

ALLEN COUNTY LOCAL CIVIL RULES

PROPOSED AMENDMENTS

MAY 18, 2018 DRAFT

Committee Members

Bench:

Hon. Craig J. Bobay, Chair
Hon. Nancy E. Boyer
Hon. David J. Avery
Hon. Stanley A. Levine
Hon. Phillip E. Houk
Hon. Andrea R. Trevino
Trish A. Gratz, Court Reporter

Bar:

Mark W. Baeverstad
Timothy W. DeGroot
Kevin K. Fitzharris
Jessi S. Hilger
Heidi K. Koeneman
Craig Patterson
Jennifer E. McKibben
Shane C. Mulholland
David A. Singleton
Katie R. Yarnelle

**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 DRAFT Amendments PROPOSED Through May 18, 2018

Rule

- LR02-AR00~~TR01~~-01** Applicability and Citation of Rules
- LR02-TR4-02** Service of Process
- LR02-TR3.1-03** Appearances
- LR02-TR3.1-04** Withdrawal of Appearance
- LR02-TR5-05** Consent to Alternate Service – Courthouse Boxes
- LR02-TR8-06** Preparation of Pleadings, Motions, Notices, and Other Papers
- ~~LR02-TR77-07~~ **Filing**
- ~~LR02-TR5955-087~~ **Default Judgments**
- LR02-TR7-098** Particular Motions and Hearings Thereon
- A. Setting Motions for Hearing**
 - B. Motions to Correct Error**
 - C. Motions to Amend Pleading**
 - D. Motions Not Likely to Require Hearing**
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 - J. Trial Rule 12 Defenses**
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- LR02-TR0086-10** Proposed Orders
- LR02-TR53.1-11** Failure to Rule – Informal Procedure
- LR-2-TR53.5-12** Continuances of Hearings and Trials
- ~~LR02-AR00~~TR86~~-13~~ Superior Court Assignment of Cases, ~~Duties of Counsel and Parties, and Time Sensitive Matters~~
- LR02-TR0086-14** ~~Admissions, Stipulations and Agreements~~
- LR02-AR07-15** Retention Periods for Evidence
- LR02-TR00-16** Attorney’s Fees and Court Costs
- LR02-TR69-17** Proceedings Supplemental
- ~~LR02-TR69-18~~ Court Orders to Appear (COTA)
- LR02-TR69-198** Proceedings Supplemental: Contempt/Rule to Show Cause/Body Attachment

LR02-TR69-2019 **Proceedings Supplemental: Garnishment**
LR02-AR00-21 **Authority of Attorneys' Employees**
LR02-AR00-22 **Conflicts**
LR02-AR00-23 **Attorney and Personal Representative Fee Guidelines For Decedents' Estates**
LR02-AR00-21 **Authority of Magistrate in Probate Proceedings**
LR02-TR79-2422 **Selection of a Special Judge Pursuant to TR 79(H)**
LR02-TR33-26 **Discovery: Interrogatories, Requests for Admission, Time to Serve, Disputes**
LR02-TR42-27 **24 Consolidation of Cases**
LR02-JR00-25 **Juror Privacy**
LR02-AR00-28 **26 Preventing Independent Juror Research**

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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 August 1, 2018.

A. **Procedure for Service of Process Summons, Complaint, and Appearance.** The party filing the initial pleadings (summons, complaint, appearance, etc.) shall file by way of the IEFS and pursuant to Trial Rules 4 and 86.

~~(1) **By Mail.** When service by certified mail is requested, the party shall not prepare envelopes, but shall furnish for each party to be served, the originals and three copies of prepared summons, complaints, notices or subpoenas to the Clerk, who shall prepare the envelopes using the addresses furnished. Proper postage and return receipt request card will be furnished by the Clerk. Upon receipt of the return, the Clerk shall insert the return with the pleadings in the packet. Initiating pleadings including the summons, complaint and appearance, as well as any pleading or paper file contemporaneously therewith, filed by way of the Court's electronic filing system, shall be served by the initiating party consistent with Trial Rule 4. The initiating attorney or party shall file a Certificate of Issuance of Service with the court certifying that service of the initiating pleadings has been effectuated.~~

~~(2) **By Sheriff or Private Process.** When Sheriff service is requested, the party shall furnish for each party to be served, the original and three copies of prepared summons, complaints, notices or subpoenas to the Clerk, who will forward the documents to the Sheriff for proper service. In cases where the initiating pleading are served by sheriff or private process as provided in Trial Rule 4, the initiating attorney or party shall file a Certificate of Issuance of Service with the Court setting forth the date and time of service and attach as an exhibit thereto a copy of an affidavit of the person who personally effectuated service.~~

(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 D 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. Summons and Complaint Served Together Exceptions.~~ ~~The summons and complaint shall be served as provided by the Trial Rule 4(E) except as may otherwise be provided by statute or other Trial Rule.~~

