in section B of this Rule, below. If the certified mail service of process is utilized, the initiating party must cause the green return receipt card to be returned to the initiating party, not returned to the Clerk.

**(2) By Allen County Sheriff.** Once the signed Summons is returned from the Clerk and the fee for Service of Process by Sheriff has been paid to the Clerk, it is the initiating party's obligation to deliver the document(s) to the Allen County Sheriff to be served. It is the requesting party's responsibility to provide the Allen County Sheriff with three copies of any document(s) to be served along with a proof of payment for this service. Documents may be hand-delivered or mailed to the Allen County Sheriff. See T.R. 4.12.

Once the document(s) are served by the Allen County Sheriff, the Allen County Sheriff shall forward the document(s) to the Clerk for entry into the Chronological Case Summary.

If the Allen County Sheriff service method is utilized, the initiating party is not required to file a Return of Service.

**B. Certificate of Issuance of Summons.** See T.R. 86(G)(2).

Once service is initiated, a Certificate of Issuance of Summons must be filed. See Form C(1) in Appendix.

**C. Return of Service.**

After proof of service is returned to the initiating party, a Return of Service must be filed so that it will appear on the Chronological Case Summary. (See above exception, under A(2)). See Form C(2) in Appendix. Note: if e-filing the Return of Service, the filer must specify in the comment field the name of the document(s), the party's name who service was attempted on, and an indication whether service was either served or not served.

**D. Serving Non-Registered Persons.** A person who has not registered or otherwise cannot access the IEFS but who is entitled to service of a paper or pleading in a matter shall be served in accordance with Trial Rule 4.

*Adopted as Superior Civil Rule 2 September 8, 2000, effective November 1, 2000.  
Renumbered as Superior and Circuit Civil Rule 4-1, and amended effective December  
7, 2006. Renumbered as Superior and Circuit Civil Rule TR4-02 effective January 1,  
2015. Amended in 2018, effective December 1, 2018.*

- A. Written Appearance Form.** An attorney entering an appearance on behalf of any party shall file a written appearance as provided in T.R. 3.1. Unrepresented parties shall file a written appearance as provided in T.R. 3.1. The person filing the written appearance must serve a copy of the written appearance on all parties of record. The attorneys and unrepresented parties have a duty to timely and properly file the written appearance.
- B. Duty to Review Chronological Case Summary.** The attorneys and unrepresented parties filing an appearance shall review the Chronological Case Summary of the case in which their appearance is filed to determine all established deadlines, all hearing and trial dates and times, and all pending motions, as well as to be familiar with all previously entered Orders of the Court.
- C. Certification Upon Entering Written Appearance.** By entering a written appearance, the attorneys are certifying to the Court that they are authorized to practice law in the Allen Superior and Circuit Courts. By entering a written appearance, the attorneys and unrepresented parties are certifying to the Court that they have read and agree to be bound by the Allen County Local Rules, and have reviewed the Chronological Case Summary as required herein.

*Adopted as Superior Civil Rule 3, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 3.1-1 and amended effective December 7, 2006. Renumbered as Superior and Circuit Civil Rule TR3.1-03 effective January 1, 2015. Amended in 2018, effective December 1, 2018.*

**A. Procedure for Withdrawal.** A motion to withdraw an appearance shall be in writing, and shall be granted only by leave of Court. Permission to withdraw shall be given only after the withdrawing attorney has given the client at least ten (10) days written notice of the intention to withdraw, and has filed a copy of that Notice of Intention to Withdraw with the motion to withdraw; or upon a simultaneous or prior entering of appearance by other counsel for the client. If no other counsel has appeared for the client, the motion to withdraw shall contain withdrawing counsel's certification of the last known address, telephone number, and email address of the party, subject to the confidentiality provisions of T.R. 3.1(A)(8) and (D). After the case has been scheduled for trial, a hearing shall be set on the motion to withdraw. After the case has been scheduled for trial, the Court will not grant a request for withdrawal of appearance unless good cause is shown. A sample Motion to Withdraw Appearance is included in these Local Rules at Appendix B(1). The motion must be substantially similar to Appendix B.

**B. Contents of Notice.** The Notice of Intention to Withdraw shall include an explanation to the client as follows:

- (1) the present status of the case, excluding confidential / privileged information;
- (2) the dates of all scheduled hearings and other pending matters;
- (3) advise that the provisions in A.C.L.Civ.R. 3. 1-03 (B) and (C) (regarding party appearing without an attorney) and T.R. 3.1 (E) (regarding address changes) apply to the client after withdrawal of counsel;
- (4) the expectation of the Indiana common law that, as an unrepresented party, the client will be held to the same standard of conduct as an attorney licensed to practice in the State of Indiana; and
- (5) that prejudice might result from failure of the client to act promptly or to secure new counsel.

A sample Notice of Intention to Withdraw (Client Letter) is included in these Local Rules at Appendix B(2).

*Adopted as Superior Civil Rule 4, September 8, 2000, effective November 1, 2000. Amended and effective October 1, 2003; renumbered as Superior and Circuit Civil Rule 3.1-2, and amended effective December 7, 2006. Amended and renumbered as Superior and Circuit Civil Rule TR3.1-04 effective January 1, 2015. Amended in 2018, effective December 1, 2018.*

- A. Courthouse Boxes.** Any Allen County attorney or any Allen County law firm may, without charge, maintain an assigned Courthouse box in the Allen County Courthouse for receipt of communications from the Court, the Clerk, and other attorneys or law firms.
- B. How Assigned.** Courthouse boxes shall be assigned only after the attorney or law firm has filed with the Court Executive of the Allen Superior Court a Consent to Alternate Service (Appendix A).
- C. Effect of Consent.** Deposits made in any assigned box shall be deemed to constitute and be accepted as service equivalent to service by first class mail under Trial Rule 6(E).
- D. Form of Deposit to Box.** Any papers served under this rule by the Court, Clerk, or other attorneys or firm of attorney shall be placed in an envelope with the name of the intended receiving attorney on it and the current box number on the outside.
- E. Revocation of Consent.** Consent to Alternate Service under this rule shall remain valid until a written revocation has been filed with the Court Executive of the Allen Superior Court. If an attorney revokes consent to alternate service, that attorney must notify all counsel of record in any matter that the revoking attorney has an appearance filed.
- F. Index.** An index of those attorneys and firms consenting to alternate service is located near the boxes. The Court Executive of the Allen Superior Court is responsible for assigning boxes and maintaining a file of consents and of revocations of consents to alternate service.

*Adopted as Superior Civil Rule 5, September 8, 2000, effective November 1, 2000.  
Renumbered as Superior and Circuit Civil Rule 5-1, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule TR5-05 effective January 1, 2015.  
Amended in 2018, effective December 1, 2018.*



All pleadings, motions, notices, and other papers (“filings”) shall be in accordance with the provisions of the Indiana Rules of Trial Procedure. For the purpose of uniformity and convenience, the following requirements shall also be observed:

- A. **Form.** Filings must be e-filed on white paper. Filings shall be double spaced except for quotations, which shall be indented and single spaced.
- B. **Font Type and Size.** The font shall be those permitted at Indiana Appellate Rule 43, and the typeface shall be 12-point or larger in both body text and footnote. 14-point font is preferred for body text.
- C. **Margins.** All four margins for the text of the filing shall be at least one (1) inch from the edge of the page.
- D. **Pagination.** All of the pages of each filing shall be separately paginated consecutively. Every page of each filing must contain a page number, including page one. The page numbers may be affixed to a page by type, stamp, or handwriting. Page numbers must appear in the bottom center of the page, and must be formatted to indicate each page number in relation to the total of the pages in the document (e.g., “Page 1 of 14”, “1 of 14”, “p.1/14”, “p.1 of 14”.)

*Adopted as Superior Civil Rule 6, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 8-1 and amended effective December 7, 2006. Renumbered as Superior and Circuit Civil Rule TR8-06 effective January 1, 2015. Amended in 2018, effective December 1, 2018.*

**A. General Requirements.** In addition to the specific requirements set out below in subsections B-G, a Motion for Default Judgment shall generally include the following attachments and information:

1. Affidavit of Debt. The Affidavit of Debt shall include the following information as known or requested by the moving party.
  - a. The default date;
  - b. The unpaid balance of the account; and,
  - c. Any fees, including attorney's fees or late fees, separately enumerated.
2. Supporting Documentation. The following supporting documents shall also be provided:
  - a. Affidavit of Attorney's Fees;
    1. Must comply with LR02-TR00-16; and,
    2. Be accompanied by the written instrument or citation to other authority allowing for recovery of attorney's fees;
  - b. Affidavit of Non-Military Service;
  - c. Written instrument allowing for the recovery of any other amounts sought, including interest rates and other fees; and,
  - d. Attachment showing method of computation used to arrive at the amount requested.
3. Court costs shall not be added into a general judgment. A separate award and judgment for court costs is required.

**B. Affidavit of Debt: Assignments.**

1. If the plaintiff is not the original creditor, the Affidavit of Debt shall include:
  - a. A statement by plaintiff (or plaintiff's counsel, if plaintiff is represented by counsel), that the statute of limitations to bring an action to collect the defendant's debt has not expired; and,
  - b. Attached exhibits, which must include:
    - a. A copy of the contract or other writing evidencing the original debt, which must contain a signature of the defendant. If a claim is based on credit card debt, and no signed writing evidencing the original debt ever existed, then a charge-off statement or monthly statement recording the most recent purchase transaction, payment, or balance transfer shall be attached;
    - b. A chronological listing of the names of all prior owners of the debt and the date of each transfer of ownership of the debt, beginning with the name of the original creditor, identifying the debtor's name and/or account number with specificity; and,
    - c. A certified or other properly authenticated copy of the bill of sale or other document that transferred ownership of the

debt to the plaintiff, identifying the debtor's name and/or account number with specificity.

**C. Insurance Subrogation Cases.** In cases involving a personal injury and/or property damage subrogation claim, a Motion for Default Judgment shall include the following additional attachments and information:

1. Affidavit including:
  - a. Date of the occurrence; and,
  - b. Amount of damages requested;
2. Copies of all relevant medical bills paid, consistent with A.R. 9 (G);
3. Copies of all relevant repair estimates;
4. Affidavit of Non-Military Service;
5. Copies of all relevant checks, deposits, receipts, and other similar documents written by the insurance company; and,
6. An attachment entitled "Computation of Damages," showing method of computation used to arrive at the amount requested.

**D. Loan Installment Contract / Repossession Cases.** In cases involving loan installment contracts or repossession, a Motion for Default Judgment shall include the following additional attachments and information:

1. A copy of the original signed contract, which must contain a signature of the defendant;
2. Documents showing:
  - a. If the personal property was repossessed and sold, the date and place of sale;
  - b. Gross amount from sale of personal property;
  - c. All deductions (itemized) from gross sale amount; and,
  - d. Any other deductions made (itemized);
3. In land contract cases, an itemization of all amounts paid on the contract by the debtor;
4. Affidavit of Attorney's Fees or other fees;
  - a. Must comply with LR02-TR00-16; and,
  - b. Be accompanied by the written instrument or citation to other authority allowing for recovery of attorney's fees;
5. Affidavit of Non-Military Service.

**E. Credit Card Cases.** In cases involving a credit card debt, a Motion for Default Judgment shall include the following additional attachments and information:

1. Affidavit of Debt must include:
  - a. Charge off date;
  - b. Original credit card company;

- c. Unpaid balance;
  - d. Date of last payment and amount;
  - e. Date account was opened;
  - f. Account number, consistent with A.R. 9 (G);
  - g. Date debtor defaulted on the account;
  - h. Interest rate requested;
  - i. Type of account (e.g., Visa, department store); and,
  - j. Late fees, over-limit fees, and any other fee requested, along with a monthly breakdown of each amount;
2. Affidavit of Attorney's Fees
    - a. Must comply with LR02-TR00-16; and,
    - b. Be accompanied by the written instrument or citation to other authority allowing for recovery of attorney's fees;
  3. Actual credit card monthly billing statement from the date of last payment or last purchase (whichever is later), showing:
    - a. Original creditor;
    - b. Debtor's name;
    - c. Debtor's address;
    - d. Date of last payment and/or purchase;
    - e. Interest rate; and,
    - f. All fees requested;
  4. Affidavit of Non-Military Service; and,
  5. Attachment showing method of computation used to arrive at the amount requested.

**F. Medical Bills.** In cases involving medical bills, a Motion for Default Judgment shall include the following additional attachments and information:

1. Affidavit of Debt must include:
  - a. Original provider and date for each service;
  - b. Name of the individual to whom each service was provided;
  - c. Unpaid balance;
  - d. Date account was closed;
  - e. All accounts and account numbers consistent with A.R.9(G);
  - f. Date debtor defaulted on account(s);
  - g. Interest rate sought (if any);
2. Affidavit of Attorney's Fees or any other fees:
  - a. Must comply with LR02-TR00-16; and,
  - b. Be accompanied by the written instrument or citation to other authority allowing for recovery of attorney's fees;
3. Copy of each medical bill showing the date and amount of each service, original provider, and to whom the service was provided;
4. Copy of all assignments (from original provider to Plaintiff);
5. Copy of the contract (if any);
6. Affidavit of Non-Military Service; and,

7. Documentation showing secondary liability if judgment is sought against a person to whom services were not provided (this must be provided for each date of service).

*Adopted as Superior Civil Rule 8, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 59-1, and amended effective December 7, 2006. Renumbered as Superior and Circuit Civil Rule TR59-08 effective January 1, 2015. Amended in 2018, renumbered as Local Civil Rule LR-02-TR55-07, and effective December 1, 2018. Former Local Rule LR02-TR-59-07 abrogated 2018.*

- A. Setting Motions for Hearing.** Except for the motions described in LR02-TR7-08(D) below, all motions shall be set for hearing. It is the responsibility of the moving party to request a hearing from the Court.
- B. Motions to Correct Error.** It shall be discretionary with the Judge before whom the case is pending whether a hearing will be set on a motion to correct error.
- C. Motions to Amend Pleadings.** All motions to amend pleadings must contain a written representation of the moving party's attorney that the attorney has advised opposing counsel of the substance of the motion and that opposing counsel either consents or objects to the motion or that the motion may be submitted for ruling by the Court without hearing or briefing. Upon being advised of opposing counsel's objection, the moving party's attorney shall request a date for hearing, as prescribed above in section A of this rule.
- D. Motions Not Likely to Require Hearing.** The following motions may be granted without a hearing and without a response from the non-moving party:
- (1) Motion for Initial Enlargement of Time for Answer;
  - (2) Motion to Dismiss complaint by Plaintiff when no answer has been filed;
  - (3) Motion to Dismiss Counterclaim by Defendant when no reply has been filed;
  - (4) Motion to Amend any pleading; such motions may be summarily granted or denied unless the Court determines that a hearing should be scheduled;
  - (5) Unopposed motion and joint motions.
- E. Briefs and Memoranda Regarding Motions.** If a party desires to file a memorandum in support of any motion, the memorandum should be filed simultaneously with the motion.
- F. Motions to Strike or to Insert New Matter.** Subject to Trial Rule 12(F), every motion to insert new matter or to strike out any part or parts of any pleading, deposition, report, order or other document in a case shall be made in writing and shall set forth the words sought to be inserted or stricken. Each set of words to be inserted or stricken shall be in a separate specification and each specification shall be numbered consecutively.
- G. Initial Enlargement of Time for Answer.** An initial written motion for enlargement of time to file an Answer shall be automatically allowed for an additional thirty (30) days from the filing of the motion, or until two (2) days before the Case Management Conference, whichever is earlier. This rule shall not apply if the defendant requesting the motion has already been defaulted. For this rule to be applicable, the motion must be filed on or before the original due date. A form of this motion is provided at Appendix D.

- H. Enlargement of Time/Deadlines for All Matters Other Than an Answer.** A motion for enlargement of time to file any response other than to file an Answer shall be verified, shall state the grounds for the requested relief with particularity, shall state the date the original response is due, shall state the new date the moving party proposes for the response is to be due, shall list all future hearing and trial dates set in the case, and shall state whether the other parties agree with or object to the motion. A form of this motion is provided at Appendix G(1). A proposed order that is substantially similar to Appendix G(2) - Order Amending Deadlines, modified for the particular motion, shall also be filed. A party's failure to strictly comply with these requirements may subject the motion to summary denial.
- I. Motions Must Be Filed Separately.** Motions must be filed separately from other pleadings, proposed Orders, and other motions. Otherwise, such motions are considered "dual pleadings," and will be stricken from the Record.
- J. Trial Rule 12 Defenses.** A motion to dismiss asserting Trial Rule 12 defenses must be filed separately from the Answer. The Court will not rule on defenses asserted under Trial Rule 12 until the party who raised the defense files a motion separate from its Answer.

*Adopted as Superior Civil Rule 9, September 8, 2000, effective November 1, 2000. Amended and effective October 1, 2003; renumbered as Superior and Circuit Civil Rule 7-1, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule TR7-09 effective January 1, 2015. Amended in 2018, renumbered as Local Civil Rule LR-02-TR7-08, and effective December 1, 2018. Former Local Civil Rule LR02-TR-7-09(H), regarding Discovery Disputes renumbered as LR02-TR33-23(H), 2018.*

## LR02-TR56-09 Motion Practice Regarding Dispositive and Other Complex Matters

### A. Motions for Summary Judgment.

1. **Separate Documents.** The following documents shall be filed separately:

- 1) The Motion for Summary Judgment;
- 2) Memorandum in Support;
- 3) Designation of Evidence and Table of Contents;
- 4) Response Memorandum; and
- 5) Reply Memorandum.

If no evidence is designated, no separate Designation of Evidence and Table of Contents are required. Reply Memoranda are permitted, and are addressed below. Sur-reply memoranda are not permitted, except as set forth below.

2. **Pagination.** All of the pages of each document listed above shall be separately paginated consecutively. Every page of each document must contain a page number, including page one, which includes a title of the document. The page numbers may be affixed to a page by type, stamp, or handwriting. Page numbers must appear in the bottom of the page, and must be formatted to indicate each page number in relation to the total of the pages in the document (e.g., "Page 1 of 14", "1 of 14", "p.1/14", "p.1 of 14".)

3. **Designation of Evidence and Table of Contents.** The first item set out below the caption of the case in the "Designation of Evidence and Table of Contents" shall be the Table of Contents. The Table of Contents must clearly designate each Exhibit relied upon in the Motion or Response. Each Exhibit shall be affixed with a Title and Exhibit Letter. No document or individual page may be designated as evidence that does not contain an Exhibit Letter and short Title. The Table of Contents shall contain the beginning and ending page number for each Exhibit. The entire Designation of Evidence and Table of Contents shall be consecutively paginated (e.g., "Bates-stamped") in the manner described under paragraph 2, beginning with the caption on page one. Appendix F includes a Designation of Evidence and Table of Contents that conforms to these requirements. A party's Designation of Evidence and Table of Contents must be substantially similar to Appendix F. If the Designation of Evidence and Table of Contents exceeds the technical size capacity of the IEFS, multiple volumes of the Designation of Evidence must be filed in a manner that is otherwise consistent with this Local Rule.

4. **Exhibit Letters and Titles Headings in Designation of Evidence and Table of Contents.** Exhibits within the Designation of Evidence and Table of Contents shall begin with the letter "A" and proceed through the alphabet. The Exhibit Title shall identify the specific document by its content, such as "Affidavit of Mary



Rose”; “Credit Card Statements 2007-2019”; and “Deposition of John Henry.” The Exhibit Letter and Title of the Exhibit shall match the Exhibit Letter and Title as stated in the Table of Contents. If a document is authenticated or referenced by an Exhibit, it shall be marked as a subpart to that Exhibit and shall be specifically and accurately referenced in the authenticating or referencing document. As with each Exhibit, each subpart to an Exhibit shall be identified in the Table of Contents. If any document contains an Exhibit letter or Exhibit number from an earlier filing, the earlier letter or number shall be removed to avoid confusion. However, when necessary to authenticate an earlier document, the earlier letter or number shall remain on that document, and the Exhibit shall also contain and be identified in the Table of Contents by the new Exhibit Letter. Citations must be to the page number referenced in the Table of Contents.

5. **Designated Evidence that is Earlier Filed / Issued in the Case.** Documents that are designated as evidence that have already been filed or issued in the case, such as the Complaint, Answer, Orders, the relevant portions of another party’s designated evidence, etc., shall be listed and included in the Designation of Evidence and Table of Contents and assigned an Exhibit Letter and short Title as required above.
6. **Summary of Argument Requirement.** The Memorandum in Support of Motions for Summary Judgment, and Response Memorandum shall contain a Summary of Argument, not to exceed two pages, and located at the beginning of the Memorandum.
7. **Memoranda.** Absent leave of Court, the Memorandum in Support of Motions for Summary Judgment, and Response Memoranda Opposing Motion for Summary Judgment shall not exceed thirty (30) pages or 14,000 words, whichever is greater. A party may file a Reply Memorandum to the Response to Motion for Summary Judgment. A Reply Memorandum shall be filed not later than fourteen (14) calendar days after the Response to Motion for Summary Judgment is filed. Absent leave of Court, a Reply Memorandum shall not exceed six (6) pages or 2,800 words, whichever is greater. In its discretion, the Court may strike the Reply Memorandum and not consider a Reply Memorandum that violates this Rule. There shall be no sur-replies filed absent leave of Court.
8. **Motions to Strike Designations Submitted in Support of, or Opposing Motions for Summary Judgment, and Motions to Strike Summary Judgment Memoranda.** At the time a Response to Motion for Summary Judgment is filed, the non-moving party’s Motion to Strike, if any, shall also be filed. Upon a motion, the Court may permit a party to file a Supplemental Designation of Evidence in support of the Reply Memorandum. A party objecting to such a Supplemental Designation must file its Motion to Strike, if any, within seven (7) days of the Motion to File a Supplemental Designation of Evidence. The Motion to File a Supplemental Designation of Evidence shall not exceed six (6) pages or 2,800 words, whichever is greater. At the time a Reply Memorandum is filed, the

moving party's Motion to Strike, if any, shall also be filed. The Motion to Strike and supporting argument shall be paginated as set forth above, and shall not exceed six (6) pages or 2,800 words, whichever is greater. Any Opposition to a Motion to Strike shall not exceed six (6) pages or 2,800 words, whichever is greater, and shall be filed not later than seven (7) calendar days after the Motion to Strike is filed.

**9. Violations of this Rule.** If a party files any document in violation of this Rule, the court, in its discretion, may issue an appropriate Order.