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 D 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 E 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 August 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 ~~and serve a copy on all parties of record.~~ 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. ~~Filing Appearance.~~** ~~Appearances shall be filed with the Clerk, who shall file stamp the appearance and shall enter the attorney's name and the date of the appearance on the chronological case summary. In addition, the Clerk shall note the attorney's name, address, or box number, and telephone number on the chronological case summary. It is the duty of attorneys to see that their appearance is properly filed and entered.~~
- C. ~~Party Appearing Without an Attorney.~~** ~~When a party to an action appears without an attorney, the party shall give, and the Clerk shall note on the chronological case summary of the case, a name, a mailing address, and telephone number of the party to which notices and communications concerning the case may be delivered and mailed pursuant to T.R. 5 (B).~~
- D. ~~Address Changes.~~** ~~It is the duty of all attorneys who have entered their written appearance and of all parties who are not represented by an attorney, to notify the Court, through the Clerk, of any change of their mailing addresses and telephone numbers. The notification shall be in writing filed separately for each case to which the change applies and served upon other parties to each case or their attorneys of record.~~
- E. ~~Proof of Mailing.~~** ~~Certificates of service or proof of mailing of pleadings concerning any case shall be deemed sufficient proof of service if such pleadings were mailed to the last known address of a party or attorney noted upon the chronological case summary.~~
- 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 August 1, 2018.

- A. Procedure for Withdrawal.** A request 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 ~~his or her~~ the client at least ten (10) days written notice of ~~the his or her~~ intention to withdraw, and has filed a copy of that ~~notice~~ Notice of Intention to Withdraw with the ~~motion to withdraw~~ Court; 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). ~~Once a case has been assigned to a judge, no motion to withdraw appearance shall be granted except by the judge to whom the case has been assigned.~~ 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 ~~then~~ 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. The motion must be substantially similar to Appendix B.
- B. Contents of Notice.** ~~Any notice of intention~~ The Notice of Intention to Withdraw ~~to withdraw~~ shall include an explanation to the client as follows:
- (1) the present status of the case, excluding confidential / privileged information;
 - (2) the ~~date or~~ dates of all scheduled hearings and ~~any~~ other pending matters;
 - (3) advise that the provisions in ~~LR02-~~ A.C.L.Civ.R. 3.1-03 (B) and (C) (regarding party appearing without an attorney) and ~~(D)~~ TR3.1 (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) ~~the that~~ prejudice which might result from failure of the client to act promptly or to secure new counsel; and
 - (6) ~~an attorney, in compliance of T.R. 3.1 (E), shall certify the last known address and telephone number of the party, subject to the confidentiality provisions of T.R. 3.1(A)(8) and (D).~~
- A sample Notice of Intention to Withdraw (Client Letter) is included in these Local Rules at Appendix C.

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 August 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 library of the Allen County Courthouse for receipt of ~~notices, pleadings, process orders, or other~~ 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 Law Librarian a Consent to Alternate Service (Appendix A).
- C. Effect of Consent.** Deposits made in any assigned box ~~of notices, pleadings, process, orders, or other communications made~~ 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 ~~Law Librarian~~ 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 ~~Law Librarian~~ 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.
- ~~(G) If an attorney revokes consent to alternate service, that attorney must notify the Courts and all counsel of record in any matter that the revoking attorney has an appearance filed.~~

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 August 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.** ~~Pleadings~~ Filings must be ~~printed on~~ e-filed on white paper. ~~The lines~~ Pleadings Filings shall be double spaced except for quotations, which shall be indented and single spaced. ~~Handwritten pleadings may be accepted for filing at the discretion of the Court. Photocopies are acceptable if legible.~~
- B. Font Type and Size.** The font shall be Arial, Baskerville, Book Antiqua, Bookman, Bookman Old Style, Century, Century Schoolbook, Courier, Courier New, CG Times, Garamond, Georgia, New Baskerville, New Century Schoolbook, Palatino, or Times New Roman and the typeface shall be 12-point or large larger in both body text and footnote. 14-point font is preferred for body text.
- C. ~~B. Margins and Binding.~~** ~~Margins shall be 1-1 ½ inches on the left side and ½ – 1 inch on the right. Binding or stapling shall be at the top left and at no other place. Covers or backing shall not be used. Double sided pages shall not be used. All four margins for the text of the document shall be at least one (1) inch from the edge of the page.~~
- D. 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. 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”).
- C. ~~Signature.~~** ~~All pleadings to be signed by an attorney shall contain the written signature of the individual attorney, the attorney’s printed name, Supreme Court Attorney Number, the name of the attorney’s law firm, the attorney’s address, telephone number, and a designation of the party for whom the attorney appears. The following is recommended:~~
- ~~John Doe, #284-703
Doe, Rowe and Smith
2222 Blackburn Building
Fort Wayne, Indiana 46802
(260) 555-1212
Attorney for Defendant~~

~~Neither printed signatures, nor facsimile signatures shall be accepted on original documents. Facsimile signatures are permitted on copies.~~

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 August 1, 2018.

~~LR02-TR77-07~~ Filing

~~A. **Flat Filing.** The files of the Clerk of the Court shall be kept under the “flat filing” system. All pleadings presented for filing with the Clerk or Court shall be flat and unfolded. Only the original of any pleading shall be placed in the Court file.~~

~~B. **Filing Pleadings, File Stamped Copies.** A copy of any pleading required to be served under Trial Rule 5 upon counsel of record or the adverse party shall be file stamped.~~

~~Adopted as Superior Civil Rule 7, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 77-1, and amended effective December 7, 2006. Renumbered as Superior and Circuit Civil Rule TR77-07 effective January 1, 2015.~~

- ~~A. **Written Instruments.** Where a case is based on a written negotiable instrument, the original of the instrument must be filed with the pleading or motion in accordance with Trial Rule 86(D) produced for cancellation when obtaining judgment. If the only instrument produced is a photocopy including the photocopy of the signature of the defendant, an affidavit by plaintiff that the original instrument cannot be found or produced shall be filed before judgment will be issued.~~
- ~~B. **Application for Judgment.** Where an appearance has been entered for a party, the party requesting a judgment shall file an “Application for Judgment” pursuant to Trial Rule 55(B). The movant will set the application for hearing and give notice of the Application and hearing on the party against whom the Default is sought.~~
- ~~C. **Affidavit of Non-Military Service.** No default judgment shall be entered unless there has been filed an affidavit or other evidence, of non-military service, which is satisfactory to the Court.~~
- A. General Requirements.** In addition to the specific requirements set out below in subsection 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. Attorney fees and court costs shall not be added into a general judgment. A separate award and judgment for attorneys fees and/or 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. Original signed contract;
- 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 August 1, 2018. Former Local Rule LR02-TR-59-07 abrogated 2018.

LR02-TR7-098 Particular Motions and Hearings Thereon

- A. Setting Motions for Hearing.** Except for the motions described in LR02-TR7-098(D) below, all motions shall be set for hearing. It is the responsibility of the moving party to request a hearing from the Court ~~Judicial Assistant, or if the case has already been assigned to a Judge, from the Judicial Law Clerk of the assigned Judge.~~
- 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.** ~~At the time of filing, the following motions, along with the court packet, shall be brought to the attention of the Judicial Assistant or Law Clerk of the Judge:~~ 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 ~~shall~~ may be summarily granted or denied *ex parte* unless the ~~assigned Judge~~ Court determines that a hearing should be scheduled.
- 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, ~~and a copy shall be promptly served upon the adverse party.~~
- 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. ~~Motions to Reconsider Rulings.~~** ~~A motion to reconsider a ruling of the Court on any pleading or motion must be in writing and must be served personally upon the ruling Judge. If a motion to reconsider is set for hearing by the Judicial Assistant or by the Judicial Law Clerk of the Judge, the five (5) day automatic denial time period contained in T.R. 53.4 shall not apply.~~
- H. ~~Discovery Dispute Motions.~~**

- (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.~~
- (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.~~

G. I. Initial Enlargement of Time for Answer. ~~An initial written motion for enlargement of time to file an Answer or other responsive pleadings 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. original due date. The motion shall state the original date when the response was due and the date to which time is enlarged. 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.~~

H. J. Responsibility for Notice. ~~It shall be the responsibility of the moving party to give notice to all other parties of hearings scheduled on motions. **Enlargement of Time 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 proposed order that is substantially similar to Appendix G - 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. K. 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. L. 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 August 1, 2018. Former Local Civil Rule LR02-TR-7-09(H), regarding Discovery Disputes renumbered as LR02-TR33-23(H), 2018.

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. 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 IEFIS, 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, 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. Only upon a motion, with good cause shown, and with leave of Court may a party 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 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, Motions in Limine) 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) 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 August 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 ~~or applications~~, the moving party ~~or applicant (or his or her attorney)~~ 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
- ~~(8)~~ **(9)** immediate possession of real estate
- ~~(9)~~ **(10)** immediate possession of personal property
- ~~(10)~~ **(11)** petition for certification of interlocutory appeals
- ~~(11)~~ **(12)** staying further proceedings by reason of bankruptcy, appeal, or other grounds
- ~~(12)~~ **(13)** notice of hearing
- ~~(13)~~ **(14)** extensions of dispositive motion filing deadlines and resetting the dispositive motion hearing and other hearings
- ~~(14)~~ **(15)** attorney's withdrawal of appearance
- ~~(14)~~ **(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 the proper caption of the case;
- (3) 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");
- (4) 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);
- (5) at the left margin of the judge's signature line, contain a date line, stating the following: "Date: _____"; and,
- (6) provide approximately two inches of blank space provided between the last typed paragraph of the proposed order and the date and signature lines.