**B. Other Motions and Responses.** All other dispositive or complex motions, responses, and replies (e.g., Motions to Dismiss, Motions to Strike, Motions for Judgment on the Pleadings, Motions to Exclude under I.R.E. 702(a) and 702(b), Requests for and Objections to Jury Instructions, Motions for Preliminary Determination, Motions to Compel) shall comply with the requirements set out above in Local Rule 9A, regarding separate documents, pagination, designation, summaries, etc.

**C. Late Filings.** Any motions, memoranda, or other documents filed within forty-eight (48) actual (not Court business) hours of a hearing generally pertaining to the subject matter of the hearing may be stricken in the discretion of the Court.

*Adopted 2018, effective December 1, 2018. Former Local Civil Rule LR02-TR7-09 renumbered as Local Civil Rule LR02-TR7-08, 2018.*

**A. Matters in which Proposed Orders are Required.** Prior to entry by the Court of orders granting motions, the moving party shall, unless the Court directs otherwise, furnish the Court with proposed orders in the following matters:

- (1) enlargement of time
- (2) continuance
- (3) default judgment
- (4) compel discovery
- (5) dismissal
- (6) appointment of receiver
- (7) appointment of guardian
- (8) appointment of personal representative
- (9) immediate possession of real estate
- (10) immediate possession of personal property
- (11) petition for certification of interlocutory appeals
- (12) staying further proceedings by reason of bankruptcy, appeal, or other grounds
- (13) request for hearing
- (14) extensions of dispositive motion filing deadlines and resetting the dispositive motion hearing and other hearings (See A.C. Local Civil Rules 8(H) and Appendix G(1) and (2).)
- (15) attorney's withdrawal of appearance
- (16) other orders, judgments, or decrees as the Court may direct.

This local rule does not apply to judgments on general verdicts of the jury or upon a decision announced by the Court. Failure to comply with this local rule may result in the motion being summarily denied.

**B. Form.** All proposed orders shall:

- (1) be a document that is separate and apart from the motion;
- (2) contain all relevant detail of the relief granted by the order (a single statement, such as "Motion granted" is not sufficient in detail);
- (3) contain the proper caption of the case;
- (4) contain page numbers that appear in the bottom of the page, and must be formatted to indicate each page number in relation to the total of the pages in the document (e.g., "Page 1 of 14", "1 of 14", "p.1/14", "p.1 of 14");
- (5) at the right margin contain a line for the signature of the judge on the last page of the proposed order under which shall be typed "Judge, Allen Superior Court" or "Magistrate, Allen Superior Court", or "Judge, Allen Circuit Court", whichever is applicable (it is also preferred that this line include the judge's/magistrate's name);
- (6) at the left margin of the judge's signature line, contain a date line, stating the following: "Date: \_\_\_\_\_"; and,
- (7) provide approximately two inches of blank space provided between the last typed paragraph of the proposed order and the date and signature lines.

**C. Proposed Orders on Motions for Summary Judgment.** Proposed orders on motions for summary judgment, when appropriate, may contain the following language permitted in T.R. 56 (C): “there is no just reason for delay and the Court expressly directs entry of final judgment as to less than all the issues, claims or parties.”

*Adopted as Superior Civil Rule 10, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule TR00-1, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule TR00-10 effective January 1, 2015. Amended in 2018, renumbered as Local Civil Rule LR02-TR86-10, and effective December 1, 2018.*

**LR02-TR53.1-11****Failure to Rule –Informal Procedure**

If a Judge fails to set a motion or hearing or fails to rule on a motion within the time period specified in Trial Rule 53.1(A), and if no action has been taken as provided in Trial Rule 53.1(D) or (E), an interested party may seek an informal resolution of the Judge's failure by making an ex parte request to the Administrative Judge of the Civil Division for Superior Court cases, or the Judge or Court Administrator of the Allen Circuit Court for Circuit Court cases. If the Judge who has failed to rule is the Administrative Judge of the Allen Superior Court Civil Division, an interested party may make the request to one of the other Judges of the Allen Superior Court Civil Division.

*Adopted as Superior Civil Rule 11, September 8, 2000, effective November 1, 2000.  
Renumbered as Superior and Circuit Civil Rule 53-1-1, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009.  
Renumbered as Superior and Circuit Civil Rule TR53.1-11 effective January 1, 2015.  
Amended in 2018, effective December 1, 2018.*

## LR02-TR53.5-12 Continuances of Hearings and Trials

- A. Motion.** A motion for continuance of a hearing or trial, unless made during the hearing or trial, shall be verified, stating the grounds with particularity, and shall state whether the other parties agree with or object to the motion.
- B. Party to Suit Signing Requirement.** The Court, in its discretion, may require any written motion or stipulation for continuance to be signed by the party requesting the continuance, in addition to the party's attorney's signature.
- C. By Stipulation of Counsel.** The stipulation to continue the hearing or trial of any pending matter shall state, with particularity, the grounds for the continuance and must be signed by all attorneys of record.
- D. Time for Filing.** Motions or stipulations for continuance of a hearing or trial shall be filed as soon after the cause for continuance or delay is discovered, and no later than seven (7) days before date set, unless the reason is shown by affidavit to have occurred within the seven (7) day period.
- E. Court's Discretion.** The Court in its discretion may grant or deny a motion or stipulation for continuance of a hearing or trial.
- F. Rescheduling.** All matters continued shall be rescheduled as determined by the Court.

*Adopted as Superior Civil Rule 12, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 53.5-1, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule TR53.5-12 effective January 1, 2015. Amended in 2018, effective December 1, 2018.*

## LR02-TR86-13 Superior Court Assignment of Cases

- A. Case Assignment.** All Allen Superior Court Civil Division cases are filed according to the Allen County Caseload Allocation Plan, LR02-AR1E-1. Except as otherwise provided in the Allen County Caseload Allocation Plan, upon filing, all Superior Court cases are randomly and automatically assigned to a specific Civil Division Judge via the Indiana E-Filing System. However, the Court may internally re-assign the case prior to the case being set for a Case Management Conference.
- B.** All matters pertaining to that case shall be determined by the assigned Superior Court Judge.
- C. Case Management Conference.** Most, if not all, Superior Court cases are scheduled for a Case Management Conference upon filing. If reasonably possible, a promptly issued Order and Notice of Case Management Conference should be served with the Summons and Complaint.
- D. Wrong Case Type Initially Selected.**
  - 1. When the wrong case type is initially selected by the party who is initiating/filing the case, the Court may order the party to:
    - a. open a new case via the e-filing system with the correct case type selected;
    - b. pay the appropriate filing fee related to opening the corrected case;
    - c. resubmit all related documents; and
    - d. perform other related tasks.
  - 2. Counsel are cautioned to be diligent in case type selection when filing a new case. Counsel should refer to the Indiana Supreme Court's *Case Type Quick Reference Guide*. If there is doubt, for instance between selecting a "CC" or a "PL" designation for the new case, counsel shall initially designate the case type as "PL".

*Adopted as Superior Civil Rule 13, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil rule AR00-2, and amended effective December 7, 2006. Amended and renumbered as Superior and Circuit Civil Rule AR00-13 effective January 1, 2015. Amended in 2018, effective December 1, 2018.*

**LR02-TR86-14**

**Stipulations and Agreements**

Where parties have reached an agreement on any or all material issues of law or fact, the terms of such agreement shall be detailed in a written stipulation, which shall be signed by the parties and/or their attorneys. The written agreement shall be filed with the Court, along with a separate proposed Order, which includes the relevant portions of the agreement. Stipulations and agreements will not be enforced unless submitted in writing and filed as set forth in this local rule. The Court retains the authority to reject or accept and enforce stipulations and agreements.

*Adopted as Superior Civil Rule 14, September 8, 2000, effective November 1, 2000.  
Renumbered as Superior and Circuit Civil Rule TR00-2, and amended effective  
December 7, 2006. Renumbered as Superior and Circuit Civil Rule TR00-14 effective  
January 1, 2015. Amended in 2018, effective December 1, 2018.*



## **LR02-AR7-15 Retention Periods for Evidence**

The Court shall proceed pursuant to this rule, unless the Court directs a longer retention period after motion by any party or on its own motion.

All models, diagrams, documents, or materials admitted into evidence or pertaining to the case placed in the custody of the Court Reporter as exhibits shall be retrieved from the Court Reporter by the party offering them into evidence, except as otherwise ordered by the Court, four (4) months after the case is decided, unless an appeal is taken. If an appeal is taken, all of the exhibits shall be retained by the Court Reporter for a period of two (2) years from the termination of the appeal, retrial, or subsequent appeal and termination, whichever is later.

The Court Reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes, as provided in Administrative Rule 7.

*Adopted as Superior Civil Rule 15, September 8, 2000, effective November 1, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule AR00-3, and amended effective December 7, 2006. Amended and renumbered as Superior and Circuit Civil Rule AR00-15 effective January 1, 2015. Renumbered as Local Civil Rule LR02-AR7-15, effective December 1, 2018.*

## **LR02-TR00-16      Attorney's Fees and Court Costs**

No order granting a request for attorney fees shall be made unless fees are allowable under applicable law and there has been evidence furnished by testimony or affidavit of the attorney. The testimony or affidavit shall include:

- a. the attorney's bar license number;
- b. identity of the party represented by the requesting attorney;
- c. the attorney's hourly rate;
- d. the total of the fees requested;
- e. the amount of time expended and a general description of each time entry;
- f. the fact that the services and time were reasonably necessary considering the nature and complexity of the matter; and,
- g. a statement regarding reasonableness of the fees requested, including the usual and customary charges.

In instances where the fee is allowable under contract, an attorney's affidavit must also be accompanied by the contract language showing that attorney's fees are recoverable. The contract shall be attached to the affidavit as an exhibit, and shall comply with LR02-TR8-06(D).

Court costs shall not be added into a general judgment. A separate award and judgment for court costs is required.

Judicial notice of reasonable fees shall not be taken. In any event, the award of attorney fees shall be within the sound discretion of the Court. At the time judgment is entered, the Court may award up to an additional two (2) hours of reasonably anticipated post-judgment collection-related attorneys fees.

*Adopted as Superior Civil Rule 16, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule TR00-3, and amended effective December 7, 2006. Amended and renumbered as Superior and Circuit Civil Rule TR00 -16 effective January 1, 2015. Amended in 2018, effective December 1, 2018.*

## **LR02-TR69-17 Proceedings Supplemental**

**A. Ten Day Rule.** Except for good cause shown, a motion for proceedings supplemental may not be filed until ten (10) calendar days have elapsed since the date of judgment.

**B. One Year Rule.** Except for good cause shown, no proceedings supplemental may pend for more than a one (1) year period from the date of its filing. At the end of the one (1) year period, the proceedings supplemental shall be dismissed. Except upon good cause shown, no judgment creditor may file more than four (4) proceedings supplemental per year against any individual judgment debtor in a given case.

**C. Conduct of Hearings.** If the judgment creditor is not represented by an attorney, the hearing shall be conducted by the Court when requested. If no judgment creditor or if no judgment creditor's attorney appears after fifteen (15) minutes past the scheduled hearing time, the proceedings supplemental shall be dismissed, no garnishment order shall issue, and the judgment debtor may leave without risk of sanction for failure to appear. If the judgment debtor fails to appear after fifteen (15) minutes of the scheduled hearing time, a judgment creditor who appears may be entitled to a garnishment order issued by the court, or may proceed with the contempt proceedings provided in LR02-TR69-19, or may seek other relief. A judgment creditor seeking relief under a Motion for Rule to Show Cause shall not file such motion until after a proceedings supplemental hearing is held and after the judgment debtor or defendant garnishee fails to meet the criteria of the resulting order. A judgment creditor may not simultaneously seek relief under a Motion for Rule to Show Cause and a garnishment order.

**D. Proceedings Supplemental During Pendency of Garnishment Order.** If a garnishment order has been issued and remains unsatisfied, additional proceedings supplemental directed to the judgment debtor or to an additional garnishee defendant may be filed only by order of the Court for good cause shown.

**E. Hearing Report.** Following a proceedings supplemental hearing, the judgment creditor shall file a Proceeding Supplemental Report to the Court (Appendix E), notifying the Court of the hearing outcome and, when necessary, attach an appropriate proposed Order. The required Proceeding Supplemental Report to the Court shall include the following information, where applicable:

1. Identify the parties who appeared and/or failed to appear, and whether each party was represented by counsel or unrepresented;
2. State whether proof of service of the proceedings supplemental or contempt citation hearing was perfected;
3. If service was perfected, and the judgment debtor or garnishee defendant fails to appear, whether the judgment debtor or garnishee defendant is:
  - a. contempt citation eligible;
  - b. body attachment eligible; or,
  - c. garnishment order eligible; and,
4. If proceedings supplemental hearing was conducted and the judgment debtor or garnishee defendant appears, whether the proceeding was dismissed, whether a garnishment order is requested, and all other relevant information;

If no Proceeding Supplemental Report to the Court is filed within ten (10) days of the hearing, the proceedings supplemental shall be dismissed.

*Adopted as Superior Civil Rule 17, September 8, 2000, effective November 1, 2000.  
Renumbered as Superior and Circuit Civil Rule 69-1, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule TR69-17 effective January 1, 2015.  
Amended in 2018, effective December 1, 2018.*

**LR02-TR69-18 Proceedings Supplemental: Contempt/Rule to Show Cause/Body Attachment**

**A. Contempt.** When judgment debtor or garnishee defendant fails to appear, as ordered for a scheduled hearing, the judgment creditor may file a Motion for Rule to Show Cause and a separate Proposed Order to Show Cause, as to the debtor or garnishee defendant. The Motion for Rule to Show Cause must be filed within thirty (30) days of the failure to appear.

**B. Body Attachment.** Body attachment may be requested and shall be issued only when:

- (1) The judgment debtor or garnishee defendant previously ordered to appear for a scheduled hearing was personally served with notice of a contempt hearing;
- (2) Proof of service of the notice of contempt hearing is filed with the Court;
- (3) The judgment debtor fails to appear at the contempt hearing;
- (4) The request for body attachment is filed within thirty (30) days of the contempt hearing at issue; and
- (5) The judgment creditor properly completes and files all pleadings and forms required by the Court. The pleadings and forms currently include for each judgment debtor:
  - (a) one (1) Request for Body Attachment;
  - (b) one (1) Writ of Attachment, which must include a statement setting a bond for release. (The bond amount shall be set at the lesser of \$500.00 or the total amount remaining unpaid on the judgment including costs and interest); and,
  - (c) the Warrant Information Card, including the judgment debtor's social security number and date of birth.

**C. Procedure for Contacting Judgment Creditor When Judgment Debtor is in Custody.** When the judgment creditor requests the issuance of a body attachment, the creditor shall file with the Court any telephone numbers (not to exceed three (3)) where the Court may notify the creditor of the judgment debtor's appearance when the judgment debtor is taken into custody. Once the Court is notified that the judgment debtor is in custody, the Court, to the best of its ability and consistent with the continued performance of its daily responsibilities, shall:

- (1) Attempt to contact the creditor at the telephone numbers on file with the Court; and
- (2) Notify the creditor of a time later during the same Court business day when the judgment debtor will be brought before the Court for questioning by that creditor.

If the judgment creditor fails to appear at the time designated by the Court, then the judgment debtor shall be released and the underlying proceedings supplemental shall be dismissed.

**D. Procedure for Contacting Judgment Creditor When Judgment Debtor is Not in Custody.** When the Court is notified that the judgment debtor has appeared prior to being taken into custody, the Court, to the best of its ability and consistent with the continued performance of its daily responsibilities, shall notify the judgment creditor of the judgment debtor's appearance. If the judgment creditor does not appear within one

(1) hour of having been contacted by the Court, the body attachment shall be recalled, the judgment debtor shall be released, and the underlying proceedings supplemental shall be dismissed.

**E. Expiration and Recall of Body Attachments.**

**(1) Expiration.** Body Attachments expire one (1) year after issuance, and no further proceedings supplemental Orders shall be issued within this one (1) year timeframe.

**(2) Recall.** If during the pendency of a Body Attachment, the judgment creditor desires to recall the body attachment, the judgment creditor shall:

(a) file a motion\_for recall of the Body Attachment; and

(b) state in the motion\_the reason for the desired recall. Upon the recall of a Body Attachment, the underlying proceedings supplemental shall be dismissed.

*Adopted as Superior Civil Rule 19, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Civil Rule 69-3, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule TR69-19 effective January 1, 2015. Amended in 2018, renumbered as Local Civil Rule LR02-TR69-18, and effective December 1, 2018. Former Local Civil Rule LR02-TR69-18 abrogated 2018.*

## **LR02-TR69-19 Proceedings Supplemental: Garnishment**

**A. General Procedure.** A garnishment order shall not issue with respect to a judgment debtor's wage or other property without:

- (1) An active proceedings supplemental as to the judgment debtor or waiver of notice by the judgment debtor;
- (2) Service on the garnishee defendant of the proceedings supplemental or interrogatories by
  - (a) Certified mail,
  - (b) Sheriff's service, or
  - (c) Private process server;
- (3) Proof of service on the garnishee defendant of the proceedings supplemental or interrogatories filed with the Court;
- (4) A proposed garnishment order; and
- (5) Return of answered interrogatories, other verification of employment by the garnishee defendant, or failure to answer interrogatories after notice.

**B. Voluntary Garnishments.** In instances where a judgment debtor has entered a voluntary agreement for periodic payments to satisfy the judgment and has further consented to garnishment upon default, notwithstanding the terms of the agreement, no garnishment order shall issue unless:

- (1) an active proceeding supplemental is pending against the judgment debtor and the garnishee defendant; and,
- (2) the judgment creditor files the agreement concerning the default of judgment debtor.

**C. Release.** Upon receipt by the judgment creditor or by the Clerk, on the judgment creditor's behalf, of monies sufficient to fully satisfy the judgment, any accrued interest, and costs, the judgment creditor shall immediately file a motion seeking to obtain a court order releasing the applicable garnishment order and shall forward a copy to the garnishee defendant(s).

### **D. Issuance of Garnishment Order After Proceedings Supplemental Hearing.**

When a garnishment order is issued by the Court, the underlying proceedings supplemental shall be dismissed.

**E. Issuance of Garnishment Order Prior to Rule to Show Cause Hearing.** When a garnishment order is issued prior to a hearing on a Motion for Rule to Show Cause, any previously scheduled hearing on the Motion to Show Cause shall be cancelled.

*Adopted as Superior Civil Rule 20, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil rule 69-4, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule TR69-20 effective January 1, 2015. Amended in 2018, renumbered as Local Civil Rule LR02-TR69-19, and effective December 1, 2018.*

**LR02-AR00-20 Attorney and Personal Representative Fee Guidelines for Decedents' Estates**

**A. Preamble.** The Allen Superior Court, Civil Division has adopted these guidelines in an effort to achieve the following objectives:

- (1) Establish uniformity in determining a fair and reasonable fee for supervised estates;
- (2) Provide a guideline to assist the Court and interested parties in determining fair and reasonable fees;
- (3) Provide a guide to attorneys so they can discuss fees that may be reasonably incurred with their clients at the onset of administration;
- (4) Assist the legal profession to arrive at a fair and reasonable fee for employment in estate matters.

Every attorney and personal representative has an obligation to request a fee which is fair and reasonable for the work performed, taking into account the Rules of Professional Conduct applicable to attorneys admitted to practice law in the State of Indiana, and other relevant criteria. Except under extraordinary circumstances, a request for fees should not exceed the fees authorized in these guidelines. In an uncomplicated estate, fees should be less than those listed in these guidelines. Fees must always bear a reasonable relationship to the services rendered.

**B. Principles Applicable to Fee Determinations.** Although these fee guidelines have been promulgated by the Court for probate matters, it is important that attention be directed to the following criteria when seeking an award of fees:

- (1) The time and labor required, the novelty, complexity, or difficulty of the questions involved, the skill required to perform the services properly, including a determination as to how much of the attorney's time was devoted to ministerial functions;
- (2) The nature and extent of the responsibilities assumed by the attorney and the results obtained, including 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 whether the attorney's duties are expanded by the existence of non-probate assets because of their inclusion for tax purposes;
- (4) The timeliness with which the necessary services are performed consistent with statutory requirements, Local Civil Rules of the Allen Superior Court, Indiana Trial Rules, and applicable Rules of Professional Conduct; and
- (5) Attorneys shall discuss their fees and the fees of the Personal Representative at the time they are retained in all probate matters.

**C. Attorney Fee Guidelines - General Administration:**

- (1) Gross estate services are considered to normally include: probating the Will, opening of the estate, qualifying the personal representative, preparing and filing the Inventory, paying claims, collecting assets, preparing and filing non-extraordinary petitions, preparing and filing of Fiduciary Income Tax Return,



preparing and filling all tax returns and schedules, obtaining Court Orders thereon, paying taxes, preparing and filing the Final Report, obtaining an Order approving same, distributing assets, obtaining discharge of the Personal Representative, and serving all notices on interested parties throughout the proceedings. This list shall not be considered exclusive.

**(2) Gross Estate Services-Minimum Fee of \$500.00 Plus:**

Up to \$100,000. Not to exceed.....	6%
Next \$100,000. Not to exceed.....	4%
Next \$100,000. Not to exceed.....	3%
Next \$100,000. Not to exceed.....	2%
Over \$400,000. Not to exceed.....	1%

**(3) Miscellaneous-Extraordinary Services:**

**(a)** Sale of Real Estate fees shall be based upon a reasonable hourly rate.

**(b)** Federal Estate Tax Returns: Fees for Federal Estate Tax Returns are allowed only if a return is required because of non-administered property, and shall be based only on assets not listed on Indiana Inheritance Tax Schedule. A base fee of \$750.00 or one percent (1%) is allowed for the first \$100,000. Of the non-administered assets of the gross estate as determined for Federal Estate Tax purposes plus:  $\frac{3}{4}$  of one percent (1%) of the next \$150,000 of non-administered assets of the gross estate, plus  $\frac{1}{2}$  of one percent (1%) on all non-administered assets of the gross estate in excess of \$250,000.

**(c)** (5) Other than as provided above, fees shall be based upon a reasonable hourly rate.

**(d)** Attorney's expertise in probate matters will be considered by the Court in determining the applicable reasonable hourly rate.

**D. Attorney Fee Guidelines - Wrongful Death Administration:** The Court recognizes that in most instances a retainer or contingent fee agreement is an appropriate method by which legal services can be provided in wrongful death claims. Accordingly, fees shall be allowed under those agreements if, at the time of settlement of the claim, it is shown to the Court's satisfaction:

- (1)** The personal representative was, prior to entering such agreement, fully informed as to all aspects of the arrangement;
- (2)** The agreement is fair and reasonable; and
- (3)** The fee sought is fair and reasonable.