~~Any proposed order shall be a document that is separate and apart from the motion and shall contain a caption showing the name of the Court, the case number assigned to the case and the title of the case as shown by the complaint. If there are multiple parties, the~~

title may be shortened to include only the first named plaintiff and defendant with appropriate indication that there are additional parties. The proposed order shall be on white paper, 8 1/2" x 11" in size, and each page shall be numbered. On the last page of the proposed order there shall be a line for the signature of the judge under which shall be typed "Judge, Allen Superior Court" or "Judge, Allen Circuit Court", whichever is applicable, and to the left of the signature line shall be the following: "Dated _____". To allow space for the Clerk to make entries on the proposed order to show compliance with the notice requirements of T.R. 72(D), the lower 4 inches of the last page of the proposed order shall be left blank. The proposed order shall also include a prepared proof of notice, under T.R. 72(D). The proof of notice shall conform to the following format:

NOTICE IS TO BE GIVEN BY:

___COURT___ CLERK___ PARTY___ OTHER

PROOF OF NOTICE UNDER TRIAL RULE 72 (D)

A copy of this entry was served either by mail to the address of record, deposited in the Court's attorney's distribution box, distributed personally upon the persons and/or filed as listed below:

Insert Name and address or Court's attorney distribution box number, of all Pro Se Parties and Attorneys of Record.

Court Packet ___2

DATE OF NOTICE: _____ -

INITIALS OF PERSON WHO NOTIFIED PARTIES:

___COURT___ CLERK___ PARTY___ OTHER

NOTE: When a party provides notice under this section the party shall complete all portions of the prepared proof of notice.

- C. **Copies.** All proposed orders shall be submitted in an original plus a number of copies equal to one more than the number of pro se parties and attorneys of record contained in the prepared proof of notice required under T.R. 72 (D).
- D. **C. Proposed Orders on Motions for Summary Judgment.** Proposed orders on motions for summary judgment, when appropriate, may contain the following language called for permitted in T.R. 56 (C): "that 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 August 1, 2018.

TR02-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 ~~the Court Executive of the Allen Superior Court~~, or the Judge or Court Administrator of the Allen Circuit Court for Circuit Court cases.

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 August 1, 2018.

- A. Motion.** A motion for continuance of a hearing or trial, unless made during the hearing or trial, shall be a verified ~~writing~~, stating the grounds with particularity, and stating shall state whether the other parties agree with or object to the motion. ~~Copies of the motion must be served on all other parties.~~
- 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 ~~S~~stipulations for ~~C~~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 August 1, 2018.*

**LR02-AR00TR86-13 Superior Court Assignment of Cases, ~~Duties of Counsel and Parties,~~
and ~~Time Sensitive Matters~~**

- A. **Case Assignment.** Upon filing, all Superior Court cases are 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, The a promptly issued Order and Notice of Case Management Conference is usually included and should be served with the Summons and Complaint.
- D. ~~**Duties of Counsel and Parties.** All attorneys filing a written appearance in a Superior Court case and all self-represented parties shall immediately acquire knowledge of all previously filed pleadings, motions, and papers, of all previously issued court orders, and of all previously scheduled hearings/trials in the case, including the date and time of the Case Management Conference.~~
- E. ~~**Time Sensitive Matters.** If, upon filing of a case, a party believes immediate attention of the Court is required (e.g., temporary restraining orders, prejudgment writs, injunctive relief, replevin, or when extremely prompt service is otherwise required), that party shall apply to the Administrative Judge for procedural processing with a separate motion setting forth the procedural request. If the Administrative Judge is unavailable, before seeking relief from any other judge, the party must file a verified affirmation stating the Administrative Judge is unavailable.~~
- 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. When the wrong case type is initially selected by the party who is initiating/filing the case, the Court may order the Clerk of the Allen Superior and Circuit Courts to:
 - a. close the original case;
 - b. change the case caption (style) within the original case to “Case Created in Error”;
 - c. refund the filing fees directly to the e-filing party (minus the convenience fee charged by the E-Filing Service Provider); and,
 - d. perform other related tasks.

3. After a new, correctly designated case is opened, all future filings in the case must be filed in the new case.
4. 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 August 1, 2018.

Admissions, stipulations and agreements concerning the proceedings in a case will not be enforced, unless submitted in writing or made of record. 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 August 2, 2018.

LR02-AR007-15 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 August 1, 2018.

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: ~~describe the services rendered in order to establish to the Court's satisfaction the amount of time expended (or to be expended in the matter), the fact that the services and time were or are reasonably necessary considering the nature and complexity of the matter, the experience or expertise of the attorney seeking an attorney fee award, the usual and customary charges, and the reasonableness of the requested fees.~~

- 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).

Attorneys fees and court costs shall not be added into a general judgment. A separate award and judgment for attorneys fees and/or 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.