**E. Extraordinary Fee Requests.**

**(1)** Fee petitions requesting extraordinary fees must set forth services rendered with specificity. Extraordinary service may include: sale of personal property, sale of real property, partial distributions, will contest actions, contesting claims, adjusting tax matters, contested hearings, petitions for instructions, heirship determinations, generating additional income for the estate, etc.

(2) All petitions under this section will be set for hearing, with notice to all interested parties. If all interested parties sign a waiver and consent stating they have been advised that the additional fee request exceeds the Court's guidelines and that the services as detailed are extraordinary, the Court may, in its discretion, determine if whether a hearing is required.

(3) A waiver and consent for allowing fees in excess of these Local Rule Guidelines shall not be merely a pro forma waiver and consent, but must be in substantially the form as set forth in these rules and Appendix H.

**F. Unsupervised Estates.** The Court will not determine fees in an unsupervised administration.

**G. Filing of Fee Petition.** Before any fee is paid in a supervised estate, a petition for allowance of the fee shall be filed and determined by the Court. A request for fees will be considered only under the following circumstances:

- (1) The Final Report is ready to be filed, or
- (2) As necessary for purposes of an estate fiduciary income tax deduction, or
- (3) As necessary due to extraordinary circumstances.

**H. Payment of Fees.** Except where payment has been authorized under Local Rule 23 G.2 or G.3 above, fees are payable one half (1/2) upon approval of fee petition and one half (1/2) upon approval of the Final Report.

**I. Personal Representative Fees**

(1) **Professional:** The Court will approve Personal Representative fees at the applicable prevailing rate, provided:

- (a) Those rates are on file with and approved by the Court;
- (b) The rate results in a reasonable fee in light of all circumstances; and
- (c) A description of services rendered in support of a request for fees is filed.

(2) **Non-Professional:** Fees for non-professional Personal Representative services may be allowed. However, such fees shall not exceed one half (1/2) the fee allowed the attorney, provided:

- (a) The fee is reasonable in light of all circumstances; and
- (b) A description of services rendered, including time spent with hourly rate in support of the request is filed.

(3) **Attorney as Personal Representative:** The Court discourages attorneys from assuming the dual role of attorney and Personal Representative in the same estate. When the attorney does serve as the Personal Representative, an additional amount not to exceed one-third (1/3) of the attorney fee may be allowed, provided:

- (a) The fee is reasonable in light of all circumstances; and
- (b) A description of services rendered including time spent with hourly rate in support of the request is filed.

**(4) Fee Payments and Extraordinary Fee Requests:** The Court will apply the same procedures to the allowance and drawing of Personal Representative fees and to a Personal Representative's extraordinary fee request as it does to attorney fee requests, as outlined above.

*Adopted as Superior Civil Attorney Fee Guidelines, effective August 15, 1990.  
Renumbered as Superior and Circuit Civil Rule 6, and amended effective December 7, 2006. Amended and renumbered as Superior and Circuit Civil Rule AR00-23 effective January 1, 2015. Amended in 2018, renumbered as Local Civil Rule LR02-AR00-20, and effective December 1, 2018.*

## **LR02-AR00-21      Authority of Magistrate in Probate Proceedings**

The Civil Division Magistrate assigned to the handling and management of probate, guardianship and trust matters of the Court is vested with the following powers:

1.      The fixing of bonds, auditing of accounts, acceptance of reports, accounts and settlements filed in the Court.
2.      The appointment and removal of Personal Representatives, Guardians, Guardian Ad Litem and Trustees.
3.      The admission of wills to probate.
4.      The management of estate, guardianship and trust assets.
5.      The interpretation of wills and trust documents.
6.      The taking and hearing of evidence for all other probate, guardianship or trust matters in litigation, or as brought before the Court.
7.      The enforcement of Court rules and regulations.

*Adopted 2018, effective December 1, 2018. Former Local Civil Rule LR02-AR00-21 abrogated 2018.*

## **LR02-TR86-22 Conventionally Filed Last Will and Testament**

A Last Will and Testament that is filed conventionally shall be retained in the records of the Clerk of the Allen Circuit and Superior Courts for the duration of the administration of the estate, or at least 3 months from the date admitted to probate, whichever time period is longer.

*Former Local Civil Rule LR02-AR00-22 amended and renumbered as LR02-TR01-01(C), 2018. Adopted 2018, effective December 1, 2018.*

**LR02-TR79--23      Selection of a Special Judge Pursuant to TR 79(H)**

- A. Appointment by Clerk.** If a special judge is not appointed pursuant to TR 79(D), the Clerk of the Court shall select a special judge (on a rotating basis) from a list consisting of judicial officers eligible under TR 79(J).
  
- B. Certification to the Supreme Court.** In cases in which no judge is eligible to serve as special judge or the particular circumstances of a case warrant selection of a special judge by the Indiana Supreme Court, the appropriate Allen County Judge may certify the case to the Indiana Supreme Court for appointment of a special judge.

*Reincorporated into the Local Civil Rules of the Allen Superior & Circuit Court effective January 1, 2015. Renumbered as Local Civil Rule LR02-TR79-23 in 2018, effective December 1, 2018.*

## Time to Serve, Disputes

**A. Interrogatory Preparation.** Interrogatories shall be tailored specifically to the cause in which they are served and be numbered consecutively to facilitate response.

**B. Interrogatory Limit.**

(1) A party may serve on any other party no more than fifty (50) written interrogatories, including subparts. For purposes of this rule, each question asked, as well as each subpart, constitutes a separate interrogatory, regardless of whether that part is logically or factually related to another subpart.

(2) The following interrogatories shall not be counted against the above-set fifty (50) interrogatory limit:

(a) general identifying and background information of a party concerning a party's full name, address, birth date, education history, employment history, criminal history, and past lawsuits or claims;

(b) interrogatories identifying expert witnesses, the name and, if known, the address and telephone number of each individual who may be called as a witness (expert or otherwise), and/or who has discoverable information;

(c) interrogatories asking to identify and describe by category and location all documents, electronically stored information, photographs, videos, written or recorded statements and tangible things that may be used to support a party's claims or defenses; and

(d) interrogatories asking to identify any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy any judgment.

**C. Serving in Excess of the Limit.** Any party desiring to serve interrogatories in excess of the limit set above shall either:

(1) file a stipulation of the parties, agreeing to the additional interrogatories; or

(2) if agreement cannot be obtained, file a written motion requesting leave of the Court to serve more than fifty (50) interrogatories. The motion must set forth those additional proposed interrogatories, and must explain their necessity. Full compliance with Trial Rule 26(F) is required.

**D. Interrogatory Answers and Objections.** Answers or objections to interrogatories under T.R. 31 or 33 must set forth in full the interrogatories being answered or objected to immediately preceding the answer or objection.

**E. Limit on Requests for Admission.** Ordinarily, a party may not serve more than 30 requests for admission on another party (not counting requests that relate to the authenticity of a document). A party wanting to serve more requests must

fully comply with Trial Rule 26(F), and file a motion setting forth the proposed additional requests and reason why they are necessary.

- F. Requests for Admissions Served on an Unrepresented Party.** A party desiring to deem as admitted Trial Rule 36 requests for admission propounded to an unrepresented party must:
- (1) serve the requests for admissions on the unrepresented party pursuant to the manner of service set forth in Trial Rule 4.1, 4.2, 4.3, or 4.5;
  - (2) file proof of service;
  - (3) file a motion to Deem Facts Admitted; and,
  - (4) attach a copy of the request for admissions to the motion.
- G. Time to Serve.** All written discovery, whether directed to a party or nonparty to an action, must be served at least thirty-three (33) days prior to the expiration of any discovery deadline which is established by the Court. Counsel may not serve discovery requests after this deadline unless they first seek and obtain leave of Court to serve a belated request, and show good cause for the request. In such event, the proposed belated discovery request must be filed with the motion, and the opposing party must receive the request with service of the motion. However, the opposing party need not respond to the motion until the Court grants the motion.
- H. Discovery Disputes.** The discovery process is intended to be largely self-actuating, with minimal Court supervision.
- (1) The Court will strictly enforce the informal resolution of discovery disputes in accordance with Trial Rule 26(F). The Court may deny any discovery motion filed pursuant to Trial Rule 27 through 37, if the party filing the motion has not fully complied with the requirements of Trial Rule 26(F).
  - (2) Upon strict compliance with Trial Rule 26(F), the Court may compel or limit discovery or enter any appropriate sanction, or may set the matter for hearing.
  - (3) Strict compliance with Trial Rule 26(F) means a telephonic or face-to-face meeting. Discovery dispute motions must include the date and time the meeting took place.
  - (4) 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, as permitted by the Indiana Trial Rules.
  - (5) The Court may grant a motion to compel third-party discovery without a hearing and without strict compliance with Trial Rule 26(F) upon good cause shown.
- I. Motion to Strike.** A party who has been served with discovery may file a motion to strike specific discovery requests as excessive, oppressive or repetitive, after fully complying with Trial Rule 26(F). The motion shall typically be set for hearing



and does not serve to extend the time for answering interrogatories which are not in dispute. The motion to strike must comply with Local Rule 9 regarding Motion Practice.

*Adopted as Discovery: Interrogatories, Requests for Admission, Time to Serve, effective January 1, 2015. Amended in 2018, renumbered as Local Civil Rule LR02-TR33-24, and effective December 1, 2018.*

## **LR02-TR42-25 Consolidation of Cases**

Trial Rule 42 permits consolidation of cases for specific purposes, but generally not actual consolidation of the entire cases. Consistent with Trial Rule 42, upon the motion of a party and hearing or stipulation, the Court may enter orders in related cases to consolidate the cases for specific purposes, such as for case management, discovery, mediation, hearings, trial, etc. The consolidated cases remain as separate cases and do not lose their original, individual cause numbers, captions, identity, or chronological case history.

A proposed Order substantially similar to Appendix I shall be filed along with the Motion to Consolidate.

*Adopted as Consolidation of Cases, effective January 1, 2015. Amended in 2018, renumbered as Local Civil Rule LR02-TR42-25, and effective December 1, 2018.*

All provisions of this rule shall be construed in accordance with Indiana Supreme Court Administrative Rule 9 – Access to Court Records.

- A. Juror Privacy.** Personal information of a juror or prospective juror not disclosed in open court shall be confidential, other than for use by the parties or their counsel. The Court shall maintain confidentiality of juror personal information consistent with the constitutional and statutory rights of the parties.
- B. Public Access to Juror Names.** Juror names shall not be used in open court or on the record. During trial proceedings, all jurors and prospective jurors shall be referred to only by juror number or seat number. The jury administrator shall compile and maintain a master list consisting of lists approved by the Indiana Supreme Court that may be used to select prospective jurors. Once compiled, the master list of names is open to the public for examination as a public record. However, all other information other than the names contained in the master list shall remain confidential.
- C. Access to Juror Information.** The Jury Administration Office shall have exclusive access to juror information and disseminate juror information to parties, attorneys, and the public upon request when authorized to do so by this rule.
- (1) The Jury Administration Office shall provide counsel with a copy of Juror Qualification Questionnaires, with the names and addresses redacted, no earlier than two (2) weeks in advance of trial.
- (2) Upon a timely request, the Jury Administration Office shall provide counsel with a complete subpanel list and unredacted Juror Qualification Questionnaires no earlier than the day of trial. The request for unredacted Juror Qualification Questionnaires shall be denied unless the request is made not fewer than seven (7) days prior to the commencement of the trial. The subpanel list and Juror Qualification Questionnaires shall be returned to the Court at the completion of the jury selection process. No photocopies or duplicates shall be made without Court authorization.
- D. Anonymous Juries.** Consistent with Indiana case law regarding anonymous juries, the Court may, upon the motion of either party, withhold juror names and addresses from parties and counsel only if the Court 1) enters findings to support a conclusion that there is a strong reason to believe the jury needs protection, and 2) takes reasonable precautions to minimize any prejudicial effects on the parties and to ensure that their fundamental rights are protected. If the Court withholds juror information from one party under this “Anonymous Juries” subsection, the information shall be withheld from all parties.

*Adopted as Juror Privacy, effective January 1, 2015. Amended and renumbered in 2018, effective December 1, 2018.*

## **LR02-AR00-27 Preventing Independent Juror Research**

- A. Preliminary Instructions.** In an effort to reduce the likelihood of a mistrial due to a juror conducting independent research, the Court shall, in its discretion, use a modified version of Indiana Model Civil Jury Instruction 101 upon administering its preliminary jury instructions. A copy of the modified instruction can be found at Appendix J.
- B. Questioning by the Court.** At the conclusion of reading the modified form of Model Civil Jury Instruction 101, the Court may, in its discretion, inquire as to the jurors' use of, and their corresponding ability to refrain from, using the technologies discussed in that instruction during the course of the trial. A sampling of questions aimed at achieving this goal can be found at Appendix K. If the Court concludes that a juror is not able to refrain from such use, the Court shall consider removing that juror from service.
- C. Message Concerning Jury Service.** In its discretion, the Court may also inquire as to whether the newly chosen jurors would like a message, furnished by the Court, which would explain to members of the public that jurors are not to discuss the facts of the case or any of the issues, facts, or concepts that are in any manner related to the trial. This message can be found at Appendix L.
- D. Statement of Compliance.** At the closing of jury selection, the Court may, in its discretion, provide each juror with a copy of the Statement of Compliance found at Appendix M. The Court may require each juror to signal his or her acceptance of the Statement of Compliance, thereby indicating his or her intent to refrain from any prohibited activities.
- E. Short Form Admonishment.** When releasing jurors for a short break, the Court shall read the Short Form Admonishment found at Appendix N.
- F. Long Form Admonishment.** When releasing jurors for a longer break, such as for lunch or at the conclusion of each day of trial, the Court shall read the Long Form Admonishment found at Appendix O.
- G. Questioning the Jury Following a Recess.** Upon resuming a trial, the Court may, in its discretion, question jurors so as to determine if those jurors participated in any activities that may result in the declaration of a mistrial. A listing of questions suggested for this purpose can be found at Appendix P.

*Adopted as Preventing Independent Juror Research, effective January 1, 2015.  
Amended in 2018, renumbered as Local Civil Rule LR02-AR00-27, and effective  
December 1, 2018.*

# APPENDIX A CONSENT TO ALTERNATE SERVICE FORM – COURTHOUSE BOXES

## CONSENT TO ALTERNATE SERVICE – COURTHOUSE BOXES

The undersigned, as an individual practitioner or for and on behalf of the law firm below, hereby consents to service of communication by deposit of the same in an assigned Courthouse box by:

- a) Allen Superior Court or the Allen Circuit Court;
- b) Clerk, as to matter with Allen Superior Court;
- c) Other Attorneys and law firms.

“Deposit” pursuant to this Consent shall constitute and be accepted as 1<sup>st</sup> class mail under Trial Rule 6(E). Any papers served under this Consent shall be placed in an envelope with the name of receiving attorney and current box number on the outside thereof. The Consent shall remain valid until revoked in writing. The Consent or revocation will be effective upon filing with the Court Executive of Allen Superior Court.

This Consent shall also apply to any attorneys who become associates with the undersigned law firm after the date of this consent.

The undersigned agree(s) to notify the Court Executive promptly of any changes in the list of attorneys designated in the Consent.

DATED: \_\_\_\_\_

\_\_\_\_\_  
(Individual Practitioner)

\_\_\_\_\_  
(Firm Name)

By: \_\_\_\_\_  
Managing or Senior Partner

List of Attorneys in Law Firm Hereby Consenting:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(File with the Court Executive of the Allen Superior Court.)

*Adopted Superior Civil Appendix A, September 8, 2000, effective November 1, 2000.  
Renumbered as Superior and Circuit Civil Appendix A, and amended effective  
December 7, 2006. Amended in 2018, effective December 1, 2018.*

**APPENDIX B(1) MOTION TO WITHDRAW APPEARANCE FORM**

STATE OF INDIANA ) ALLEN SUPERIOR/CIRCUIT COURT  
 ) SS:  
 COUNTY OF ALLEN ) CAUSE NO. \_\_\_\_\_

\_\_\_\_\_, )  
 Plaintiff, )  
 vs. )  
 \_\_\_\_\_, )  
 Defendant. )

**MOTION TO WITHDRAW APPEARANCE**

I, Attorney \_\_\_\_\_ request the Court to withdraw the written appearance I previously filed in this case on behalf of my client, Plaintiff/Defendant. This case (has/has not) been scheduled for trial. Attached as Exhibit "A" to this Motion is the Notice of Intention to Withdraw that I have sent to my client.

I certify that the last known address, telephone number, and email address of my client, subject to the confidentiality provisions of T.R. 3.1(A)(8) and (D), is:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(Signature block for attorney)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, a true and correct copy of the foregoing Motion to Withdraw Appearance was served to all counsel of record by the Indiana E-Filing System, or other acceptable means of service, as follows:

\_\_\_\_\_  
 [type name]

*Adopted 2018, effective December 1, 2018. Former Appendix B abrogated 2018.*

## **APPENDIX B(2) NOTICE OF INTENTION TO WITHDRAW (CLIENT LETTER)**

Notice of Intention to Withdraw  
My Appearance as Your Attorney

Date: \_\_\_\_\_

To: (Name and address of client)

Please be advised that it is my intention to file a Motion to Withdraw with the Court requesting that my appearance be withdrawn on your behalf. I will file my Motion to Withdraw ten days from the date of this notice. I am required to notify you of the following:

- 1) (State the present status of the case, excluding confidential and privileged information.)
- 2) (List the date or dates of all scheduled hearings and any other pending matters.)
- 3) If no other attorney is going to represent you, according to Indiana Trial Rule 3.1, you must file a Written Appearance with the Court. That Written Appearance must include your name, address, telephone number, fax number, and email address, and other information.
- 4) If no other attorney represents you, according to Indiana Trial Rule 3.1, you have an ongoing duty to inform the Court of your change in the contact information, such as your name, address, telephone number, fax number, and email address.
- 5) According to the Indiana common law, as an unrepresented party, you will be held to the same standard of conduct as an attorney licensed to practice in the State of Indiana; and,
- 6) Prejudice may occur from your failure to act promptly or to secure new counsel.

\_\_\_\_\_  
[attorney name]

*Adopted 2018, effective December 1, 2018.*



**APPENDIX C(1) CERTIFICATE OF ISSUANCE OF SUMMONS FORM**

STATE OF INDIANA ) IN THE ALLEN SUPERIOR/CIRCUIT COURT  
) )  
COUNTY OF ALLEN ) CAUSE NUMBER:  
, )  
Plaintiff, )  
vs. )  
) )  
, )  
Defendant. )

**CERTIFICATE OF ISSUANCE OF SUMMONS**

The undersigned hereby certifies that pursuant to the Indiana Trial Rules of Procedure, service of the Complaint or Equivalent Pleading and Summons or the Notice of Claim was attempted on the following Defendant at the address provided below:

Name:  
Address:

Service was attempted or requested by:

\_\_\_\_\_ Certified Mail or Registered Mail with Return Receipt Requested.

Tracking Number \_\_\_\_\_  
Date Mailed \_\_\_\_\_

\_\_\_\_\_ Sheriff of \_\_\_\_\_ County, Indiana. Service documents were delivered to said Sheriff on the date of \_\_\_\_\_ and service of process fees were paid.

\_\_\_\_\_ Other: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_ [typed name]

*Adopted and renumbered 2018, effective December 1, 2018. Former Local Civil Rules Appendix C abrogated 2018.*

**APPENDIX C(2)**

**RETURN OF SERVICE FORM**

STATE OF INDIANA	)	IN THE ALLEN SUPERIOR/CIRCUIT COURT
	)	
COUNTY OF ALLEN	)	CAUSE NUMBER:
	)	
[name],	)	
Plaintiff,	)	
vs.	)	
	)	
[name],	)	
Defendant.	)	

**RETURN OF SERVICE OF SUMMONS ON [name]- SERVED/NOT SERVED**

Plaintiff, [name], by counsel, notifies the Court that service of process of the Summons, Complaint, and Appearance [were / were not] perfected on Defendant, [name]. Attached as "Exhibit A" is the: [proof of service/non-service] document.

Respectfully submitted,

\_\_\_\_\_

[type name]

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the \_\_\_\_ day of \_\_\_\_\_, 2019, a true and correct copy of the foregoing Return of Service of Summons was served to all counsel of record by the Indiana E-Filing System, or other acceptable means of service, as follows:

\_\_\_\_\_

[type name]

*Adopted and renumbered 2018, effective December 1, 2018.*

## APPENDIX D MOTION FOR INITIAL ENLARGEMENT OF TIME TO ANSWER COMPLAINT FORM

STATE OF INDIANA	)	ALLEN SUPERIOR/CIRCUIT COURT
	) SS:	
COUNTY OF ALLEN	)	CAUSE NO. _____

_____,'	)	
Plaintiff,	)	
	)	<b>MOTION FOR INITIAL</b>
vs.	)	<b>ENLARGEMENT OF TIME</b>
	)	<b>TO ANSWER COMPLAINT</b>
_____,'	)	
Defendant.	)	

Pursuant to Allen County Local Civil Rule LR02-TR7-08(G), Defendant \_\_\_\_\_, requests an enlargement of time to respond to Plaintiff's Complaint. In support of this motion, Defendant asserts:

1. Defendant was served with the Complaint and Summons on \_\_\_\_\_.
2. Defendant's response to Plaintiff's Complaint would therefore be due on \_\_\_\_\_.
3. This motion is filed prior to the original due date of Defendant's response, and Defendant has not been defaulted.
4. A Case Management Conference is currently scheduled for \_\_\_\_\_.
5. Defendant is requesting an additional thirty days to respond to Plaintiff's Complaint, to and including \_\_\_\_\_, which is at least two days before the scheduled Case Management Conference.

WHEREFORE, Defendant, \_\_\_\_\_ requests an extension of time to and including \_\_\_\_\_ to respond to Plaintiff's Complaint.

(Signature block for attorney)

*Adopted and renumbered 2018, effective December 1, 2018.*

# APPENDIX E PROCEEDING SUPPLEMENTAL REPORT FORM

STATE OF INDIANA            )                    IN ALLEN SUPERIOR / CIRCUIT COURT  
                                           ) SS:  
 COUNTY OF ALLEN            )                    CAUSE NO.:

                                          )                    )  
                                           )                    )  
 vs.                                    ) PROCEEDING SUPPLEMENTAL REPORT  
                                           ) TO THE COURT  
                                           )                    )  
                                           )                    )

Pursuant to Local Rule LR02-TR69-17, the Plaintiff now files this Proceeding Supplemental Report to the Court. Counsel for Plaintiff reports.

- The following matter was set for hearing on (date)\_\_\_\_\_:
- \_\_\_\_\_ Verified Motion for Proceedings Supplemental
  - \_\_\_\_\_ Verified Motion for Proceedings Supplemental and to Garnishee Defendant
  - \_\_\_\_\_ Verified Motion for Proceedings Supplemental and to Garnishee Defendant Financial Institution
  - \_\_\_\_\_ Contempt Citation

- The following parties appeared or failed to appear for the hearing:
- \_\_\_\_\_ Plaintiff (s)\_\_\_\_\_appeared in person and/or by counsel\_\_\_\_\_, unrepresented.
  - \_\_\_\_\_ Defendant (s)\_\_\_\_\_appeared in person and/or by counsel\_\_\_\_\_, unrepresented, failed to appear.
  - \_\_\_\_\_ Garnishee Defendant appeared by\_\_\_\_\_and/or by counsel\_\_\_\_\_, unrepresented, failed to appear.

Proof of Service:  
 Proof of Service on the Defendant(s) is\_\_\_\_satisfied \_\_\_\_not satisfied.  
 Proof of Service of the Garnishee Defendant is\_\_\_\_satisfied \_\_\_\_not satisfied.

- Action:
- \_\_\_\_\_ Proceedings Supplemental is conducted (and dismissed).
  - \_\_\_\_\_ Proof of service of Proceedings Supplemental is satisfied. Contempt Citation eligible.
  - \_\_\_\_\_ By agreement of the parties, the hearing on Proceedings Supplemental is continued to:\_\_\_\_\_at\_\_\_\_\_a.m. / p.m.    be reset. Defendant's signature: \_\_\_\_\_
  - \_\_\_\_\_ Proof of service of Proceedings Supplemental is satisfied. Interrogatories were answered / not answered by Garnishee Defendant. Garnishment Order eligible.

\_\_\_\_ Proof of personal service of Contempt Citation is satisfied. Body Attachment eligible.

\_\_\_\_ Hearing on Contempt Citation is conducted.

\_\_\_\_\_

—

\_\_\_\_\_

Date: \_\_\_\_\_

Report submitted by:

(type name)

Address:

Attorney for Plaintiff

*Adopted and renumbered 2018, effective December 1, 2018.*

# APPENDIX F DESIGNATION OF EVIDENCE AND TABLE OF CONTENTS FORM

STATE OF INDIANA ) THE ALLEN SUPERIOR/CIRCUIT COURT  
 ) SS:  
 COUNTY OF ALLEN ) CAUSE NO.:

Plaintiff, )  
 vs. )  
 Defendant. )

## DEFENDANT JANE DOE’S DESIGNATION OF EVIDENCE AND TABLE OF CONTENTS IN SUPPORT OF THE MOTION FOR SUMMARY JUDGMENT

Defendant Jane Doe, by counsel, pursuant to Indiana Trial Rule 56, and Allen County Local Civil Rule LR02-TR56-09, has filed her Motion for Summary Judgment, and supporting Memorandum. Additionally, pursuant to those rules, and in support of the Motion, the Defendant files this Designation of Evidence and Table of Contents.

### TABLE OF CONTENTS

Title	Page(s)
Affidavit of Mary Rose (“Exhibit A”) . . . . .	3 - 5
Credit Card Statements 2007-2017 (“Exhibit B”, previously marked “Exhibit F”) . . . . .	6 - 45
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Map of St. Joe Road (“Exhibit C.1”) . . . . .	67
Police Report (“Exhibit C.2”) . . . . .	68 - 72
Complaint (“Exhibit D”) . . . . .	73 - 78

Respectfully submitted,

---

[typed name]

**ATTORNEY FOR DEFENDANT**

#### CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the \_\_\_\_ day of \_\_\_\_\_, 2019, a true and correct copy of the foregoing Designation of Evidence and Table of Contents was served to all counsel of record by the Indiana E-Filing System, or other acceptable means of service, as follows:

---

[typed name]



DESIGNATION OF EVIDENCE AND TABLE OF CONTENTS - EXHIBIT A

AFFIDAVIT OF MARY ROSE

STATE OF INDIANA            )            THE ALLEN SUPERIOR/CIRCUIT COURT  
                                  ) SS:  
COUNTY OF ALLEN         )            CAUSE NO. 02D02-1700-CT-0

JOHN POE,                    )  
    Plaintiff,                )  
                                  )  
vs.                            )  
                                  )  
JANE DOE,                    )  
    Defendant.                )

**AFFIDAVIT OF MARY ROSE**

I, Mary Rose, swear and affirm under the penalties for perjury that the following is true:

1. I am an adult.
2. I have personal knowledge of the facts described in this affidavit, and I am competent to testify about these facts.
3. I previously held the position of bookkeeper for John Poe.
4. I kept meticulous records for my employer, John Poe.
5. I worked for John Poe from January 1, 1984, until July 4, 2017.
6. I left the employment of John Poe because he is mean and did not appreciate my efforts.
7. I personally witnessed an event at the workplace of John Poe on December 25, 2016, when John Poe was mean to Jane Doe.

8. John Poe is even mean to his own dog. I often saw him kick Rover.

---

MARY ROSE

DESIGNATION OF EVIDENCE AND TABLE OF CONTENTS - EXHIBIT B  
(Previously marked "Exhibit F")

CREDIT CARD STATEMENTS 2007-2017

DESIGNATION OF EVIDENCE AND TABLE OF CONTENTS - EXHIBIT C

DEPOSITION OF JOHN HENRY (pages 17-47)

DESIGNATION OF EVIDENCE AND TABLE OF CONTENTS - EXHIBIT D  
COMPLAINT

Doe's Designation and TOC - **Page 73 of 78**

*Adopted and renumbered 2018, effective December 1, 2018.*

**APPENDIX G(1) MOTION FOR ENLARGEMENT OF TIME/  
DEADLINES FORM**

STATE OF INDIANA ) ALLEN SUPERIOR/CIRCUIT COURT  
 ) SS:  
 COUNTY OF ALLEN ) CAUSE NO. \_\_\_\_\_

\_\_\_\_\_, )  
 Plaintiff, )  
 vs. )  
 \_\_\_\_\_, )  
 Defendant. )

**VERIFIED MOTION FOR  
ENLARGEMENT OF TIME**

Pursuant to Local Rule LR02-TR7-08, \_\_\_\_\_ (party), by counsel, moves the Court for an enlargement of time and in support, I swear and affirm, subject to the penalties for perjury, that the following representations are true:

- 6. The reason for this request is (state reason with particularity).
- 7. The \_\_\_\_\_ (describe) is currently due on \_\_\_\_\_ (date), and the undersigned requests the deadline be extended to and including: \_\_\_\_\_ (date).
- 8. All future hearing and trial dates in this case are: (list and describe).
- 9. \_\_\_\_\_ (List all other parties) does not object/objects to this extension of time.

WHEREFORE, \_\_\_\_\_ (party) requests an extension of time to and including \_\_\_\_\_ (date) to file its \_\_\_\_\_ (describe).

(Signature block for attorney)

*Adopted and renumbered 2018, effective December 1, 2018.*

**APPENDIX G(2) ORDER AMENDING DEADLINES**

STATE OF INDIANA )  
 )  
COUNTY OF ALLEN )

SS:

ALLEN SUPERIOR/CIRCUIT COURT  
CAUSE NO. \_\_\_\_\_

\_\_\_\_\_, )  
Plaintiff, )  
 )  
vs. )  
 )  
\_\_\_\_\_, )  
Defendant. )

**ORDER AMENDING DEADLINES**

On \_\_\_\_\_, Plaintiff/Defendant filed \_\_\_\_\_. The Court now GRANTS the motion, and thus, the Order dated \_\_\_\_\_ is amended as follows:

1. The previous dispositive motion deadline of \_\_\_\_\_ is vacated. All dispositive motions, including motions for summary judgment, motions to dismiss, and motions for judgment on the pleadings shall be filed by \_\_\_\_\_.
2. The hearing on dispositive motions currently scheduled for \_\_\_\_\_ is vacated, and the hearing is now reset to \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.
3. The Pre-trial Conference currently scheduled for \_\_\_\_\_ is vacated, and the Pre-trial Conference is now reset to \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.
4. The deadline for filing preliminary witness and exhibit lists and contentions is vacated, and is now reset to \_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
**JUDGE**

*Adopted and renumbered 2018, effective December 1, 2018.*



**APPENDIX H WAIVER AND CONSENT TO ALLOW FEES IN EXCESS OF LOCAL RULE GUIDELINES**

**WAIVER AND CONSENT TO ALLOW FEES IN EXCESS OF LOCAL RULE GUIDELINES**

**IMPORTANT: PLEASE READ BEFORE SIGNING!**

I am an interested party in the Estate of \_\_\_\_\_

I understand that:

1. The maximum attorneys fee ordinarily allowed by the Court under the Local Rule Guidelines for legal services in this Estate are \$ \_\_\_\_\_;
2. (*Name of attorney*), the attorney for the Estate, has requested an attorneys fee in the amount of \$ \_\_\_\_\_; and
3. The above-named attorney for the Estate has performed extraordinary and unusual services for the Estate.

Therefore, I consent to the requested attorneys fee, I waive any notice of hearing on the Fee Petition, and I request that the Court allow attorneys fee to be paid to the above-named attorney for the Estate in the amount of \$ \_\_\_\_\_.

Date: \_\_\_\_\_

\_\_\_\_\_  
Devisee/Heir (type name)

*Amended and renumbered, 2018, effective December 1, 2018.*

# APPENDIX I ORDER OF CONSOLIDATION

STATE OF INDIANA	)		ALLEN SUPERIOR/CIRCUIT COURT
	)	SS:	
COUNTY OF ALLEN	)		CAUSE NO. _____
_____,'	)		
	)	Plaintiff,	
	)		<b>ORDER OF CONSOLIDATION</b>
vs.	)		
	)		
_____,'	)		
	)	Defendant.	

The Court now Orders:

1. The parties in this case, and in related case 02D0\_ - \_\_\_\_\_, \_\_\_\_\_ v. \_\_\_\_\_ do not object to consolidating these two cases, with the Honorable \_\_\_\_\_.
  
2. This Order of Consolidation is based upon Indiana Trial Rule 42 and Allen County Local Rule LR02-TR42-24. The Local Rule explains:  
  
 Trial Rule 42 permits consolidation of cases for specific purposes, but generally not actual consolidation of the entire cases. Consistent with Trial Rule 42, upon the motion of a party and hearing or stipulation, the Court may enter orders in related cases to consolidate the cases for specific purposes, such as for case management, discovery, mediation, hearings, trial, etc. The consolidated cases remain as separate cases and do not lose their original, individual cause numbers, captions, identity, or chronological case history.
  
3. Causes 02D0\_ - \_\_\_\_\_, and 02D0 - \_\_\_\_\_, are now Ordered consolidated for purposes of case management, discovery, mediation, and trial (before the Honorable \_\_\_\_\_). The parties are Ordered to include both captions in all future filings.
  
4. This Order is subject to Judge \_\_\_\_\_'s acceptance of consolidation.

Dated: \_\_\_\_\_

\_\_\_\_\_  
**JUDGE** \_\_\_\_\_

*Adopted and renumbered 2018, effective December 1, 2018.*

## **APPENDIX J                      MODIFIED INDIANA CIVIL MODEL JURY INSTRUCTION 101**

You have been selected as jurors and have taken an oath to well and truly try this case.

Keep an open mind. Do not make a decision about the outcome of this case until you have heard all the evidence, the arguments of counsel, and my final instructions about the law you will apply to the evidence you have heard.

Your decision must be based only on the evidence presented during this trial and my instructions on the law. Therefore, from now until the trial ends, you must not:

- Conduct research on your own or as a group,
- Use dictionaries, the Internet, computers, cell phones, laptops, tablets, or any other resource to gather any information about the issues, facts, or concepts that are in any manner related to this case,
- Investigate the case, conduct any experiments, or attempt to gain any specialized knowledge about the case, or
- Receive assistance in deciding the case from any outside source.

You also must not:

- Use laptops or cell phones in the courtroom or in the jury room while discussing the case,
- Consume any alcohol or drugs that could affect your ability to hear and understand the evidence,
- Read, watch, or listen to anything about this trial from any source whatsoever, including newspapers, radio, television, or the Internet,
- Listen to discussions among, or receive information from, other people about this trial, or
- Visit or view the scene of any event involved in this case, either in person or through the use of Google Maps, Google Earth, or any other internet mapping program. If you happen to pass by the scene, do not stop or investigate.

Finally, you must not:

- Talk to any of the parties, their lawyers, any of the witnesses, or members of the media. If anyone tries to talk to you about this case, you must tell the bailiff or me immediately.

You may discuss the evidence with your fellow jurors during the trial, but only in the jury room, and only when all of you are present. Even though you are permitted to have these discussions, you must not make a decision about the outcome of this case until your final deliberations begin. Until you reach a verdict, do not communicate about this case or your deliberations with anyone else.

In this age of instant electronic communication and research, I want to emphasize that in addition to not talking face to face with anyone else about the case, you must not communicate with anyone or post information about the case, or what you are doing in the case, by any means, including telephone, text messages, email, internet chat rooms, blogs, or social websites, such as Facebook, Twitter, Instagram, LinkedIn, YouTube, and the like.

You also must not Google or otherwise search for any information about the case, or the law that applies to the case, or the people involved in the case, including the parties, witnesses, lawyers, or Judge.

During the trial, you may tell people who need to know that you are a juror, and you may give them information about when you will be required to be in court. But you must not talk with them or others about anything else related to the case. After your service on this jury is concluded, you are free to talk with anyone about the case or do whatever research you wish. If you find it helpful, the Court can provide you with a note that you can furnish to anyone attempting to speak with you about your service here.

The Court recognizes that these rules and restrictions may affect activities that you would consider to be normal and harmless, and I assure you that I am very much aware that I am asking you to refrain from activities that may be very common and very important in your daily lives. That is why I want you to understand why these rules are so important. The law requires these restrictions to ensure the parties have a fair trial based on the evidence that each party has had an opportunity to address. If one or more of you were to get additional information from an outside source, that information might be inaccurate or incomplete, or for some other reason not applicable to this case, and the parties would not have a chance to explain or contradict that information because they would not know about it. That is why it is so important that you base your verdict only on information you receive in this courtroom.

Therefore, our law does not permit jurors to talk about the case with anyone except fellow jurors. The law also does not permit jurors to allow anyone to talk to them about the case. The reason for this is that only jurors are authorized to render a verdict. Only you have been found to be fair, and only you have promised to be fair—no one else has been so qualified.

Our law does not permit you to visit a place discussed in the testimony because you cannot be sure that the place is in the same condition as it was on the day in question. Also, even if it were in the same condition, once you go to a place to evaluate evidence in light of what you see there, you become a witness, not a juror. As a witness, you may now have an erroneous view of the scene that may not be subject to correction by either party. That is not fair.

Finally, our law requires that you not read or listen to any news accounts of the case, and that you not attempt to research any fact, law, or person related to the case. Your decision must be based solely on the testimony and other evidence presented in this courtroom. It would not be fair for you to base your decision on some reporter's view or opinion, or upon information that you acquire outside the courtroom from a source that cannot be challenged or cross-examined by the parties.

These rules are designed to help guarantee a fair trial, and our law accordingly provides for serious consequences if the rules are not followed. Any juror who violates these restrictions I have explained to you jeopardizes the fairness of these proceedings, and a mistrial could result that would require the entire trial process to start over. As you can imagine, a mistrial is a tremendous expense and inconvenience to the parties, the Court, and the taxpayers. If any juror is exposed to any outside information, or has any difficulty whatsoever in following these instructions, please notify the Court immediately. If any juror becomes aware that one of your fellow jurors has done

something that violates these instructions, you are obligated to report that to the Court as well.

Additionally, if you hear or observe anything about this case outside this courtroom, whether inadvertently or otherwise, you must immediately inform the Court at the beginning of our next session. Do not discuss any of these things with your fellow jurors at any time.

I trust that you understand and appreciate the importance of following these rules and, in accord with your oath and promise, I know that you will do so.

*Adopted as Appendix D, effective January 1, 2015. Renumbered 2018, effective December 1, 2018.*

## **APPENDIX K            QUESTIONS CONCERNING JUROR USE OF TECHNOLOGY DURING TRIAL**

- Do any of you routinely use any of the following communication devices: cellular phone, laptop computer, iPad, or notebook?
- Do you have an email account?
- Do any of you have a Facebook, LinkedIn, Twitter, Instagram or similar social networking account?
- Would any of you have a problem refraining from using these technologies in any manner directly or remotely associated with this trial until the conclusion of the trial?

*Adopted as Appendix E, effective January 1, 2015. Amended and renumbered 2018, effective December 1, 2018.*

## **APPENDIX L MESSAGE CONCERNING JURY SERVICE**

I am sending this message to you as instructed by Judge\_\_\_\_\_. I am now a sworn juror in a trial. I am under a court order not to read or discuss anything having to do with the trial, the parties or lawyers involved, or anything else concerning my jury service. Please do not send me any information about the case or my jury duty, and please do not ask me any questions or make any comments about the case or my jury duty. I will be following these rules for the length of the trial, which is expected to last approximately\_\_\_\_\_. I will send you another note when my jury duty is completed and I am no longer required to follow the court order.

*Adopted as Appendix F, effective January 1, 2015. Renumbered 2018, effective December 1, 2018.*

## **APPENDIX M STATEMENT OF COMPLIANCE**

I agree that during the duration of the trial in \_\_\_\_\_, I will not conduct any independent research into any of the issues, facts, or concepts that are in any manner related to the trial or parties involved in this trial. I will not communicate with anyone about the issues or parties in this trial, and I will not permit anyone to communicate with me. I further agree that I will report any violations of the Court's instructions immediately.

*Adopted as Appendix G, effective January 1, 2015. Renumbered 2018, effective December 1, 2018.*



## **APPENDIX N SHORT FORM ADMONISHMENT**

During the recess, you may discuss the evidence among yourselves only while you are all together in the jury room. Do not discuss the evidence under any other circumstance. You must not form or express any opinion or conclusion about the outcome of the case until it is finally submitted to you for your deliberations.

*Adopted as Appendix H, effective January 1, 2015. Renumbered 2018, effective December 1, 2018.*

## **APPENDIX O LONG FORM ADMONISHMENT**

During the overnight recess, do not discuss the case under any circumstance. You must not form or express any opinion or conclusion about the outcome of the case until it is finally submitted to you for your deliberations. During the recess, you must not use computers, laptops, cellular telephones, or other electronic communication devices or any other method to:

- investigate, conduct research, or otherwise gather information regarding either the facts of the case or any of the issues, facts, or concepts that are in any manner related to the trial;
- conduct experiments or attempt to gain any specialized knowledge about the trial or any of the issues, facts, or concepts that are in any manner related to the trial;
- receive assistance in deciding the case from any outside sources;
- read, watch, or listen to anything about the case from any source;
- listen to discussions among or receive information from other people about the case; or
- communicate with any of the parties, their lawyers, any of the witnesses, members of the media, or anyone else about the case, including by posting information, text messaging, emailing, or participating in Internet chat rooms, blogs, or social websites which could contain information about the case.

*Adopted as Appendix I, effective January 1, 2015. Renumbered 2018, effective December 1, 2018.*

## **APPENDIX P QUESTIONING THE JURY FOLLOWING A RECESS**

- Have you conducted any research into any of the issues, facts, or concepts that are in any manner related to this case?
- Have you listened to or seen any news articles about this case on the radio, television, internet, or in print?
- Did you engage in any independent investigation since the Court last released you?
- Did you talk or communicate with anyone about the case since the Court last released you?
- Have you permitted anyone to communicate about or discuss this case with you?
- Has anybody persisted in attempting to communicate about or discuss this case with you?
- Are you aware of any other jurors who may have either done their own research or communicated or talked with anyone about the case since the Court last released you?

*Adopted as Appendix J, effective January 1, 2015. Renumbered 2018, effective December 1, 2018.*

**LOCAL RULES**  
**OF THE**  
**SMALL CLAIMS DIVISION**  
**OF ALLEN SUPERIOR COURT---**  
**CIVIL DIVISION**

Adopted Effective January 1, 1988

Including Amendments Received Through November 15, 2006

Rule	
<i>LR02-SC01-1</i>	Scope
<i>LR02-SC00-2</i>	General Procedure
<i>LR02-SC00-3</i>	Forms
<i>LR02-AR00-4</i>	Hearing Calendars
<i>LR02-TR76-5</i>	Change of Judge
<i>LR02-SC5-6</i>	Counterclaims Outside Small Claims Division Jurisdiction
<i>LR2-TR53.5-7</i>	Continuances
<i>LR02-TR41-8</i>	Dismissal of Actions
<i>LR02-TR60-9</i>	Default
<i>LR02-TR00-10</i>	Attorney Fees
<i>LR02-TR00-11</i>	Judgments for Payment of Money
<i>LR02-SC2-12</i>	Judgments for Possession of Real Estate or Personal Property
<i>LR02-SC11-13</i>	Release of Judgment
<i>LR02-TR69-14</i>	Proceedings Supplemental
<i>LR02-TR69-15</i>	Court Orders to Appear
<i>LR02-TR00-16</i>	Contempt/Rule to Show Cause/Body Attachment
<i>LR02-TR69-17</i>	Garnishment
<i>LR02-TR69-18</i>	Post-Judgment Orders to Self-Employed and Other Judgment Debtor(s)
<i>LR02-TR70-19</i>	Writs
<i>LR02-SC00-20</i>	Bankruptcy

**LR02-SC01-1      Scope**

- (A)      **Scope.** These rules shall govern the procedure and practice of the Small Claims Division, Allen Superior Court – Civil Division.
- (B)      **Citation.** These rules may be cited as LR02-SC\_\_\_\_\_. The small claims rules promulgated by the Indiana Supreme Court are hereinafter referred to as S.C.\_\_\_\_\_; and the Indiana Rules of Trial Procedure are hereinafter referred to as T.R.\_\_\_\_\_.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007.*

**LR02-SC00-2      General Procedure**

- (A)      **Conflict of Rules.** All proceedings in the Allen Superior Court, Small Claims Division shall be governed by the Small Claims Rules promulgated from time to time by the Indiana Supreme Court, and the local rules set forth herein. In instances where these local rules conflict with the rules promulgated by the Indiana Supreme Court, the latter shall control.
- (B)      **Tender of Completed Documents and Proper Costs.** Parties or their attorneys are solely responsible to tender to the Court any documents desired to be filed in complete and correct form, together with proper costs, as determined by the Clerk. Neither the Court nor the Clerk will be responsible for delays or deadlines missed due to the tender of incomplete or incorrect documents, or improper costs.
- (C)      **Entries.** Parties or their attorneys are solely responsible to secure entries on their packets from the law clerk, scheduling clerk, or Judicial Officer on the scheduled date of hearing or other activity. Packets remaining after the scheduled time for hearing or other activity will receive the entry, “No one appears”, unless dismissal or judgment LR02-TR41-8 or LR02-TR60-9 is appropriate.
- (D)      **Misplaced Packets.** If parties or their attorneys are unable, after receiving assistance from the Clerk and/or Court, to locate a packet for an entry to be made, said parties or attorneys shall tender the document(s) sought to be filed or make a written record of the entry desired, which shall be initialed and dated for said purpose by any Court employee except the receptionist. No later request for a *nunc pro tunc* or other corrective entry will be considered without such supporting record.