*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 August 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. 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.~~

D. C. Conduct of Hearings. ~~Unless~~ If the judgment creditor is not represented by an attorney at the proceedings supplemental hearing, the hearing shall be conducted by an officer of the Court when requested. If no judgment creditor or if no judgment creditor's attorney appears on behalf of the judgment creditor after fifteen (15) minutes of past the scheduled hearing time, the proceedings supplemental shall be dismissed, and 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.

E. 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.

F. Default on Proceedings Supplemental. ~~The Court shall permit each party a fifteen (15)-minute grace period to appear for any proceedings supplemental hearing. After the fifteen (15)-minute grace period has elapsed:~~

(1) ~~if the judgment debtor has failed to appear, a judgment creditor who appears shall be entitled to apply for appropriate proceedings supplemental sanctions; or~~

(2) ~~if the judgment debtor has appeared within the grace period and the judgment creditor or his/her attorney fails to appear or to commence to conduct the proceedings supplemental interview, the judgment debtor may leave without risk of sanction for failure to appear.~~

(Note: Incorporated into proposed "D" section above)

E. Hearing Report. Following a proceedings supplemental hearing, the judgment creditor shall file a Proceeding Supplemental Report to the Court, 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 August 1, 2018.

LR02-TR69-18 ————— **Court Orders to Appear (COTA)**

- ~~A. **General Use.** Judgment creditors may request the Court to issue a Court 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-TR69-18(A)(3) shall include but not be limited to cases in which:~~
- ~~(1) the judgment debtor fails to produce documents as previously ordered by the Court;~~
 - ~~(2) the judgment debtor indicates 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. **COTA’s and Garnishment Orders.** When a garnishment order has been 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 proof of service and 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-TR69-19(A).~~
- ~~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 as Superior Civil Rule 18, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 69-2, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule TR69-18 effective January 1, 2015.

LR02-TR69-19 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 contempt citation, along with a Motion for Rule to Show Cause and a separate Proposed Order to Show Cause,~~ as to the debtor or garnishee defendant. The contempt citation Motion for Rule to Show Cause must be filed within thirty (30) days of the failure to appear.

B. Body Attachment. Body attachment may ~~shall~~ 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;
- ~~(3)~~ (4) The request for body attachment is filed within thirty (30) days of the contempt hearing at issue; and
- ~~(4)~~ (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) ~~at least three (3)~~ one (1) Writs of Attachment, which must include a statement setting a bond for release; (The bond amount ~~shall should~~ be set at the lesser of \$500.00 or the total amount remaining unpaid on the judgment including costs and interest-); and,
 - (c) ~~and~~ the Warrant Information Card, including the judgment debtor's social security number and date of birth.

C. Procedure for Contacting Judgment Creditor When Attached Person Judgment Debtor is in Custody.

When the judgment creditor ~~under~~ 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 ~~attached person judgment debtor's~~ appearance when the judgment debtor is taken into in-custody. Once the Court is notified that the judgment debtor is in custody, tThe 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 ~~attached person 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. If the judgment creditor does not appear within two (2) hours of having been contacted by the Court, the attached person shall be released and the underlying proceedings supplemental 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.

D. 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) ~~appear personally or by attorney and move on the record~~ file a motion for recall of the Body Attachment; and

(b) state ~~on the record~~ 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 August 1, 2018. Former Local Civil Rule LR02-TR69-18 abrogated 2018.

LR02-TR69-20 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 debtor's employment by the garnishee defendant has been verified as set forth in LR02-TR69-20(A) on the record within three (3) months prior to the date when the judgment creditor requests issuance of the garnishment order; and~~
- (3) (2) the judgment creditor files the agreement concerning ~~represents on the record the~~ default of judgment debtor.

C. ~~Stay.~~ ~~In instances where a judgment creditor has stayed a garnishment order which has been issued and served on a garnisheed defendant, the judgment creditor shall lose any priority over pending, but later issued, garnishment orders pertaining to the judgment debtor's wages.~~

D. 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 August 1, 2018.

LR02-AR00-23 20 Attorney and Personal Representative Fee Guidelines for Decedents' Estates

~~Attorney Fees-Estates~~

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

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

Every attorney and personal representative has an obligation to request a fee which is fair and reasonable for the work performed, taking into account ~~those provisions of~~ 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 the schedule, and ~~F~~ Fees must always bear a reasonable relationship to the services rendered.

B. 1. Principles ~~a~~Applicable to Fee Determinations. Although these fee guidelines have been promulgated by the Court for probate matters, it is important that ~~your~~ attention be directed to the following certain criteria when seeking an award of fees as they pertain to these guidelines as follows:

- (1) ~~A.~~ 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) ~~B.~~ 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) ~~C.~~ 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, ~~both federal and state~~;
- (4) ~~D.~~ The timeliness with which the necessary services are performed consistent with statutory requirements, Local Civil Rules of the Allen Superior Court, Indiana Trial Rules, the Court's rules of procedure and applicable Rules of Professional Conduct; and
- (5) Attorneys shall be urged to discuss their fees and that the fees of the ~~p~~Personal ~~r~~Representative at the time they are retained in all probate matters.