- (E) **Notice Required to Obtain Court's Packets.** The Clerk shall retrieve as many as three (3) packets per party or per attorney per day. Any party or attorney desiring to review more than three (3) packets in one day shall submit to the Clerk a written list of the cause numbers of the packets desired, or a completed Clerk's pull card for each packet desired, in chronological order to the Clerk at least one (1) full business day prior to the date upon which the packets are to be reviewed.
- (F) **Appearance by Husband or Wife.** Except for hearings on proceedings supplemental or by contrary order of the Court, appearance in any cause by a party's spouse shall be considered the appearance of the party upon said spouse's representation on the record that the party and the appearing spouse are currently married and living together.
- (G) **Parties' Current Addresses.** Notices from the Court will be sent to the parties at the most recent addresses contained in the Court's packet. The parties are therefore solely responsible to maintain their current address in all packets concerning them.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007.*

**LR02-SC00-3      Forms**

- (A) **Court's Forms.** The Court shall from time to time, and with the consultation of the Clerk, draft forms for use of litigants, the Clerk, and the Court in small claims actions.
- (B) **No Other Forms.** Originals or photocopies of the forms described in LR02-SC00-3 (A) shall be acceptable for filing. Any other form or photocopy thereof presented to the Clerk shall be accepted for filing only if such form receives prior approval of the Judicial Officer and the Civil Division of the Allen Superior Court, and in such instance, blank forms identical to that submitted and approved shall be immediately provided to the Clerk and to the Judicial Officer for future reference and comparison.

*Adopted effective Jan. 1, 1988.      Amended effective Jan. 1, 2007.*

**LR02-AR00-4      Hearing Calendars**

- (A)      **General Procedure.** Upon the filing of the notice of claim, the plaintiff may schedule the first hearing of said claim on the accounts calendar or Judicial Officer's calendar.
- (B)      **Accounts Calendar.** If the notice of claim is set for first hearing on the accounts calendar, no party is expected to be prepared for trial on the merits at the first hearing, and the setting shall serve as an opportunity for the parties to meet and informally resolve their dispute. However, a party's failure to appear for first hearing on the accounts calendar may be cause for entry of default judgment or dismissal against said party.
- (C)      **Judicial Officer's Calendars.** If the notice of claim is set for first hearing on the Judicial Officer's calendar, all parties are expected to be prepared for trial on the merits at the first hearing. The parties are responsible for reserving the appropriate amount of time for trial on the Judicial Officer's calendar.
- (D)      **Change of Calendar.** At the time any continuance is granted, hearing on the cause may be rescheduled to a calendar different than the calendar on which it was originally set. However, if such a calendar change is made, the party making the calendar change shall notify the opposing party of the change.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007.*

**LR02-TR76-5      Change of Judge**

- (A)      **General Procedure.** A change of Judicial Officer shall be granted as provided by statute and by the Indiana Rules of Trial Procedure, except that the Judicial Officer of the Small Claims Division may be included on the panel named. The Court shall set a time within which the parties are to strike that does not exceed fourteen (14) days.
- (B)      **Striking.** The party filing the motion shall strike first. After the non-moving party strikes, the remaining judicial officer shall be appointed to hear the case. The case shall then be set on that officer's calendar. If a party fails to strike within the time set, said party shall not be entitled to a change of judge, or shall be subject to the Court's arbitrary assignment of the case to one of the two remaining judicial officers, as appropriate.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007*

**LR02-SC5-6 Counterclaims Outside Small Claims Division Jurisdiction**

- (A) **Counterclaims in Excess of the Court's Monetary Jurisdiction.** A defendant who has a counterclaim in excess of the monetary jurisdiction of the Small Claims Division who does not wish to waive the excess of the claim, must file this claim in a timely fashion as a separate action on the plenary docket of the Allen Superior Court, Civil Division, or in any other Court of competent jurisdiction. Either party may then file a motion for consolidation pursuant to T.R. 21(B) in both pending actions.
- (B) **Counterclaims Outside the Court's Subject Matter Jurisdiction.** A defendant who has a counterclaim outside the subject matter jurisdiction of the Small Claims Division must file his claim in a timely fashion as a separate action on the plenary docket of the Allen Superior Court, Civil Division, or in any other Court of competent jurisdiction. Either party may then file a motion for consolidation pursuant to T.R. 21(B) in both pending actions.

*Adopted effective Jan. 1, 1988.*

**LR2-TR53.5-7 Continuances**

- (A) **General Rule.** Except as provided in LR2-TR53.5-7 (B) and (D) below, each party to an action may be granted one (1) continuance of right and without showing good cause. A continuance under this subsection shall not be granted within seven (7) days of the trial, unless approved by a Judicial Officer. All motions for continuances must be made in person or by the party's attorney who has filed a written appearance on behalf of said party. The party or attorney obtaining the continuance shall notify any opposing party in a timely fashion.
- (B) **Possession of Real Estate or Personal Property.** No continuance will be granted to a defendant where the action involves the issue of possession of real estate or personal property, except on good cause shown and upon approval by a Judicial Officer.
- (C) **Agreed Continuance.** Any action may be continued by agreement of the parties.
- (D) **Proceedings Supplemental.** No motion for continuance of a proceedings supplemental hearing will be granted, except by agreement of the parties, or on good cause shown and upon approval by a Judicial Officer.



- (E) **Sanctions for Failure to Notify.** Where notice of a continuance has not been timely given, the Court may assess sanctions which may include, but are not limited to, reasonable attorney's fees, lost wages and other costs for each party and necessary witness appearing due to lack of notice. Motions for sanctions shall be heard as a part of the trial on the merits.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007.*

**LR02-TR41-8 Dismissal of Actions**

- (A) **Dismissal by Plaintiff.** Any claim may be dismissed by the plaintiff at any time before judgment has been entered unless a counterclaim or motion for summary judgment has been filed by a defendant.
- (B) **Dismissal by Stipulation.** Any claim may be dismissed by filing a stipulation of dismissal signed by all parties to the claim.
- (C) **Dismissal by Court.** The cause or any pending pleadings in the cause may be dismissed with or without prejudice upon order of the Court, including by way of illustration and not of limitation, as follows:
- (1) the cause has not been reduced to judgment and where there has been no action on the case for a period of sixty (60) days; provided however, that no such cause shall be dismissed without notice and hearing; or
  - (2) a proceedings supplemental pleading has been filed and there is no action on the day on which the proceedings supplemental is set for hearing, or for sixty (60) days thereafter.

*Adopted effective Jan. 1, 1988.*

**LR02-TR60-9 Default**

- (A) **Pre-Judgment Grace Period.** The Court shall permit each party a twenty (20) minute grace period to appear for any prejudgment accounts or trial calendar setting, or for any other matter not pertaining to a proceeding supplemental hearing.
- (B) **Default of Defendant and Default Affidavit.** Upon the failure of a defendant to appear at the initial hearing or at a trial on the merits, the plaintiff(s) shall be entitled to judgment on the merits against said defendant. In addition to any other applicable requirements of Indiana law, the plaintiff or plaintiff's(s') attorney shall sign and file a completed "Affidavit for Judgment by Default" form furnished by the Court.

- (C) **Default of Plaintiff.** Upon the failure of a plaintiff to appear at the initial hearing or at a trial on the merits, the cause shall be dismissed without prejudice and default judgment shall be entered for the defendant against the plaintiff on any timely-filed counterclaim. Upon plaintiff's failure to appear at the initial hearing or at a trial on the merits in a subsequent cause based on the same facts as the cause earlier dismissed without prejudice, said subsequent cause shall be dismissed with prejudice and default judgment shall be entered for the defendant against the plaintiff on any timely-filed counterclaim.
- (D) **Letter Notice for Inadequate Service.** Where a plaintiff has received return of service which discloses less than ten (10) days notice to a defendant of a hearing on the Accounts Calendar or a Trial Calendar, and said defendant fails to appear for said hearing, the plaintiff shall not be entitled to entry of default. If the plaintiff wishes to proceed, the plaintiff shall notify the defendant of a new calendar setting by first class mail to the address at which service was obtained. Such notice is sufficient if said notice is sent and the hearing set so as to comply with T.R. 6 and S.C. 2.
- (E) **Setting Aside Default Judgment.** A default judgment may be set aside according to the procedures set forth in S.C. 10(C) and T.R. 60(B). Forms for this purpose are available from the Court upon request.
- (1) *Expedited Hearing.* An expedited hearing on such a motion to set aside default judgment shall be set on the Judicial Officer's calendar.
- (2) *Stay of Collection Proceedings.* In any cause in which a motion to set aside default judgment has been filed, collection proceedings as to the judgment debtor filing the motion will not be stayed unless a motion to stay such proceedings is filed and granted pursuant to T.R. 62(B).
- (F) **Default on Proceedings Supplemental.** The Court shall permit each party a thirty (30) minute grace period to appear for any proceedings supplemental hearing. After the thirty (30) minute grace period has elapsed:
- (1) a judgment creditor shall be entitled to apply for appropriate proceedings supplemental sanctions; or
- (2) a judgment debtor appearing for the proceedings supplemental hearing shall be entitled to leave without risk of sanction for failure to appear.

A judgment debtor so appearing is entitled to leave without risk of sanction for failure to appear even if the judgment creditor or its attorney is present for the proceedings supplemental hearing, if said judgment debtor has not been called for the proceedings supplemental interview within the grace period. However, a judgment creditor's failure to conduct the proceedings supplemental interview within the grace period shall not bar the judgment creditor from filing a garnishment order against the judgment debtor's wages if appropriate under LR02-TR69-17. For this purpose, the grace period shall begin at the time of the scheduled hearing or trial or at the time the judgment debtor registers with the Court's receptionist, whichever is later.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007.*

**LR02-TR00-10      Attorney Fees**

**Evidence Required to Support Award.** The amount of attorney fees awarded shall be within the sound discretion of the Court. No attorney fees shall be awarded unless:

- (1)            provided for by written agreement(s) between the parties; or
- (2)            according to applicable statute(s) or common law. Proof of such fees shall be in the form of sworn testimony from, or the affidavit of, the attorney(s) whose services are being proved.

*Adopted effective Jan. 1, 1988.*

**LR02-TR00-11      Judgments for Payment of Money**

**In General.** Judgments for payment of money shall be enforceable according to the Indiana Rules of Trial Procedure and applicable statutes.

*Adopted effective Jan. 1, 1988.*

**Judgments for Possession of Real Estate or Personal Property**

- (A) **Bifurcated Judgment and Expedited Hearing on Possession.** Judgments in actions involving the issue of possession of real estate or personal property shall be bifurcated. The initial hearing on possession issues shall be set in an expedited setting on the Judicial Officer's calendar. A final judgment for possession of the real estate or personal property shall be entered at the initial hearing and a judgment for back rent and/or other damages, if any, shall be entered at a subsequent hearing.
- (B) **Notice to Tenant.** Unless the landlord shall file the pleadings and bond set forth in I.C. § 32-6-1.5-1, *et seq.*, notice to a tenant shall be ten (10) days as required by S.C. 2.
- (C) **Disposition of Tenant's(s') Remaining Personal Property.** If a tenant leaves personal property of value in or about the demised premises under circumstances which reasonably show abandonment of said personal property, the landlord may dispose of said property by:
- (1) removing said property from the premises using reasonable care and storing it in a location reasonably secure from damage of any kind; and
  - (2) immediately notifying tenant by first class mail to tenant's last known address, with a copy thereof retained by the landlord, that the property is so stored, that storage charges (if any, but not to exceed \$3.00 per day) are accruing, and that the property is available to tenant upon reasonable notice to landlord at a reasonable time for a period at least two (2) weeks from the date said letter notice is mailed to tenant. Said notice shall also contain landlord's telephone number, and an address at which, and reasonable time during which, landlord can be contacted during the two (2) week time period.
  - (3) If at the expiration of the two (2) week retrieval period, tenant has not contacted landlord to arrange an imminent and mutually convenient date and time for retrieval of tenant's personal property, landlord may dispose of said property in a reasonable manner, including the destruction of apparently valueless property and the private sale or donation of property of value. Proceeds from any sale and credit for any donation shall first be applied to reduce any accrued storage charges and then to reduce any alleged back rent or damages beyond normal wear and

tear established by the Court.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007.*

**LR02-SC11-13      Release of Judgment**

- (A) **Release of Judgment.** When any judgment has been fully paid and satisfied, including any interest and all costs, and the judgment creditor has received all of said monies or they are available in the Clerk's office, said judgment creditor shall immediately release the judgment against the debtor by personally executing such release on the judgment record of the Clerk, or by causing such release to be filed with the Clerk.
- (B) **Failure to Release Judgment.** Upon a judgment creditor's failure to release a judgment allegedly fully paid and satisfied, the affected debtor may:
  - (1) proceed to notify the judgment creditor and file suit for penalties as set forth in I.C. § 32-8-1-2; or
  - (2) move on the record of the cause in which the judgment was entered to have said judgment deemed satisfied pursuant to T.R. 13(M), upon which motion notice shall issue and hearing shall be held by the Court.
- (C) **Release of Judgment.** Upon payment in full, including accrued interest, the Clerk shall notify the judgment creditor and shall require him or her to file a Release of Judgment. If the judgment creditor fails to file a Release of Judgment within thirty (30) days of the issuance of the notice, the Clerk shall enter on the Chronological Case Summary that the judgment has been satisfied, the Plaintiff has failed to release judgment pursuant to Court directive, and the Clerk shall enter a Release of Judgment in the judgment docket.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007.*

**LR02-TR69-14      Proceedings Supplemental**

- (A) **General Procedure.** Proceedings supplemental to execution shall be governed by T.R. 69(E) of the Indiana Rules of Trial Procedure and applicable statutes.
- (B) **Ten Day Rule.** A motion for proceedings supplemental may not be filed until ten (10) calendar days have elapsed since the date of judgment except by order of the Court for good cause shown.

- (C) **One Year Rule.** Except by order of the Court for good cause shown, no proceedings supplemental may pend for more than six (6) months from the date of its filing, and no judgment creditor may file more than four (4) proceedings supplemental per year against any individual judgment debtor in a given cause. At the end of said six (6) month period, any pending proceedings supplemental shall be dismissed.
- (D) **Hearing.** Unless a party specifically requests otherwise and sets the hearing accordingly, all hearings on proceedings supplemental will be set on the accounts calendar.
- (E) **Bank Interrogatories.** Except by order of the Court for good cause shown, judgment creditors may not submit garnishment interrogatories to more than two (2) banking institutions for each hearing on proceedings supplemental.
- (F) **Conduct of Hearings.** Unless the judgment creditor is represented by an attorney at the proceedings supplemental hearing, said hearing shall be conducted by an officer of the Court.
- (G) **Completion of Interview Forms.** At each proceedings supplemental hearing, the attorney or the Court's officer conducting the hearing shall complete and file with the Court a proceedings supplemental interview form provided by the Court based on the judgment debtor's testimony at said hearing. At its completion and prior to its filing, the judgment debtor shall be given the opportunity to review and sign said form in acknowledgment of its accuracy.
- (H) **Proceedings Supplemental During Pendency of Garnishment Order.** If a garnishment order has been issued and remains unsatisfied, additional proceedings supplemental directed to the judgment debtor or to an additional garnishee defendant may be filed only by order of the Court for good cause shown.

*Adopted effective Jan. 1, 1988.*

**LR02-TR69-15 Court Orders to Appear**

- (A) **General Use.** Judgment creditors may request the Court to issue an order to appear (COTA) to judgment debtor(s) only when:
  - (1) an active proceedings supplemental is pending against the judgment debtor;

- (2) the hearing date set for the COTA is within sixty (60) days of the date on which the COTA is issued; and
  - (3) good cause exists for the COTA and is shown on the record at the time the COTA is requested.
- (B) **Good Cause.** “Good cause” under LR02-TR69-15 (A)(3) shall include but not be limited to:
- (1) the judgment debtor failed to produce documents as previously ordered by the Court;
  - (2) the judgment debtor has indicated intended relocation with new address presently unknown;
  - (3) there is a reasonable certainty that the judgment debtor’s financial status will substantially change within sixty (60) days.
- (C) **COTAs and Garnishment Orders.** When a garnishment order has issued, no pending COTA will be enforced, and no COTA will issue to the judgment debtor, except by order of the Court for good cause shown.
- (D) **Failure to Appear on COTA.** Upon a judgment debtor’s failure to appear on the date and time set by the COTA, the judgment creditor may file contempt proceedings under LR02-TR00-16.
- (E) **Agreements to Appear Without COTA.** In any proceedings supplemental, the parties may agree to reset a hearing without use of a COTA. If after such agreement either party fails to appear at the reset hearing, the underlying proceedings supplemental shall be dismissed and no sanctions shall be available for such failure to appear.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007*

**LR02-TR00-16 Contempt/Rule to Show Cause/Body Attachment**

- (A) **Contempt.** Upon failure of a judgment, debtor or garnishee defendant to appear as ordered for a scheduled hearing, the judgment creditor may file a contempt citation as to said person. Said contempt citation must be filed within thirty (30) days of the failure to appear.
- (B) **Body Attachment.** Body attachment shall be requested and issued only when:
- (1) the judgment debtor or garnishee defendant previously ordered to appear for a scheduled hearing was personally served with a contempt citation and failed to appear for the contempt hearing;

- (2) the request for body attachment is filed within thirty (30) days of the contempt hearing at issue; and
- (3) the judgment creditor properly completes and files all pleadings and forms from time to time required by the Court. Said pleadings and forms currently include for each judgment debtor:
  - (a) one (1) Request for Body Attachment;
  - (b) at least three (3) Writs of Attachment which must include a statement setting a bond for release; (The bond amount should be set at the lesser of \$500.00 or the total amount remaining unpaid on the judgment including costs and interest.)
  - (c) and the Warrant Information Card, including the judgment debtor's social security number or date of birth.

*Adopted effective Jan. 1, 1988. Amended Aug. 29, 1997, effective Oct. 1, 1997.*

**LR02-TR69-17**

**Garnishment**

- (A) **General Procedure.** All garnishment proceedings shall comply with T.R. 69(E) and applicable statutes.
- (B) **Requirements for Garnishment Order to Issue.** A garnishment order shall not issue with respect to a judgment debtor's wage or other property without:
  - (1) an active proceedings supplemental as to the judgment debtor or waiver of notice by said judgment debtor;
  - (2) service on the garnishee-defendant of the proceedings supplemental by
    - (a) certified mail, or refusal thereof,
    - (b) Sheriff's service, or
    - (c) private process server; and
  - (3) return of answered interrogatories, other verification of employment by the garnishee-defendant, or failure to answer interrogatories after notice.
- (C) **Voluntary Garnishments.** In instances where a judgment debtor has entered a voluntary agreement for periodic payments to satisfy judgment and has further consented to garnishment upon default, notwithstanding the terms of the agreement, no garnishment order shall issue unless:



- (1) an active proceeding supplemental is pending against the judgment debtor and the garnishee-defendant;
- (2) the judgment debtor's employment by said garnishee-defendant has been verified as set forth in LR02-TR69-17 (A) and (B) on the record within three (3) months prior to the date on which judgment creditor requests issuance of the garnishment order; and
- (3) the judgment creditor represents on the record the default of judgment debtor.

(D) **Stay.** In instances where a garnishment order has been issued and served on a garnishee-defendant, if the judgment creditor then stays said order, said judgment creditor shall lose any priority over pending but later garnishment orders pertaining to the judgment debtor's wages.

(E) **Release.** Upon receipt by the judgment creditor or by the Clerk on the judgment creditor's behalf of monies sufficient to fully satisfy the judgment, and accrued interest and costs, the judgment creditor shall immediately obtain a court order releasing the applicable garnishment order and shall forward a copy to the garnishee-defendant(s).

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007*

**LR02-TR69-18 Post-Judgment Orders to Self-Employed and Other Judgment Debtor(s)**

- (A) **General Procedure.** Post-judgment orders to self-employed and other judgment debtors are available pursuant to T.R. 69(E) and I.C. § 34-1-44-7 upon the filing of a verified motion for proceedings supplemental by the judgment creditor.
- (B) **Hearing Before Judicial Officer.** All motions for a court order requiring the judgment debtor(s) to apply specified or unspecified property towards the satisfaction of the judgment pursuant to T.R. 69(E)(3) or I.C. § 34-1-44-7 shall be set for hearing before the Judicial Officer.

*Adopted effective Jan. 1, 1988; Amended effective Jan. 1, 2007.*

**LR02-TR70-19 Writs**

- (A) **General Procedure.** Writs to enforce the Court's orders or in aid of its jurisdiction are generally available as set forth in T.R. 70(A) and Title 34 of Indiana Code.

- (B) **Writs of Execution for Delivery of Possession of Real Estate.** Except by order of the Court for good cause shown, no writ of execution for delivery of possession of real estate shall issue before one (1) calendar week has expired after entry of the underlying judgment by the Court.

*Adopted effective Jan. 1, 1988.*

**LR02-SC00-20 Bankruptcy**

- (A) **Bankruptcy of Judgment Debtor.** All Court action, including pending collection proceedings, will be stayed as to any judgment debtor:
- (1) who files with the Court in each relevant action one (1) copy of the bankruptcy court's notice of relief; or
  - (2) whose attorney files with the Court in each relevant action a motion for stay reciting the prior filing of bankruptcy by the judgment debtor and resultant stay of all proceedings by the bankruptcy court, including the cause number and court of the bankruptcy.

*Adopted effective Jan. 1, 1988.*

# ALLEN CIRCUIT AND SUPERIOR COURT FAMILY LAW LOCAL RULES

Effective May 1, 2007

Including Amendments Received Through January 1, 2018

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LR02-FL00-735	Transitional and Problem Solving Parenting Classes
LR02-JV00-736	Children in Need of Services Preliminary Inquiry Hearings Procedure
LR02-JV00-737	Children in Need of Services Facilitation of Initial Hearings and Dispositional Hearings
LR02-DR00-738	Adoptions
LR02-JV00-739	Allen County Juvenile Justice Center Superior Court Paternity Procedures
LR02-JV00-740	Juvenile Delinquency Proceedings

**LR02-TR1-700      Application**

Unless otherwise specifically provided herein, these local rules shall apply to Allen Superior and Circuit Court cases involving family law matters (DR, JP, JD, JC, JS, JM, RS and AD case file types).