C. 2. 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, ~~and~~ paying ~~the~~ 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 to be exclusive.

(2) ~~A.~~ 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) ~~B.~~ Miscellaneous-Extraordinary Services:

~~(a) (1)~~ Sale of Real Estate fees shall be based upon a
reasonable ~~H~~hourly ~~R~~rate.

~~(2) Indiana Inheritance Tax Schedule—~~

~~(Preparation and filing only).~~

~~(To be applied only to non-administered property). One percent (1%) of the first \$100,000 of the non-administered assets of gross estate as determined for Indiana Inheritance Tax purpose, plus ¾ of 1% of the next \$150,000 of non-administered assets of the gross estate. ½ of one percent (1%) on all non-administered assets of the gross estate in excess of \$250,000.~~

~~(b) (3)~~ Federal Estate Tax Returns- ~~(To be applied~~ Fees for Federal Estate Tax Returns are allowed only if a return is required because of non-administered property, and shall ~~to~~ 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 ~~of~~ the first \$100,000. Of the non-administered assets of the gross estate as determined for Federal Estate Tax purposes plus: ¾ of one percent (1%) of the next \$150,000 of non-administered assets of the gross estate, plus ½ of one percent (1%) on all non-administered assets of the gross estate in excess of \$250,000.

~~(4) Ex parte Petitions not included under I, above.....\$200.00~~

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

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

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

III. In General:

E. A. 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) An acceptable form of waiver is attached. 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:

E. B. Unsupervised Estates. The Court will not determine ~~and allow~~ fees in an unsupervised administration.

G. C. 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 ~~Inheritance Tax Petition~~ Final Report is ready to be filed, or
- (2) ~~A petition to find no tax due has been approved, or~~
- (3) (2) As Necessary for purposes of an estate fiduciary income tax deduction, or
- (4) (3) Under As necessary due to extraordinary circumstances.

H. D. Payment of Fees. Except where payment has been authorized under Local Rule 23 G.2 C.3 or G.3 C.4 above, fees are payable one half (1/2) upon approval of fee petition and one half (1/2) upon approval of the Final Report.

~~**WAIVER AND CONSENT TO ALLOWANCE OF FEES
IN EXCESS OF GUIDELINES**~~

~~The waiver and consent is not to be merely a pro forma waiver and consent, but is to be in substantially the following form:~~

~~**IMPORTANT: PLEASE READ BEFORE SIGNING!**~~

~~**WAIVER AND CONSENT**~~

~~The undersigned, an interested party in the Estate of _____
Understands that:~~

~~(A) The maximum fee ordinarily allowed by the Court for legal services in this Estate would amount to \$ _____;~~

~~(B) The Attorney has requested fees in the amount of \$ _____; alleging that extraordinary and unusual services have been performed.~~

~~The undersigned, being fully advised, now consents to the allowance of the requested fee, waives any notice of hearing on the Petition and requests that the Court allow fees in the amount of \$ _____.~~

Dated: _____

Devisee/Heir

I. 3. Personal Representative Fees

(1) I. Professional: The Court will approve ~~their~~ Personal Representative fees at the applicable prevailing rate, provided:

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

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

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

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

(4) IV. In-General 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 pPersonal rRepresentative'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 August 1, 2018.

~~LR02-AR00-21 Authority of Attorneys' Employees~~

- ~~A. **In General.** Generally, attorneys' employees who have not been admitted to practice law in Indiana, but who assist their employers in Courthouse activities (herein called "legal assistants"), shall be limited to the performance of tasks which do not require the exercise of legal discretion or judgment that affects the legal rights of any person.~~
- ~~B. **Trust Account Deposits.** Only one legal assistant per law firm shall have the authority to obtain trust account deposits at the Allen County Clerk's Office in the name of his or her employer firm. The employer law firm shall submit a letter to the Clerk of the Allen Circuit and Superior Courts (See Appendix "B" to these rules) stating that:~~
- ~~(1) The employee is authorized to obtain trust account deposits at the Allen County Clerk's Office in the name of his or her employer; and~~
 - ~~(2) The employer fully releases the Clerk of the Allen Circuit and Superior Courts and all employees of the Clerk from any liability for paying any of the funds by check, naming the employer as payee, to any such designated employee, unless the law office has previously provided a written notice to the Clerk of the Allen Circuit and Superior Courts stating that the employee's authority to act on behalf of that law office has been terminated.~~
- ~~C. **Legal Documents.** All pleadings which the legal assistant presents or files at the Courthouse must contain an attorney's signature, as the attorney for a party, or a statement affixed indicating that the documents were prepared by that attorney.~~
- ~~D. **Permitted Acts.** An authorized employee shall be limited to the following acts:~~
- ~~(1) File, and obtain orders on all motions described in LR02-TR00-10(A).~~
 - ~~(2) Set Pre-Trial Conferences and all other hearing dates except trials.~~
 - ~~(3) Examine pleadings and chronological case summary sheets and make copies within the Courthouse.~~
 - ~~(4) At the discretion of the Court, to obtain approval of orders of the Court from the Judge's Law Clerk for:~~
 - ~~(a) Notice of hearings;~~
 - ~~(b) Orders to appear and answer interrogatories on the filing of the Verified Motion for Proceedings Supplemental;~~
 - ~~(c) Stipulations signed and approved by all parties of record.; and~~
 - ~~(d) Motions to Withdraw Appearance.~~
- ~~E. **Acts Not Permitted.** An employee shall not have the authority to perform any acts not specified in these local rules.~~
- ~~F. **Termination of Authority.** Each employer law firm shall be responsible for providing a written notice to the Law Librarian of the termination or revocation of any legal assistant's authority to act on behalf of the law office as covered by this rule.~~

Adopted as Superior Civil Rule 21, September 8, 2000, effective November 1, 2000. Renumbered as Superior and Circuit Civil Rule 00-4, and amended effective December 7, 2006. Amended

October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule AR00-21 effective January 1, 2015.

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 August 1, 2018. Former Local Civil Rule LR02-AR00-21 abrogated 2018.

~~LR02-AR00-22~~ — Conflicts

The Indiana Rules of Trial Procedure shall govern in the event of any conflict with the Allen County Local Civil Rules of the Allen County Courts.

[Note: This rule has been moved to Local Rule 1C.]

*Adopted as Superior Civil Rule 22, September 8, 2000, effective November 1, 2000.
Renumbered as Superior and Circuit Civil Rule 00-5, and amended effective December 7, 2006. Amended October 3, 2008, effective January 1, 2009. Amended and renumbered as Superior and Circuit Civil Rule AR00-22 effective January 1, 2015.*

LR02-TR79-24-22 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-TR79-22 in 2018, effective August 1, 2018. Former Local Civil Rule LR02-AR00-22 amended and renumbered as LR02-TR01-01(C), 2018.

- 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 Number Limited.** ~~No party shall serve on any other party more than fifty (50) interrogatories including subparagraphs.~~
- (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) excluding expert witnesses, the name and, if known, the address and telephone number of each individual who may be called as a witness, 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. **Filing in Excess of the Limit.** Any party desiring to serve interrogatories in excess of ~~fifty (50)~~ 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~~ Such a motion ~~shall~~ must set forth those additional proposed interrogatories, and ~~shall~~ must explain their necessity; ~~Full~~ 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 ~~shall~~ must set forth in full the interrogatories being answered or objected to immediately preceding the answer or objection.
- E. ~~F.~~ **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. ~~E.~~ 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 ~~may be~~ 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. ~~G.~~ Discovery Disputes.** ~~Strict compliance with Trial Rules 26 through 37 is required. The discovery process is intended to be largely self-actuating, with minimal Court supervision. Therefore, the Court will not rule on motions related to discovery disputes unless moving counsel represents in the motion that, after personal or telephonic conference made in a good faith effort to resolve differences, counsel are unable to reach accord.~~
- (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. ~~H.~~ Motion to Strike.** A party who has been served with ~~interrogatories~~ discovery may file a motion to strike specific ~~interrogatories~~ 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-TR33-23, and effective August 1, 2018.

LR02-TR42-27 24 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-TR42-24, and effective August 1, 2018.

All provisions of this rule shall be construed in accordance to be consistent with ~~disclosure either permitted or prohibited~~ by Indiana Supreme Court Administrative Rule 9 – Access to Court Records.

- A. Juror Safety and Privacy.** Personal information of relating to a juror or prospective juror not disclosed in open court ~~is~~ shall be confidential, other than for ~~the use by~~ of the parties ~~and or their~~ counsel. The Court shall maintain ~~that~~ confidentiality of juror personal information ~~to an extent~~ 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 ~~and seated~~ 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 ~~is~~ 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 ~~specific~~ 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 in 2018, effective August 1, 2018.

LR02-AR00- 28 26 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 D 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 E 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 F 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 G 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 H 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 I 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 J P.

Adopted as Preventing Independent Juror Research, effective January 1, 2015. Amended in 2018, renumbered as Local Civil Rule LR02-AR00-26, and effective August 1, 2018.

APPENDIX A

Consent to Alternate Service

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 ~~any notice, pleading, process, order or other~~ 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 1st 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 ~~Law Librarian~~ 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 ~~Law Librarian~~ 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 ~~Law Librarian~~ Court Executive of the Allen Superior Court ~~in Allen County Courthouse.~~)

*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 August 1, 2018.*

**APPENDIX B — Release of Clerk for Payment of Trust Account Deposits to the Clerk
of the Allen County Superior and Circuit Courts**

**RELEASE OF CLERK FOR PAYMENT OF TRUST ACCOUNT DEPOSITS TO THE
CLERK OF ALLEN COUNTY SUPERIOR AND CIRCUIT COURTS:**

—Please be advised that _____, an employee of our law firm, is authorized to obtain trust account deposits at the Allen County Clerk's office in the name of his/her employer. The law firm fully releases the Clerk of the Allen Superior and Circuit Court and all employees, of the Clerk for paying any such funds by check, naming the employer as payee to above named employee, unless we have previously notified you in writing that such employee's authority to act on behalf of our law office has been terminated.