*Adopted effective May 1, 2007.*

**LR02-TR4-701      Summons**

In all relevant family law matters, the initiating party shall use a form of summons that includes all required information as set out in Trial Rule 4(C).

*Adopted effective May 1, 2007.*

**LR02-TR3-1-702      Appearances**

In addition to that information required by Trial Rule 3.1 and 11, and specifically pursuant to Trial Rule 3.1(A)(7), all parties are required to provide the following information so that Court personnel may identify those cases that may be suitable for treatment as a Family Court Proceeding: Whether the party, the party's children, or the other parent of the party's children have pending in any jurisdiction a case involving child custody, parenting time (visitation), child support, divorce, paternity, juvenile delinquency, child abuse or neglect, domestic violence or adoption.

*Adopted effective May 1, 2007.*

**LR02-TR3.1-703      Withdrawal of Appearance and Termination of Attorney-Client Relationship**

**1. Procedure for Withdrawal.** Unless otherwise ordered by the Court, a motion to withdraw appearance shall be in writing and filed with the Court only after the withdrawing attorney has given the client at least ten (10) days written notice of the intention to withdraw. The notice shall be sent to the client by first class mail to the client's last known address. Pursuant to Trial Rule 3.1 € , the attorney shall certify in the motion the last known address and telephone number of the client, subject to the confidentiality provisions of Trial Rule 3.1 (A) (8) and (D). A copy of the written notice shall be filed with the motion unless another attorney has filed a written appearance on behalf of the client. After a case has been assigned to a judicial officer, any motion to withdraw appearance shall only be ruled upon by the judicial officer to whom the case has been assigned.

**2. Contents of Notice.** Any notice of intention to withdraw shall include an explanation to the client as follows:

- (1) the present status of the case;
- (2) the date or dates of scheduled hearings and any other pending matters;
- (3) advice that after withdrawal of counsel, the client must keep the Court advised of the client's mailing address and telephone number.
- (4) the expectation of the Indiana common law that, as an unrepresented party, the client will be held to the same standard of conduct as an attorney licensed to practice in the State of Indiana; and;
- (5) that the client should act promptly to secure new counsel;

**3. Automatic Withdrawal.** After the entry of a final Decree or Order that resolves all pending issues, each attorney shall be deemed to have withdrawn his or her appearance upon the occurrence of one of the following events:

3.1 The expiration of time within which an appeal of such Decree or Order may be preserved or perfected pursuant to the Indiana Rules of Trial Procedure and/or the Indiana Rules of Appellate Procedure if no appeal is filed; or

3.2 The conclusion of any appeal of such Decree or Order commenced pursuant to the Indiana Rules of Trial Procedure and/or the Indiana Rules of Appellate procedure, provided the Trial Court is notified in writing that the appeal is concluded.

**4. Subsequent Filings and Notices.** After withdrawal of an attorney's appearance made in the conformity of these rules, the service of any motion, pleading, or notice of hearing upon any party shall be made upon that party pursuant to Trial Rule 5. A copy of any pleading, motion, or notice of hearing served upon previous counsel who has withdrawn or is deemed to have withdrawn under this Rule shall be considered a matter of professional courtesy only, and represented party.

*Adopted effective May 1, 2007.*

#### **LR02-TR58-704 Preparation of Stipulated Orders**

(1) If the parties reach an agreement on any or all issues, the terms of that agreement shall be set out in a written document signed by the parties and/or their counsel, if any. If the State of Indiana has intervened in a case or if a guardian ad litem has been appointed in a case, the State of Indiana or guardian ad litem are parties for purposes of consistency to any such agreement. The agreement shall conspicuously inform the Court whether the hearing set upon the issue(s) (noting the date and time of the hearing) should or should not be removed from the Court calendar, or that no hearing is set upon the issue(s). The signed agreement shall be filed with the Court, submitted with a separate proposed Order that includes the relevant portions of the signed agreement in imperative form. The proposed Order shall include instructions regarding the distribution and delivery of the Order; pursuant to Trial Rule 72(D).

(2) Any party submitting a proposed Order, Decree, or Marital Settlement Agreement to the Court for approval, must submit an original and at least four (4) copies of each document.

*Adopted effective May 1, 2007.*

#### **LR02-TR34-705. Copying Charges for a Non-party**

(1) If a non-party to a case provides documents in response to a Trial Rule 34(C) request for production of documents a charge of \$.25 per page shall be presumed reasonable. If the non-party assesses a labor charge under subsection (2), the non-party may not charge for the first ten (10) pages of requested documents.

(2) A non-party may collect a \$15.00 labor charge in addition to per page charge allowed under subsection (1).

*Adopted effective May 1, 2007.*

**LR02-TR7-706      Motions**

(1) It is the responsibility of the party that files a motion to schedule the motion for hearing on the Court's calendar. If the parties agree that the Court should rule on the motion without a hearing, then the parties shall file a stipulation requesting the Court to rule on the motion without a hearing.

(2) If a motion is set for hearing, notice of the hearing shall be given within the time limits provided by Trial Rule 6(D). Any written response to a motion set for hearing shall be filed within the time limits provided in Trial Rule 5(A), unless the hearing is set within ten days or less from the date the motion was filed, in which case the response may be filed at or before the hearing. Any other pending motion or motions may be heard at the same time as the previously scheduled motion, if time permits, and subject to notice of hearing being served on the opposing party or parties pursuant to the provisions of Trial Rule 6(D).

*Adopted effective May 1, 2007.*

**LR02-TR33-707      Interrogatories**

(1) Interrogatories shall be tailored specifically to the cause in which they are served and numbered consecutively to facilitate response.

(2) A party who has been served with interrogatories may file a motion to strike specific interrogatories as excessive, oppressive or repetitive, after fully complying with Trial Rule 26(F). The motion shall be set for hearing and does not serve to extend the time for answering interrogatories which are not in dispute.

(3) Answers and objections to interrogatories under Trial Rule 31 or 33 shall set forth in full the interrogatories being answered or objected.

*Adopted effective May 1, 2007.*

**LR02-TR30-708      Opening Filed Depositions**

Unless otherwise ordered by the Court, the Clerk, at any time after a deposition is filed, shall open such deposition upon request of the Court, a member of the Court's staff, or a party or his attorney, after first endorsing on the back thereof, the name of the person at whose request the deposition is opened and the date of opening.

*Adopted effective May 1, 2007.*

**LR02-TR37-709      Resolution of Discovery Disputes**

(1) The Court will strictly enforce the informal resolution of discovery disputes in accordance with Trial Rule 26(F). The Court may deny any discovery motion filed pursuant to Trial Rule 27 through 37, if the party filing the motion has not complied with the requirements of Trial Rule 26(F).

(2) Upon strict compliance with Trial Rule 26(F), the Court may compel or limit discovery or enter any appropriate sanction, or may set the matter for hearing upon the Court's summary or other appropriate calendar.

*Adopted effective May 1, 2007.*

## **LR02-TR26-710 Financial Declaration Form**

**1. Requirement.** In all relevant family law matters, (except support matters enforced by the State), including dissolution, separation, paternity, post-decree and support proceedings (excepting provisional hearings), the parties shall simultaneously exchange Financial Declaration Forms seven (7) days prior to any hearing. The Financial Declaration Form shall be submitted to the Court during the hearing. The Financial Declaration Forms shall be in a format approved by the Court. These time limits may be amended by the Court for good cause shown.

**2. Exceptions.** The Financial Declaration Form need not be exchanged or filed if:

- 2.1 The Court approves the parties' written agreement to waive the exchange;
- 2.2 The parties have executed a written agreement that settles all financial issues;
- 2.3 The proceeding is one in which the service is by publication and there is not response; or,
- 2.4 The proceeding is post-decree and concerns issues without financial implications.

**3. Admissibility.** Subject to specific evidentiary challenges, the Financial Declaration Form shall be admissible into evidence during the hearing. The submission of the Financial Declaration Form shall not prohibit any other relevant discovery permitted under the Indiana Rules of Trial Procedure.

**4. Financial Declaration – Mandatory Discovery.** The exchange of Financial Declaration Forms constitutes mandatory discovery, and Trial Rule 37 sanctions are applicable. Additionally, pursuant to Trial Rules 26(E) (2) and (3), the Financial Declaration Form shall be supplemented if additional information becomes available.

*Adopted effective May 1, 2007.*

## **LR02-TR26-711 Provisional Orders and Modification of Support**

At least three (3) business days before a scheduled hearing regarding provisional orders of modification of child support (except support matters enforced by the State), each party shall deliver to all parties to the case the following materials:

- (1) Their three (3) most recent pay stubs for all employers;
- (2) Their most recent W-2s, 1099s, and federal income tax returns with all schedules and attachments;
- (3) Documentation regarding work related child care expenses;
- (4) Documentation regarding health insurance premiums;
- (5) Documentation regarding child support orders for other children;
- (6) Proposed Child Support Obligation Worksheets; and
- (7) Any exhibit or document that each party intends to submit to the Court.

*Adopted effective May 1, 2007.*

## **LR02-TR26-712 Exchange of Appraisals: Mandatory Discovery**

At least sixty (60) days prior to the final hearing the parties shall exchange copies of all real estate and personal property appraisals that will be offered into evidence at the final hearing.

*Adopted effective May 1, 2007.*

**LR02-TR47-713      Juries**

If a jury is required in a family law matter, the local rules for civil practice in Allen County regarding jury practice and management shall govern.

*Adopted effective May 1, 2007.*

**LR02-TR43-714.      Exhibits**

(1) After being marked for identification, exhibits that are offered or admitted into evidence shall be placed in custody of the Court Reporter unless otherwise ordered by the Court.

(2) After a case is decided and no appeal is taken, or after all appeals are exhausted, an attorney may request in writing the return of the exhibits which are the property of their client. A detailed receipt shall be filed by the Court Reporter evidencing the return of any exhibits. If no request is made within 90 days after the above stated period, the Court Reporter may, with Court approval, dispose of the exhibits.

*Adopted effective May 1, 2007.*

**LR02-TR42-715.      Multiplicity of Dissolution of Marriage Actions**

In its discretion, the Court may continue a hearing in any action for dissolution of marriage until all other cases for dissolution of marriage pending between the same parties in any Court have been dismissed.

*Adopted effective May 1, 2007.*

**LR02-TR58-716.      Duties of Attorneys**

(1) Counsel shall prepare proposed orders as may be required by the Court, such as orders granting or denying routine motions and agreements.

(2) Proposed orders and proposed findings of fact and conclusions of law shall be served upon the opposing party or counsel, consistent with Trial Rule 5.

(3) Counsel of record shall keep themselves informed of all action and filings made in all matters pending before the Court.

(4) All proposed Qualified Domestic Relations Orders (QDRO) shall be signed by all parties or their attorneys, and when possible pre-approved by the Plan Administrator. Any dispute regarding a proposed QDRO shall be set for hearing upon request of a party.

*Adopted effective May 1, 2007.*

**LR02-TR4-717.      Alternate Service**

(1) This rule shall apply only to the service of papers regarding matters under the jurisdiction of the Court.

(2) All notices, orders, pleadings, process, or other communications from the Court or Clerk to attorneys shall be deemed served upon deposit in the box assigned to said attorney, provided a consent to such alternate service is on file with the Court Executive/Administrator.



- (3) All notices, orders, pleadings, process or other communication between attorneys may be served by deposit in the box assigned to the receiving attorney, provided a consent to such alternate service is on file with the Court Executive/Administrator.
- (4) Such alternate service shall constitute and be accepted as personal service.
- (5) Trial Rule 6(E) shall apply to all alternate service allowing the receiving party a three day time extension for response or compliance thereto.

*Adopted effective May 1, 2007.*

**LR02-FL00-718. Attorney Fees**

- (1) All requests for attorney fees shall be presented to the Court by way of affidavit or oral testimony, as the Court allows. The affidavit shall be admitted into evidence subject to cross-examination. In addition the affidavit shall have attached to it a billing statement which includes an itemization of services, the total fee for the services, payments received for the services, and the account balance.
- (2) In assessing preliminary attorney fee awards, the Court may determine the award by comparing the gross incomes of the respective parties and such other financial and non-financial matters as the Court deems appropriate.
- (3) An award of additional preliminary attorney fees, expert witness fees, and similar expenses may be granted upon proof of extensive discovery, significant negotiations, preparation of more than the usual number of documents, the preparation for or the conduct of contested preliminary matters or final hearings, the complexity of the case or other factors necessitating such an award.
- (4) The Court may enter an order making funds available for payment of preliminary attorney fees, while reserving for trial whether such an order represents either an award against a party or advancement in favor of the requesting party.
- (5) In contempt matters where attorney fees are requested, counsel shall provide the Court with appropriate evidence of time, services and value rendered as part of the fee request. Said evidence may be made by affidavit.

*Adopted effective May 1, 2007.*

**LR02-TR65-719. Temporary Restraining Orders**

**(1) Temporary Restraining Order-Marital Property**

Upon the filing of a verified petition for dissolution of marriage or verified petition for legal separation, the Court will issue the following temporary restraining order with respect to marital property:

Petitioner and Respondent are both enjoined from transferring, encumbering, concealing, selling or otherwise disposing of any joint property of the parties or asset of the marriage except in the usual course of business or for the necessities of life, without the written agreement of both parties or the permission of the Court.

**(2) Temporary Restraining Order-Relocation of Children**

Upon the filing of a verified petition for dissolution of marriage or verified petition for legal separation, the Court will issue the following temporary restraining order with respect to the relocation of children from the marriage:

Petitioner and Respondent are both enjoined from removing any child of the parties then residing in the State of Indiana from the State with the intent to deprive the Court of jurisdiction over such child without the prior written consent of all parties or the permission of the Court.

### **(3) Preparation of Temporary Restraining Order**

At the time if the filing of a verified petition for dissolution of marriage or verified petition for legal separation, Petitioner or Petitioner's counsel shall submit to the Court a proposed temporary restraining order for issuance by the Court. The proposed order shall be in a format that has been approved by the Court.

### **(4) Request for Hearing**

Any party may file a motion for modification or termination of a temporary restraining order issued by the Court pursuant to this Rule. A motion for modification or termination of a temporary restraining order will be given an expedited hearing by the Court.

*Adopted effective May 1, 2007.*

## **LR02-TR65-720 Motions Alleging Emergencies**

(1) Trial Rule 65(B)(1) and (2), and current case law, including *In Re: Anonymous*, 726 N.E.2d 566 (Ind.2005), shall govern all motions alleging an emergency where Court action is sought without notice. Strict construction and application of Trial Rule 65(B) shall be required.

(2) Emergency relief may also be sought upon notice. The Court will review such motions and may set them upon summary hearing or other expedited calendar.

*Adopted effective May 1, 2007.*

## **LR02-TR65-721 Orders For Protection**

(1) A Petition For An Order For Protection And Request For A Hearing shall be filed in the Allen Superior Court Small Claims Division.

(2) Pursuant to I.C.34-26-5-6 (4), If a person who petitions for an ex parte order for protection also has a pending case involving:

1. the respondent; or

2. a child of the petitioner and respondent;

the Court that has been petitioned for relief shall immediately consider the ex parte petition and then transfer the Protective Order case to the Court in which the other case is pending.

(3) The Protective Order cause of action shall be maintained with the pending JP, DR, JC, JT, JS, JM, RS or JD cause of action. However, the cases are not consolidated.

(4) All pleadings, hearings, and orders pertaining to a Protective Order shall be in the Protective Order cause of action. An attorney who also represents a party in a related Family Law case must file a separate written appearance in the Protective Order case.

*Adopted effective May 1, 2007.*

## **LR02-TR16-722. Case Management**

(1) An initial Case Management Conference (CMC) shall be set in every case where at least one-half day of trial is sought. When either party requests a Case Management Conference, the CMC shall typically be scheduled to occur within 30 days of the request. Absent leave of Court, trial dates for those matters of at least one-half day will not be assigned until after the CMC is held and after mediation had occurred. Trial dates for such cases will be assigned at a Pre-Trial Conference (PTC).

- (2) At the Case Management Conference, the Court will address and very likely order mediation, discuss family law arbitration, inquire of the matters at issue, discuss discovery, and schedule a Pre-Trial Conference. Absent leave of Court, mediation must occur before the PTC is conducted.
- (3) Should the case not be resolved at mediation, then at the PTC, the Court will inquire of the matters at issue, schedule primary and/or secondary trial dates, schedule a Final PTC, and establish discovery and other deadlines.
- (4) Hearings requiring less than one-half day may be set upon request without a CMC. However, if the case involves matters where mediation is required regardless of the length of the hearing, such as one involving any issue concerning parenting time (e.g., parenting time modification, custody modification, contempt regarding parenting time, child support modification where the number of overnights is an issue) mediation must occur prior to the hearing unless prior leave of Court is otherwise obtained. When mediation is required for hearings of less than one-half day, the moving party shall also file a motion for mediation prior to, or with the notice of hearing.
- (5) Case Management Conferences may be set in any matter and at any procedural phase if helpful to assist the parties and the Court in efficient management of the case. Parties represented by counsel need not personally appear at the CMC or PTC unless otherwise ordered by the Court. The party requesting the CMC shall submit a "Notice of Case Management Conference" (similar to a Notice of Hearing) when requesting the date for the CMC.
- (6) Cooperative Divorce. Parties formally engaging in the Cooperative Divorce process shall be provided priority settings for Case Management Conferences and will be afforded other such procedural assistance as appropriate to assist in expediting their cooperative process.

*Adopted effective May 1, 2007.*

### **LR02-TR73-723. Hearings**

- (1) Hearings will be limited to the time scheduled on the calendar, and it shall be the responsibility of the moving party to ensure adequate time is reserved for the completion of the hearing. Should the parties be unable to complete the hearing within the scheduled time, the hearing will be continued and reset on the calendar, unless otherwise directed by the Court. In the event a party files subsequent motions after the matter is set for hearing, will be heard only if time permits. If time does not permit the subsequent motions to be heard, the motions shall be reset.
- (2) Not all family relations hearings are electronically recorded. It is the parties' responsibility to request an electronic recording if they desire the same. Absent such a request, the recording might not be made.
- (3) At a hearing for provisional orders, a party may elect to present evidence in a summary manner or by direct testimony. If evidence is presented in a summary manner, then the party presenting the evidence shall be sworn under oath and verify the representations made by counsel. The rules of evidence with respect to hearsay shall apply unless waived by the parties. If an attorney makes a representation by an individual who is not a party during a summary presentation of evidence, that individual must be present to verify the statement. At a provisional order hearing each party shall be allotted one-half of the total hearing time, with the initiating party having the right to reserve a portion of their allotted time for rebuttal.
- (4) Protective Order hearings shall not be heard in summary manner absent leave of Court. However, Protective Order hearings must be concluded in the time allotted. The Court may set parameters to ensure the timely conclusion of the hearing.

(5) Subject to approval by the Court, the parties by agreement may present evidence at any hearing in a summary manner consistent with the procedures used for a provisional orders hearing.

*Adopted effective May 1, 2007.*

**LR02-TR53.5-724. Continuances**

A Motion to Continue a hearing, unless made orally at the commencement of a trial, shall be in writing, shall state with particularity the grounds, shall recite whether the other party objects or consents to the motion, and shall be verified, and shall be served upon opposing counsel or pro se party. When opposed, such motion shall be scheduled on the calendar by the moving party for argument. If the verified motion provides that the date of the hearing sought to be continued was not cleared on the calendar of all attorneys of record at the time of scheduling, the motion may be granted without a hearing.

*Adopted effective May 1, 2007.*

**LR02-FL00-725. Appointment and Duties of Guardian Ad Litem in DR and JP Cases**

**1. Definition of Guardian Ad Litem.** An individual appointed by the Court pursuant to I.C. 31-15-6-1; I.C. 31-17-6-1 or by Order of the Court. See also I.C. 31-9-2-50.

**2. Appointment.** When the Court is required by statute, or when the Court, in its discretion, finds that it is appropriate to do so, the Court shall appoint a guardian ad litem. The guardian ad litem shall be a party to the proceeding.

**3. Duties.** The guardian ad litem's duties shall include:

3.1 Performance of all duties required by law, which include to represent and protect the best interests of the child(ren); and

3.2 When possible, submit a written report of the guardian ad litem's findings and recommendations to the Court prior to the matter being heard by the Court. The attorneys and pro se litigants shall receive a copy of the report in accordance with Trial Rule 5.

**4. Fees** All guardian ad litem fees must be submitted to the Court for approval. The Court may order the parties to pay a retainer to the guardian ad litem to be held in trust pending approval of guardian ad litem fees. The amount of the retainer and allocation of payment between the parties shall be determined by the Court based upon all relevant factors. The Court may order an additional retainer or fees to be paid by the parties to the guardian ad litem during the pendency of the case, and the Court may reallocate the parties' share of the total guardian ad litem fees at the conclusion of the case or other appropriate time.

**5. Term of Service** The guardian ad litem shall serve until discharged by Court order. The guardian ad litem may at anytime petition for removal from service. The parties may also petition for removal of the guardian ad litem. It shall be within the Court's discretion whether just cause exists for such removal.

*Adopted effective May 1, 2007.*

**LR02-TR35-726. Custodial Evaluation**

- (1) When a custodial evaluation is ordered by the Court, the Court shall direct the parties to fully cooperate with the custodial evaluator, and contact the custodial evaluator to arrange for the evaluation appointment(s).
- (2) A custodial evaluator shall be deemed to be appointed pursuant to I.C. 31-17-2-10, unless otherwise ordered by the Court.

*Adopted effective May 1, 2007.*

**LR02-FL00-727. Adoption of Family Court Rules**

Adoption of Family Court Rules of the Indiana Supreme Court are adopted as a whole by the Allen Superior Court and the Allen Circuit Court and shall be applicable to all cases designated as a Family Court Proceeding in the Family Court. Cases pending before the Allen Superior Court Criminal Division are not bound by Family Court Rules.

*Adopted effective May 1, 2007.*

**LR02-FL00-728. Family Court Definitions**

- 1. Family Court.** “Family Court” is the court or courts before which cases involving a family or household are linked together for purposes of case coordination. The individual cases maintain their separate integrity and separate docket number, but may be given a common Family Court designation. The individual cases may all be transferred to one judge, or may remain in the separate courts in which they were originally filed.
- 2. Family Court Proceeding.** A “Family Court Proceeding” is comprised of the individual cases of the family or household which have been assigned to Family Court.

*Adopted effective May 1, 2007.*

**LR02-FL00-729. Exercise of Jurisdiction**

With the consent of the judge presiding over each affected case, the Family Court may exercise jurisdiction over any case involving the family at the same time it exercises jurisdiction over a juvenile case (Child In Need of Services, Delinquency, Status and Paternity) involving the family.

*Adopted effective May 1, 2007.*

**LR02-FL00-730. Concurrent Hearings**

With the consent of the judge presiding over each affected case, the Family Court may, in the Court’s discretion, set hearings on related cases to be heard concurrently, take evidence on the related cases at these hearings, and rule on the admissibility of evidence for each cause separately as needed to adequately preserve the record for appeal. This rule applies only when the cases are pending before the same judicial officer.

*Adopted effective May 1, 2007.*

**LR02-FL00-731. Designation of Family Court and Change of Judge for Cause**

- (1) Once notice is sent to the parties that a case has been selected for Family Court, no motion for change of venue from the judge may be granted except to the extent permitted by Indiana Trial Rule 76.
- (2) Within ten (10) days after notice is sent that a case has been selected for Family Court, a party may object for cause to the Family Court designation.
- (3) A motion for change of venue from the judge in any matters arising in the Family Court proceeding or any future cases joined in the Family Court Proceeding after the initial selection of cases, shall be granted only for cause.
- (4) If a special judge is appointed, all current and future cases in the Family Court Proceeding may be assigned to the special judge.

*Adopted effective May 1, 2007.*

**LR02-FL00-732. Judicial Notice and Access to Records**

- 1. Notice of Case Assignment.** Within a reasonable time after a case is assigned to Family Court the Court shall provide to all parties in the Family Court proceeding a list of all cases that have been assigned to the Family Court proceeding.
- 2. Judicial Notice.** Any Court having jurisdiction over a case assigned to Family Court, may take judicial notice of any relevant orders or Chronological Case Summary (CCS) entry issued by any Indiana Circuit, Superior, County, or Probate Court. If a Court takes judicial notice of: a Court Order, the Court shall provide a copy of that Court order; or a CCS or CCS entry(s), the Court shall provide a copy of the entire CCS. The Court shall provide copies of the order or CCS to the parties to the case at or before the time judicial notice is taken.
- 3. Access to Records.** Parties to a Family Court Proceeding shall have access to all cases within the Family Court Proceeding, with the exception of confidential cases or records to which they are not a party. Parties may seek access to the confidential cases or records in another case within the Family Court Proceeding in which they are not a party, by written petition based on relevancy and need. Confidential records shall retain their confidential status and the Family Court shall direct that confidential records not be included in the public record of the proceedings.

*Adopted effective May 1, 2007.*

**LR02-FL00-733. Alternative Dispute Resolution**

- (1) If a case pending before the Court involves parenting time issues, the Indiana Parenting Time Guidelines require mediation unless otherwise ordered by the Court.
- (2) In all family relations cases the parties shall participate in the mediation prior to scheduling any matter requiring a hearing of one half day or longer, unless otherwise ordered by the Court.
- (3) Consistent with A.D.R. Rule 2.2, any party may file a motion for mediation at any time.
- (4) The parties are encouraged to stipulate to the selection of a mediator. If the parties are unable to do so, the Court shall appoint the mediator, or the Court shall name a panel of three from the Court's approved mediation list, from which the parties shall strike, with the moving party striking first, and the entire selection process to be completed within 30 days.

(5) The Indiana Rules for Alternate Dispute Resolution shall apply in all respects to all family law mediation.

(6) Unless otherwise agreed by the parties, or ordered by the Court, the mediator's fee shall be allocated between the parties on a income shares model basis. In the event of settlement within three (3) days of the scheduled mediation date, the mediator may charge a fee for two (2) hours of time. Each party shall pay their portion of the mediation fees and costs within thirty (30) days after the close of mediation. If a party fails to appear for the mediation or fails to participate in good faith during mediation, the entire cost of the mediation may be assessed against that party.

*Adopted effective May 1, 2007.*

#### **LR02-FL00-734. Pending Criminal Domestic Violence Litigation Disclosure**

Prior to any hearing or within thirty (30) days after service of a petition seeking relief in a family law matter, whichever shall first occur, each party shall file a written disclosure of any criminal proceedings pending against them as well as any pending civil proceedings in which allegations of spousal abuse, child abuse or domestic violence have been made against either or both parties. The written disclosure shall include the name and location of the Court in which the case is pending, the case number, the names of the parties involved and a brief summary of the nature and procedural status of the other legal proceeding.

*Adopted effective May 1, 2007.*

#### **LR02-FL00-735. Transitional and Problem Solving Parenting Classes**

It is in the best interest of minor children for the Court to encourage cooperation and conciliation between parents. In all dissolution of marriage and legal separation proceedings involving children under the age of seventeen (17) years, each party shall be ordered to attend Court approved educational programs which are designed to teach effective parenting and parent communication skills unless Court waives the request upon good cause being provided to the Court.

In all paternity proceedings involving children under the age of seventeen (17) years, each party may be ordered to attend Court approved educational programs which are designed to teach effective parenting and parent communication skills. Each party who has been ordered to attend such a program must file a Certificate of Completion with the Court.

Information concerning the name and location of the Court approved organizations providing these classes can be obtained from the Court.

Failure to comply with this rule may subject the non-complying party to Contempt of Court proceedings and other appropriate sanctions.

*Adopted effective May 1, 2007.*

#### **LR02-JV00-736. Children in Need of Services-Preliminary Inquiry Hearings**

**Procedure** – In all cases in which the court is to determine whether to authorize a petition, the court shall conduct a hearing to consider the preliminary inquiry and evidence of probable cause to believe a child is a child in need of services. If probable cause is found and a petition is authorized, the court shall schedule an Initial Hearing and order the parties to participate in facilitation. From the evidence and reports presented the court shall:

Enter an order for the detention of the child or to release the child to the child's parent, guardian or custodian under the supervision of the Department of Child Services;  
Consider and determine whether to enter a provisional order for the care, treatment and rehabilitation of the child, the parent, guardian, and/or custodian;  
Determine whether the child and/or the parent, guardian, and/or custodian should be ordered to complete a mental health assessment and/or psychological evaluation;  
Determine whether the child and/or the parent guardian, and/or custodian should be referred for services through the court's Mental Health Specialty Track; and,  
Enter findings as to whether the state has made reasonable efforts to prevent the removal of the child from the home or whether exigent circumstances precluded the opportunity to provide services to the parent, guardian or custodian.

**Facilitation** – At the Court's discretion, the court may order that a preliminary hearing be first addressed in facilitation in the manner as set forth herein.

*Adopted effective May 1, 2007.*

**LR02-JV00-737. Children in Need of Services – Facilitation of Initial Hearings and Dispositional Hearings**

**Facilitation** – Immediately preceding the Initial Hearing on a petition to adjudicate a child to be a child in need of services, or at a time otherwise directed by the court, a facilitation shall be conducted.

**Facilitation defined** – Facilitation is a confidential process in which a neutral third person, appointed by the court, acts to encourage and to assist the parties in achieving a non-adversarial resolution to the allegations set forth in the petition alleging the child to be a child in need of services. The facilitator assists the parties in problem identification and resolution. During the facilitation process, the parties may agree to orally amend the allegations of the petition and the terms of the proposed plan for parent participation. The facilitator will assist the parties in resolving issues regarding the child's placement; the plan for visitation by the parent, guardian, and/or custodian; the responsibilities, duties and requisite services for the family's care, treatment and rehabilitation; the roles of other individuals in the family's rehabilitation; and other matters relative insuring the child's protection and best interests.

**Participants to the facilitation** – The parent, guardian and/or custodian; the attorney representing the parent, guardian, and or custodian; the guardian ad litem or court appointed special advocate; the county Department of Child Services shall participate in the facilitation process. The child shall attend the facilitation if the child's guardian ad litem or court appointed special advocate believes it is in the child's best interests to attend and believes the child to be of suitable age and maturity to participate. The child's relatives; the foster parent; persons providing support for the parent, guardian or custodian; and/or other persons who have significant or caretaking relationships to the child may be in attendance at the facilitation unless excluded by the court. Facilitations are not otherwise open to the public except as may be approved by the court for the purposes of training or research.

**Facilitation Procedure** – All cases pending an Initial Hearing shall be first submitted for facilitation.

All parties are required to mediate the issues in good faith but are not compelled to reach an agreement.



The facilitator shall first determine whether the parties named in the petition have been apprised of their rights. Any request for the appointment of pauper counsel shall be completed in writing on a form prescribed by the court and submitted to a judge or magistrate for a ruling prior to the start of the facilitation.

The facilitator shall explain the process and identify the issues that are to be discussed in facilitation.

Each allegation of the petition alleging the child to be a child in need of services shall be reviewed. Parties shall be given an opportunity to explain their position with regard to each allegation. Where appropriate and, by agreement of the parties, the allegation may be amended. Once the petition is facilitated, the facilitator shall assist the participants in determining the nature and types of services in which the child or parent, guardian, custodian, or other person should be required to participate. Agreements reported to the court following facilitation must be based on the autonomous decisions of the parties and not the decisions of the facilitator.

The facilitator shall orally present the facilitation report to the court at the Initial Hearing and, if appropriate, the Dispositional Hearing. The report shall include a recitation of the parties' respective admissions and denials to the allegations of the petition, the parties' agreement for provisional orders, parent participation plan and/or dispositional decree and a statement of unresolved issues.

At the Initial Hearing, the court will confirm with the parties and the participants the terms of the facilitated agreement. The Court may adopt the parties' agreement as orders of the court if it determines the agreement is in the best interests of the child. Issues that are not resolved through facilitation or not adopted as an order of the court may be referred back by the court for additional facilitation, may be resolved by order of the court based on a summary presentation, or may be scheduled by the court for a subsequent hearing or fact finding.

The rules of evidence do not apply in facilitation.

**Termination of Facilitation** – The facilitator may terminate facilitation whenever the facilitator believes that continuation of the process would harm or prejudice the child or one or more of the parties. The facilitator may bifurcate the process whenever the facilitator determines that due to a party's history of domestic violence would impede another party's ability to openly discuss issues should the other person be present.

**Confidentiality** – Statements and issues discussed in facilitation are confidential and may not be used as statements against interest or otherwise against a party in any Initial Hearing, fact finding, or pending or impending civil or criminal trial unless consent by the declarant is given. Facilitators shall not be subject to process requiring the disclosure of any matter discussed during the facilitation, but rather, such matter shall be considered confidential and privileged in nature. The confidentiality requirement may not be waived by the parties, and an objection to the obtaining of testimony or physical evidence from facilitation may be made by any party or by the facilitators.

**Qualification of Facilitators** – All facilitators shall be appointed by the court. In determining the appointment of a facilitator, the court may require the following training to be completed: A series of court-approved classes or seminars on the principles of Family Group Decision Making and/or dependency mediation as offered by the court, the American Humane Association, model courts designated by the National Counsel of Juvenile and Family Court Judges; or dependency mediation courses that may be offered by the Association of Family and Conciliation Courts;

Classes or seminars on the law governing children in need of services;

Classes or seminars on issues related to poverty, racial and cultural diversity, strength based practices, and positive youth development; and,

In addition to the foregoing, the court may require a facilitator to complete Alternative Dispute Resolution training as set forth in Alternative Dispute Resolution Rule 2.5

**Appointment of Pauper Counsel** – Any party requesting appointment of paper council in any case shall complete a questionnaire prescribed by the court that requests information regarding the applicant’s employment, earnings, financial resources, education, training, age, family composition, disabilities, or other information necessary for the court to consider the applicant’s eligibility for the appointment of pauper counsel. After considering the complexities of the factual and legal issues in this case, the likelihood of the applicant’s ability to prevail on the merits of the case, the ability of the applicant to investigate and present the applicant’s claims and/or defenses without an attorney, and the opportunity for facilitation/mediation, the court will enter findings and order that determines whether the applicant has sufficient means to defend or prosecute the case. Based on its findings, the court may appoint pauper counsel who will be fully or partially compensated by the court. The court may require the applicant to pay and be responsible for all or part of the pauper counsel’s fees.

**Attorney Guardian ad Litem and Pauper Counsel Fees** – Services by attorneys appointed by the court to serve as paper counsel or as a guardian ad litem shall be deemed quasi pro bono and shall be paid upon submission of a claim for services as restricted by the court’s fee schedule. The fee schedule will be based upon an hourly fee as set forth in the court’s order of appointment. With the exception of costs of copying and postage, any fees or costs not set out in the fee schedule must be pre-approved by the court. By acceptance of appointment the court appointed counsel agrees to abide by the fee schedule established by the court and further agrees to timely submit all claims for payment. Claims for payment should be submitted on the day services are rendered unless other arrangements are made with the court. Any claims for fee not submitted within thirty (30) days from the date the services were rendered will be deemed waived and such services will be regarded as rendered entirely pro bono.

*Adopted effective May 1, 2007.*

**LR02-DR00-738. Adoptions**

- (1) A final hearing shall be scheduled by the court on its own motion or at the requests of any party only after the court has examined the court file and determined that all conditions precedent to finalization have been met.
- (2) All other adoption matters shall be disposed of in accordance with the Indiana Rules of Trial Procedure and the applicable Indiana Code.

*Adopted effective May 1, 2007.*

**LR02-JV00-739 Allen Superior Court Paternity Procedures:**

- (1) All Superior Court paternity filings shall be filed at the Allen County Juvenile Center.
- (2) The Court may order the State of Indiana to file all its paternity pleadings within the existing case management system of the Allen County Juvenile Center.
- (3) The child must always be a party. Each child must be listed on their own Verified Petition and the caption should reflect the child’s full legal name by next friend.
- (4) Prior to a paternity trial, the court may order all parties to submit to DNA testing. In the event of DNA exclusion, the court may assess the costs of DNA testing to the Petitioner.
- (5) In the event that custody or parenting time issues are presented for Court consideration, the Court on its own motion or on the motion of any party, may order a party to submit to a parenting inventory, skill, risk, and/or needs assessment.

*Adopted May 1, 2007.*

**LR02-JV00-740. Juvenile Delinquency Proceedings**

- (1) The Court may order the State of Indiana and the Office of the Public Defender to file its pleadings within the existing case management system of the Allen County Juvenile Center.
- (2) If a child is detained in secure detention, a Probable Cause and Detention Review shall be conducted within 48 hours, including weekends and holidays.

*Adopted effective May 1, 2007.*

**LOCAL CRIMINAL RULES OF  
THE ALLEN SUPERIOR & CIRCUIT COURT  
hereinafter referred to as COURTS**

**Effective January 1, 1995  
Including Amendments Received Through January 1, 2018**

Rule	
<b>LR02-TR81-1</b>	Scope of the Rules
<b>LR02-CR2.2-1</b>	Assignment of Criminal Cases
<b>LR02-CR2.1-1</b>	Court Appearances
<b>LR02-CR00-1</b>	Appointed Counsel
<b>LR02-CR2.1-2</b>	Appearance of Counsel
<b>LR02-TR3.1-3</b>	Withdrawal of Counsel
<b>LR02-CR10-1</b>	Initial Hearing and Plea
<b>LR02-TR00-4</b>	Trial Setting
<b>LR02-CR10-2</b>	Trial
<b>LR02-TR51-1</b>	Jury Instructions
<b>LR02-TR7-2</b>	Motions for Criminal Court
<b>LR02-TR53.5-2</b>	Continuances - Criminal
<b>LR02-CR00-2</b>	Failure to Appear
<b>LR02-TR26-1</b>	Pre-Trial Discovery
<b>LR02-CR00-2</b>	Motion to Sequester
<b>LR02-TR00-5</b>	Stipulations
<b>LR02-TR16-1</b>	Pre-Trial Conference
<b>LR02-TR47-1</b>	Selection of a Jury Panel
<b>LR02-CR00-3</b>	Special Procedures for Misdemeanor and Traffic Division
<b>LR02-TR00-6</b>	Procedure not Otherwise Specified
<b>LR02-TR00-7</b>	Service of Notice of Appeal
<b>LR02-TR00-49</b>	Schedule of Fees for Court Alcohol and Drug Program Services
<b>LR02-CR00-19</b>	Search Warrant Procedures

## **LR02-TR81-1. Scope of the Rules**

These rules are adopted pursuant to the authority of Indiana Rules of Trial Procedure, T.R. 81, and are intended to supplement those rules as well as the Indiana Rules of Criminal Procedure. They shall govern the practice and procedure in all cases in the Courts, Criminal Division, and shall be construed to secure the just, speedy and efficient determination of every action.

*Adopted as Superior Criminal Rule 1, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 81-1, and amended effective February 1, 2016*

## **LR02-CR2.2-1 Assignment of Criminal Cases**

Pursuant to CR 2.2 Effective January 1, 2005, Criminal cases filed in Allen County, Indiana shall be before the Court herein designated as follows:

### **A. Original Assignments-Charged by Information**

1. All Criminal cases filed by information, charging an offense of:  
Operating a Motor Vehicle With Lifetime Suspension, a Level 5 Felony, I.C. 9-30-10-17;  
Operating While Intoxicated, a Level 6 felony, I.C. 9-30-5-3;  
Operating Vehicle as Habitual Traffic Violator, a Level 6 felony I.C. 9-30-10-16;  
Criminal Non-Support of Dependents, I.C. 35-46-1-5 through I.C. 35-46-1-7;  
shall be filed before the Allen Circuit Court.
2. All other criminal cases, filed by Information, other than those filed before the Allen Circuit Court pursuant to Paragraph 1 above, shall be filed in the Allen Superior Court, Criminal Division.
3. Unless pendent to a felony, all misdemeanors shall be filed in the Misdemeanor and Traffic Division of the Allen Superior Court, Criminal Division.
4. Within the Allen Superior Court, Criminal Division, felony offenses shall be filed as follows:
  - a) Two (2) Judges shall preside over all Murder, Level 1, 2, 3, and 4 felonies, excluding Drug cases.
  - b) One (1) Judge shall preside over all Level 5 and 6 Felonies, and over all Drug cases not assigned to the Drug Court Intervention Program.
5. Designation of Judges to the categories, referred to in Section 4(a) and (b), shall be by Order of the Judges of the Allen Superior Court, Criminal Division, to be made on or before May 1, 1995 and annually prior to January 1 each year thereafter.

**B. Original Assignment-Indictment by Grand Jury.** All criminal prosecutions, investigated and by True Bill returned as a Grand Jury indictment, shall be filed in the respective Criminal Courts of Allen County as provided in Paragraph A above.

**C. Assignment By Transfer.** Transfers of cases may be made between the Allen Circuit Court and the Allen Superior Court, Criminal Division, at the discretion of and with the consent of respective Judges of said Courts to accommodate the respective work load of said judges. Said transfers shall be made pursuant to I.C. 33-33-2-25 and I.C. 33-33-2-26  
Transfers of individual cases may be made among Judges of the Allen Superior Court, Criminal Division, at the discretion of and with the consent of said Judges to accommodate the respective work loads of said Judges.

**D. Special Judge Assignment.** In the event of disqualification, recusal, or other change of Judge, the case shall be reassigned in random order in equal numbers to one of the Judges exercising Felony or Misdemeanor jurisdiction in Allen County. A Judge who previously served in the case is not eligible for reassignment.

If a judge is not available for reassignment from the judges in Allen County, then the Clerk of the Court shall select a special judge (on a rotating basis) from a list of judicial officers from contiguous counties.

In the event no Judge is available for reassignment of a Felony or Misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a Special Judge. In the event the Judge presiding in a Felony or Misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a Special Judge, the presiding Judge may request the Indiana Supreme Court for such appointment.

**E. Miscellaneous.** Cases dismissed and re-filed shall be filed or assigned to the Judge presiding at the time of the dismissal, regardless of the foregoing rules of assignment. This rule may be modified upon order and notice of a minimum of 30 days by the Allen Circuit Court or the majority of the Judges of the Allen Superior Court, Criminal Division. Following such an order of modification, should the Judges of the Allen Circuit and Allen Superior Court, Criminal Division fail to adopt a new plan pursuant to CR2.2 within 30 days, the Supreme Court of Indiana shall be notified.

*Adopted effective April 11, 1995 Amended September 29, 2004, effective January 1, 2005; amended September 28, 2010, effective January 1, 2011; amended effective February 1, 2016; amended effective January 1, 2018.*

#### **LR02-CR2.1-1. Court Appearances**

(A) If an arrested person is released from custody or admitted to bail prior to his first court appearance, he shall personally appear in court forthwith or at such other time as competent authority may direct.

(B) Upon the first appearance of the defendant, the court shall inform the defendant of the charge pending against him and of his rights as required by IC 35-33-7-5.

(C) The court may allow the defendant reasonable time and opportunity to consult counsel.

(D) The court may admit the defendant to bail as provided by law, or by court rule or order.

(E) The court shall fix a time for the defendant's next court appearance which shall be the omnibus hearing unless otherwise ordered.

(F) In all felony cases, the defendant is required to appear personally for appointment of counsel, waivers of right, initial hearing, omnibus hearing, plea, trial setting, trial, and such other times as the court may direct.

(G) In all misdemeanor cases, the defendant is required to appear personally at the initial hearing, guilty plea, waivers of right, unless a written waiver is provided, and jury verification.

*Adopted as Superior Criminal Rule 2, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 2.1-1 and amended effective December 7, 2006.*

### **LR02-CR00-1. Appointed Counsel**

- (A) A defendant, who is financially unable to obtain counsel, and who is not charged with an infraction or ordinance violation, is entitled to appointed counsel in accordance with this rule.
- (B) If a defendant states that he is financially unable to obtain counsel, the court shall cause the defendant's financial circumstances to be investigated.
- (C) If the court's investigation reveals that the defendant is indigent, the court shall appoint the Allen County Public Defender to represent the defendant.
- (D) Notwithstanding the provisions of this rule, the court may, in the interest of justice, appoint counsel for any person at any stage of any proceedings.

*Adopted as Superior Criminal Rule 3, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 00-1, and amended effective December 7, 2006.*

### **LR02-CR2.1-2. Appearance of Counsel**

- (A) Any attorney representing a defendant shall appear for such defendant immediately upon being retained or appointed, by signing and filing an appearance in writing with the court containing his name, attorney number, address and telephone number and shall serve a copy of said appearance on the Deputy Prosecuting Attorney assigned to the cause or to the office of the Prosecuting Attorney.
- (B) At such time as the Office of the Prosecuting Attorney assigns a case to a Deputy Prosecuting Attorney, that Deputy Prosecuting Attorney shall file a written appearance in the same form as set out above, and shall serve a copy of the appearance on counsel for the defendant.

*Adopted as Superior Criminal Rule 4, effective January 1, 1995, Renumbered as Superior and Circuit Criminal Rule 2.1-2, and amended effective December 7, 2006.*

### **LR02-TR3.1-3. Withdrawal of Counsel**

- (A) Permission of the court is required to withdraw the appearance of counsel for a defendant. IC 35-36-8-2 shall govern the granting of such permission.
- (B) Counsel desiring to withdraw their appearance shall notify the defendant of such intention, in writing, not less than ten (10) days prior to the counsel's filing of such motion. Counsel shall further send notice of the filing of said motion to the defendant, which notice shall indicate the date, time and place of said hearing. It shall be sent by first class mail and shall inform the defendant of the necessity to be present. A copy of said notice shall be attached to counsel's Motion to Withdraw. No withdrawal of appearance shall be granted unless said procedure is followed.

*Adopted as Superior Criminal Rule 5, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 3.1-3, and amended effective December 7, 2006.*

**LR02-CR10-1. Initial Hearing and Plea**

- (A) Initial hearings shall be conducted pursuant to and in accordance with IC 35-33-7-5 et seq.
- (B) Guilty pleas shall be conducted pursuant to and in accordance with IC 35-35-1-1 et seq.
- (C) All guilty pleas with a plea agreement must be finalized and a plea entered not later than 1:30 p.m. of the last business day prior to the jury trial date. No plea agreement will be considered by the court after that date. The court will deny all requests for a continuance based on the need for further plea negotiations.

*Adopted as Superior Criminal Rule 6, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 10-1, and amended effective December 7, 2006.*

**LR02-TR00-4. Trial Setting**

Setting of trials on the same date with different Judges is prohibited. Multiple settings for the same trial date with the same Judge is allowed.

*Adopted as Superior Criminal Rule 7, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 4, and amended effective December 7, 2006.*

**LR02-CR10-2. Trial**

- (A) If the defendant pleads not guilty, the court shall determine whether a jury trial is waived and shall fix a time for the trial. The date of trial shall be fixed at such time as will afford the defendant a reasonable opportunity for preparation and for representation by counsel if desired.
- (B) A verbatim record shall be taken in all trials.

*Adopted as Superior Criminal Rule 8, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 10-2, and amended effective December 7, 2006.*

**LR02-TR51-1. Jury Instructions**

- (A) All requests for jury instructions tendered in accordance with Criminal Rule 8 and Trial Rule 51 of the Indiana Rules of Trial Procedure must be submitted to the court, with citations of authority, not later than the day prior to the trial. Parties are encouraged to utilize the Indiana Pattern Jury Instructions wherever possible.
- (B) Exceptions to this requirement will be made only when the matters on which the instruction is sought could not have been reasonably anticipated in advance of the trial. Proposed instructions need not be exchanged by counsel until after the evidence has been submitted.

*Adopted as Superior Criminal Rule 9, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 51-1, and amended effective December 7, 2006.*

**LR02-TR7-2. Motions for Criminal Court**

- (A) The Court encourages the early filing of motions so that they can be ruled upon prior to the day of trial.



(B) An application to the court for an order shall be by motion. A motion other than one made during the trial or hearing shall be in writing. Unless otherwise provided by law or rule, only the original copy of a motion need be filed. It shall state the grounds upon which it is made and set forth the relief or order sought. It may be supported by affidavit. It shall be accompanied by a memorandum of law in support thereof. It shall be signed by an attorney of record or the defendant personally and shall clearly identify the name, attorney number and address of any attorney filing the same. A rubber stamp or facsimile signature on the original copy shall not be acceptable.

(C) All motions requiring a hearing before the court shall be set on the court calendar by the moving party after first consulting with opposing counsel. Any motion requiring a hearing before the court which is not set for hearing on the court calendar by the moving party shall be summarily denied.

(D) A proposed form of order shall accompany all motions.

*Adopted as Superior Criminal Rule 10, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 7-2, and amended effective December 7, 2006.*

#### **LR02-TR53.5-2. Continuances Criminal**

Upon motion of any party, the court may grant a continuance only upon a showing of good cause and only for so long as necessary, taking into account not only the request or consent of the prosecution or defendant, but also the public interest in the prompt disposition of the case. All motions seeking a continuance shall be heard by the court and shall therefore be set for hearing in accordance with Rule 7-2(C) above.

*Adopted as Superior Criminal Rule 11, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 53.5-2, and amended effective December 7, 2006.*

#### **LR02-CR00-2. Failure to Appear**

If a defendant fails to appear before the court when summoned or otherwise ordered by the court to appear, the court may summarily issue a warrant for his immediate arrest and appearance before the court.

*Adopted as Superior Criminal Rule 12, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 00-2, and amended effective December 7, 2006.*

#### **LR02-TR26-1. Pre-Trial Discovery**

In all felony cases, the court has entered the following General Order concerning pre-trial discovery:

(A) The State shall disclose to the defendant the following material and information on or before thirty (30) days following the Initial Hearing.

(1) The names and last known addresses of persons whom the State may call as witnesses, together with

(a) their relevant written or recorded statements;

(b) memoranda containing substantially verbatim reports of their oral statements (if any memoranda exist);

- (c) memoranda reporting or summarizing oral statements (if such memoranda exist);
- (d) a brief statement indicating the nature of each witness' involvement in the case; such statements may be no more than a reference to statements described in paragraphs (A)(1), (a), (b), or (c) above.
- (2) Any written or recorded statements and the substance of any oral statements made by the accused or by a co-defendant, and a list of witnesses to the making and acknowledgement of such statements.
- (3) A transcript of the recorded grand jury testimony of persons whom the prosecuting attorney may call as witnesses at a hearing or trial. A typed transcript of said testimony shall be provided if it is available.
- (4) Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons.
- (5) Any books, papers, documents, photographs, or tangible objects which the prosecuting attorney intends to use in the hearing or trial or which were obtained from or belong to the accused, together with the location of such items and an indication of appropriate means for defense counsel's examination of same. Under circumstances where chain of custody issues are readily apparent, such as drug cases, such chain shall be provided to the extent available on the disclosure date provided above and shall be supplemented:
  - (a) upon defendant's written request;
  - (b) by pre-trial conference; and
  - (c) thereafter as ordered to complete such chain.
- (6) Any record of prior criminal convictions which may be used for impeachment of the persons whom the State intends to call as witnesses at the hearing or trial.
- (7) A copy of any written agreement and the complete substance of any oral agreement made by the State with
  - (a) any witnesses to secure their testimony or
  - (b) any co-defendant or other person charged arising out of the same incident.
- (8) Any evidence which tends to negate the guilt of the accused as to the crime charged or tends to reduce the class of the act alleged or which would tend to mitigate his punishment.
- (9) Evidence of other crimes which the State intends to use at trial, pursuant to Rule 404, Indiana Rules of Evidence.
- (10) Newly discovered material within the above categories shall be provided to opposing counsel as soon as reasonably possible following discovery of same.
- (B)
  - (1) The State shall perform these obligations in any manner mutually agreeable to the Prosecutor's Office and to defense counsel. The State shall provide legible copies of existing written statements described in paragraphs (A)(1), (2), (3), and (7). Other items shall be provided for examination, testing, copying, photographing, or other proper use either by agreement or at specified reasonable times and places. Defense counsel shall provide reasonable notice of such examination and shall schedule these examinations in cooperation with the State. An application to the court shall be made to obtain copies of audio or videotape. Said application shall state in specific terms the necessity for such copies.
  - (2) The State shall make a record of compliance with this order not more than five (5) days after the date set out in paragraph (A) above by filing with the court:
    - (a) its witness list together with the statement described in (A)(1)(d);
    - (b) a suitable description of memoranda and items provided, but not necessarily by providing copies of all such items to the court; and
    - (c) an indication of arrangements made for inspection, if any.

(C) Subject to constitutional limitations, and not later than thirty (30) days following the date that the State has provided to the defense the information required under this rule, defense counsel shall inform the State of any defense which counsel intends to present at a hearing or trial and shall furnish the State with the following information within counsel's possession and control:

(1) The names, last known addresses, dates of birth and social security numbers of persons defense counsel intends to call as witnesses.

(2) Any books, papers, documents, photographs, or tangible objects which are intended to be used at a hearing or trial.

(D)

(1) The defense shall perform these obligations in any manner mutually agreeable to the Prosecutor's Office and to defense counsel. Defense shall provide the same documents in a fashion similar to the State's obligations described in (B)(1).

(2) The defense shall make a record of compliance with this order not more than five (5) days after the date set out in paragraph (C) above by filing with the court:

(a) its witness list together with the statement described in (C)(1)(a);

(b) a suitable description of items provided for examination, etc.; and

(c) the statement of defense described in (C).

(E) The court anticipates that compliance will be deemed satisfactory unless failure to comply is brought to the court's attention by Motion to Compel. Sanctions for failure of compliance or violations of orders on Motion to Compel shall be pursuant to Trial Rule 37. Prior to the filing of a Motion to Compel counsel shall comply with the provisions of Trial Rule 26(F).

(F) Nothing herein shall limit any party's right to seek protective orders to avoid destruction or other loss of evidence, or to seek deposition at such times as they may desire.

(G) The court may deny disclosure upon showing that:

(1) There is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment resulting from such disclosure which outweighs any usefulness of the disclosure to counsel.

(2) There is a paramount interest in non-disclosure of an informant's identity and a failure to disclose will not infringe the constitutional rights of the accused. Disclosure of the identity of witnesses to be produced at a hearing or trial will be required.

(3) Such determination of non-disclosure shall be by the court and shall not be within the discretion of the State or defense. Such non-disclosure shall be sought by motion for protective order.

(H) Disclosure shall not be required of:

(1) Any matter otherwise protected by law (however disclosing the identity of juvenile co-defendants or witnesses shall not be barred because of delinquency non-disclosure statutes).

(2) Work product of counsel including memoranda of opinions, theories, or research for themselves or from their legal or in-house investigative staff.

(I) This discovery order is a continuing order through the trial of this cause and no written motion shall normally be required except to compel discovery, for a protective order, or for an extension of time.

(J) Failure of either party to engage in and comply with discovery shall not be excused by the parties' unsuccessful or incomplete efforts to enter into a plea agreement or other resolution of the case unless both parties waive in writing

(1) compliance with this order for a specified period of time and

(2) any speedy trial requirements.

(K) Any cost for reproduction or transcripts under this order shall be borne by the party to whom the information is provided except that as to pauper counsel defendants the costs shall be borne by the State or County.

- (L) The time limits for providing discovery materials to opposing counsel set out at (A) and (B) herein shall be reduced to fifteen (15) days in the event that the defendant requests a speedy trial.
- (M) Depositions should be scheduled for, and taken at, the Office of the Allen Prosecuting Attorney.
- (N) Nothing in this Order shall be in contravention of case law or statute.

*Adopted as Superior Criminal Rule 13, effective January 1, 1995. Amended effective March 1, 1996; February 22, 1999, effective July 1, 1999; renumbered as Superior and Circuit Criminal Rule 81-1, and amended effective December 7, 2006.*

**LR02-CR00-2. Motion to Sequester**

All motions to sequester a jury shall be filed no later than the 30th day preceding the time fixed for trial or within five (5) days after setting the case for trial, whichever is later.

*Adopted as Superior Criminal Rule 14, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 00-2, and amended effective December 7, 2006.*

**LR02-TR00-5. Stipulations**

All stipulations must be in writing, signed by all parties or their counsel, signed by the defendant personally, and approved by the court.

*Adopted as Superior Criminal Rule 15, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 5, and amended effective December 7, 2006.*

**LR02-TR16-1. Pretrial Conference**

At any time after the filing of the indictment or information, the court upon motion of any party or upon its own motion, may order one or more conferences to consider such matters as will promote a fair and expeditious trial. At the conclusion of a conference the court shall prepare and file a memorandum of the matters agreed upon. No admission made by the defendant or his attorney at the conference shall be used against the defendant unless the admissions are reduced to writing and signed by the defendant and his attorney.

*Adopted as Superior Criminal Rule 16, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 16-1, and amended effective December 7, 2006.*

**LR02-TR47-1. Selection of a Jury Panel**

When jury panels have been drawn, the clerk shall cause a questionnaire to be sent to each member of such panels to be answered and returned by such persons. Such completed jury questionnaires are confidential and may only be removed from the files of the clerk or court by an attorney of record giving a proper receipt for a period of twenty-four (24) hours for inspection and copying the same.

*Adopted as Superior Criminal Rule 17, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 47-1, and amended effective December 7, 2006.*

**LR02-CR00-3. Special Procedures for Misdemeanor and Traffic Division**

(A) An attorney may enter his appearance on behalf of a defendant prior to the defendant's next court appearance and secure a one (1) week continuance without appearing before the court.

(B) Defendants requesting counsel (private or public defender) will be granted a continuance of 2 weeks for the purpose of obtaining counsel.

(C) Upon initial appearance, counsel will be entitled, upon request, to a continuance of 2 to 3 weeks for the purpose of investigating the case, discussing potential settlement with the Prosecuting Attorney, etc.

(D) At second appearance, counsel and client **MUST** be prepared to enter a plea (guilty or not guilty) in the case.

(E) Clients **MUST** accompany attorneys at **ALL** court appearances including initial continuances for investigation, trial setting, jury verification, etc.

(F) The defendant must appear personally, or a written waiver signed by the defendant must be filed in order to waive trial by jury.

(G) When a jury trial is requested, a jury verification date shall be set not later than six (6) days prior to the date set for the jury trial. The defendant shall appear personally on that date.

Failure of the defendant and his attorney to appear shall result in the jury trial being cancelled and reset for a later date, and defendant being remanded to the custody of the Allen County Sheriff pending trial.

*Adopted as Superior Criminal Rule 18, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 00-3, and amended effective December 7, 2006.*

**LR02-TR00-6. Procedure Not Otherwise Specified**

If no procedure is specially prescribed by these rules, the court may proceed in any lawful manner not inconsistent with these rules or with any applicable constitutional provision, statute, rule of the Supreme Court of Indiana, or local civil rules of the Courts.

*Adopted as Superior Criminal Rule 19, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 6, and amended effective December 7, 2006.*

**LR02-TR00-7. Service of Notice of Appeal**

In addition to filing the Notice of Appeal with the Clerk, the Notice of Appeal shall also be hand-delivered to the Court Reporter for the Judicial Officer from which the appeal is taken.

The Court Reporter shall make a CCS entry acknowledging receipt of the Notice of Appeal.

*Adopted as Superior Criminal Rule 20, effective January 1, 1995. Renumbered as Superior and Circuit Criminal Rule 7, and amended effective December 7, 2006.*

**LR02-TR00-49. The Assessment of Court Drug and Alcohol Program Fees and Problem-Solving Court Program Fees**

The Criminal Division of this Court, having previously determined that assessment of fees for services provided by the Court's Criminal Division Services (Alcohol Countermeasures program, Drug Court/Problem-Solving Court Program, Pre-Trial Services Program) for clients enrolled in these programs is appropriate; the Court now adopts a SCHEDULE OF FEES pursuant to the authority granted by statute in I.C. 12-23-14, I.C. 33-23-16-20 and I.C. 33-23-16-23.

(1) The SCHEDULE OF PROGRAM FEES set forth under Indiana code for Court Drug and Alcohol Programs and Problem-Solving Courts shall be applicable.

Fees payable to the Clerk of the Courts for deposit with the Auditor of Allen County into the designated County User Fee Fund.

(2) Criminal Division Services urine drug screen fees (UDS) shall be reasonably assessed utilizing Problem-Solving Court sanctions/incentives as appropriate and based upon specific lab costs and administrative processing fees.

Fees payable to Criminal Division Services for deposit with the Auditor of Allen County into the designated County User Fee Fund.

*Adopted effective January 1, 2012.*

### **LR02-CR00-19. Search Warrant Procedures**

(A) The law enforcement officer requesting the search warrant will present an Affidavit of Probable Cause and proposed Search Warrant to the Judge for consideration. The affidavit will be sworn before the Judge.

-OR-

The law enforcement officer requesting the search warrant may give sworn testimony pursuant to the requirements of I.C. 35-33-5-2 (orally) and 35-33-5-8 (by fax).

(B) If the Judge determines that probable cause exists, the search warrant will be issued by the Judge and will include the date and time of the issuance of the warrant. Proceedings shall be closed, confidential and sealed.

(C) The Court shall retain the original and a copy of the affidavit and a copy of the warrant. They shall all be time stamped.

(D) The Search warrant proceeding shall be assigned an MC number and shall be placed in the Confidential Order Book and indexed by name and address.

(E) Within 72 hours of the execution of the search warrant the law enforcement officer shall file with the Court the duplicate original of the search warrant together with a completed Return, all of which shall be dated, time stamped and duly recorded on the Chronological Case Summary and in the Confidential Order Book of the assigned Miscellaneous Criminal proceedings.

The law enforcement officer shall file within 10 days any unexecuted search warrant in the same manner as set out above.

(F) The filing of the executed or unexecuted search warrant shall close the case for statistical purposes.

*Adopted effective March 22, 2000*

## JOINT LOCAL RULE #2

### PURSUANT TO ADMINISTRATIVE RULE 15

#### LR02-AR00-1. Rule for Court Reporter Services

**Section One. 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 7.2.
- (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 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 work week.
- (9) *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.
- (10) *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts in Allen County.
- (11) *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.
- (12) *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.

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

(14) *Expedited transcript* means a transcript which is requested to be prepared within five (5) working days or less.

## **Section Two. 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 court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. monetary compensation or compensatory time off regular work hours.

(2) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript, state indigent transcript and private practice transcript shall be \$5.25; and an expedited rate of \$7.50 per page for expedited transcripts. The court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.

(3) The maximum fee that a court reporter may charge for copies shall be \$1.00 per page.

(4) The minimum fee that a court reporter may charge for transcripts is \$35.00.

(5) An additional labor charge approximating the hourly rate based upon the court reporter's annual court compensation may be charged for the time spent binding the transcript and exhibits.

(6) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

## **Section Three. Private Practice.**

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, work space and supplies, and the court agrees to the use of the court equipment for such purpose, 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, work space and supplies;

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

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

*Adopted as Rule 2, June 16, 1998, effective October 30, 1998. Amended March 15, 2002, effective January 1, 2002; renumbered as Rule 1, and amended effective December 7, 2006; amended and adopted effective March 1, 2014. Amended effected May 27, 2016 and adopted effective July 1, 2016; amended and adopted April 1, 2018.*



## **LR02-AR1E-1      Allen County Caseload Allocation Plan**

### **(A) Domestic Relations (DC/DN) cases with self-represented litigants**

New cases filed with the Clerk of the Allen Superior and Circuit Court on a Verified Petition for Dissolution of Marriage without legal representation shall be assigned on an alternating basis (every other case) to Superior Court 8 and Circuit Court respectively.

### **(B) Mortgage Foreclosures (MF)**

- (1) 10% shall be filed in Circuit Court, and
- (2) 90% shall be filed in Superior Court 1.

### **(C) Civil Collections (CC)**

Civil Collection (CC) cases shall be assigned in the proportion of 100% in Superior Court, divided evenly among the four judges of the Civil Division (Superior 1, Superior 2, Superior 3 and Superior 9).

### **(D) Criminal Cases**

- (1) All MR, F1, F2, F3, F4, F5, F6, PC, OV and IF cases except as provided in (D)(3) herein below, shall be divided evenly among Superior 4, Superior 5 and Superior 6.
- (2) All CM cases shall be divided as follows: 40% in Superior 4, 30% in Superior 5 and 30% in Superior 6.
- (3) All Criminal cases filed by information, charging an offense of:
  - (a) Operating a Motor Vehicle with Lifetime Suspension, a Level 5 Felony, I.C. 35-30-10-17.
  - (b) Operating While Intoxicated, a Level 6 Felony, I.C. 9-30-5-3.
  - (c) Operating Vehicle as Habitual Traffic Violator, a Level 6 Felony, I.C. 9-30-10-16.
  - (d) Criminal Non-support of Dependents, a Level 6 Felony, I.C. 35-46-1-5 through I.C. 35-46-1-6shall be filed in the Allen Circuit Court.

### **(E) Other Civil Cases**

- (1) All Small Claims (SC) cases shall be filed in Superior Court and divided evenly among Superior Court 1, 2, 3 and 9.
- (2) Civil plenary (PL) cases may be filed in Circuit Court or Superior Court. Of those PL cases filed in Superior Court, injunctive relief petitions shall be filed in Superior Court 3. All other Superior Court PL cases shall be divided evenly among Superior 1, Superior 2, Superior 3 and Superior 9.
- (3) All mental health (MH) cases shall be filed in Superior Court 9.
- (4) All Protective Order (PO) cases shall be divided evenly among Superior 1, Superior 2, Superior 3 and Superior 9, with the exception that petitions to prohibit Workplace Violence shall be filed in Superior Court 2.
- (5) All Estate supervised/unsupervised (ES and EU) cases shall be filed in Superior Court 2.
- (6) All Estate miscellaneous (EM), Guardianship (GU) and Trust (TR) cases shall be filed in Superior Court 3.

### **(F) Civil Tort (CT)**

100% of civil tort claims (CT) will be filed in the Superior Court, divided evenly among Superior 1, Superior 2, Superior 3 and Superior 9.

**(G) Civil Miscellaneous (MI), Property Tax (TS/TP) and Expungement (XP)**

Property tax cases, property forfeiture cases, expungement cases originating in Circuit Court and name change cases shall be filed in Circuit Court. For civil miscellaneous (MI) cases, all Specialized Driving Privileges shall be filed in Superior Court 9, structured settlements shall be filed in Superior Court 2, and custody/visitation petitions filed by grandparents or other third parties shall be filed in Superior Court 8. All other civil miscellaneous (MI) cases shall be filed in Superior Court, Civil Division and divided among Superior 1, 2, 3, and 9. Expungement (XP) filings originating in Superior Court shall be divided equally among Superior 4, 5, and 6.

**(H) Juvenile Cases**

(1) All juvenile CHINS (JC), juvenile termination (JT), and adoptions (AD) shall be filed in Superior Court 8, and juvenile delinquency (JD) and juvenile status (JS) shall be filed in Superior Court 7. Juvenile miscellaneous (JM) cases shall be filed in Superior Court 7 or 8.

(2) Juvenile Paternity (JP) cases may be filed in Circuit Court or Superior Court. All JP cases filed in Superior Court shall be assigned to Superior Court 7.

**(I) Other Family Cases**

(1) Domestic relations (DC/DN) may be filed in Circuit Court or Superior Court.

(2) Of the DC/DN cases filed in Superior Court 100% shall be filed in Superior 8.

(3) All Reciprocal support (RS) cases shall be filed in Superior Court 7.

*Amended effective January 1, 2015; amended effective January 1, 2018.*