Law Firm of: _____

_____ By _____
_____ Attorney Name and #

STATE OF INDIANA, COUNTY OF ALLEN, SS:

—Subscribed and sworn to before me, a Notary Public in and for said County and State,

this _____ day of _____, 20_____.

My Commission Expires: _____

_____ Notary Public

*Adopted as Superior Civil Appendix B, September 8, 2000, effective November 1, 2000.
Renumbered as Superior and Circuit Civil Appendix B, and amended effective December 7,
2006. Amended effective January 1, 2015.*

APPENDIX B Motion to Withdraw Appearance Form

<u>STATE OF INDIANA</u>	)	<u>ALLEN SUPERIOR COURT</u>
	) <u>SS:</u>	
<u>COUNTY OF ALLEN</u>	)	<u>CAUSE NO. _____</u>
_____)	
	) <u>Plaintiff,</u>	
)	
<u>vs.</u>	)	<u>MOTION TO WITHDRAW</u>
	)	<u>APPEARANCE</u>
)	
_____)	
	) <u>Defendant.</u>	

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 _____, 2018, 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 August 1, 2018. Former Appendix B abrogated 2018.

~~FINAL PRE-TRIAL ORDER~~

STATE OF INDIANA _____) _____ IN THE ALLEN CIRCUIT/SUPERIOR COURT
_____) SS: _____
COUNTY OF ALLEN _____) _____ CASE NUMBER:
_____)
_____)
_____) PLAINTIFF _____)
_____) _____) FINAL
_____) _____) PRE TRIAL ORDER
_____) vs. _____)
_____)
_____)
_____) DEFENDANT _____)

The parties submit this ~~FINAL PRE-TRIAL ORDER~~:

- ~~A. Jurisdiction.~~
- ~~B. Status of the Record.~~
- ~~C. Motions.~~
- ~~D. Discovery.~~
- ~~E. Contested Issues.~~
- ~~F. Stipulations. (e.g. facts, liability, damages, admissibility of dispositions, capacity of parties.)~~
- ~~G. Contentions of the Plaintiff(s).~~
- ~~H. Contentions of the Defendant(s).~~
- ~~I. Exhibits.~~
 - ~~1) Plaintiff(s) exhibits may include any or all of the following: (which have been numbered and submitted to Defendant(s) for examination):~~
 - ~~2) Defendant(s) exhibits may include any or all of the following: (which have been lettered and submitted to Plaintiff(s) for examination):~~
 - ~~3) The authenticity of all exhibits has been stipulated except the following:~~
 - ~~4) The relevancy and materiality of all exhibits has been stipulated except for the following:~~
- ~~J. Witnesses.~~
 - ~~1) The names, addresses and telephone numbers of Plaintiff(s) witnesses are as follows:~~
 - ~~2) The names, addresses and telephone numbers of Defendant(s) witnesses are as follows:~~
- ~~K. Order.~~
 - ~~1) Reasonable opportunity has been afforded counsel for corrections or additions prior to approval and signing by the Court. Subject to any corrections and additions that may be made as a result of the Status Conference with the Court, this Pre-Trial Order when filed with and approved by the Court before the commencement of the trial, shall control~~

~~the course of the trial and may not be amended except by order of Court to prevent manifest injustice. All pleadings shall be deemed to be merged herein.~~

~~L. Settlement.~~

~~The parties have discussed settlement and are prepared to discuss the status of settlement negotiations with the Court.~~

~~M. Trial.~~

~~The trial will be to (Court) a (Jury). Length of the trial is _____ day(s). The Court has set the trial for _____.~~

Plaintiff(s)

By: _____

Defendant(s)

By: _____

Approved and made an Order of the Court, dated: _____

JUDGE

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

APPENDIX C 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 August 1, 2018. Former Local Civil Rules Appendix C abrogated 2018.

APPENDIX D Certificate of Issuance of Summons Form

STATE OF INDIANA) IN THE ALLEN SUPERIOR 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 August 1, 2018.

APPENDIX E Return of Service Form

STATE OF INDIANA) IN THE ALLEN SUPERIOR 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 _____, 2018, 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 August 1, 2018.

Appendix F Designation of Evidence and Table of Contents

<u>STATE OF INDIANA</u>	)	<u>THE ALLEN SUPERIOR COURT</u>
	) <u>SS:</u>	
<u>COUNTY OF ALLEN</u>	)	<u>CAUSE NO.:</u>
)	
)	
<u>Plaintiff,</u>)	
<u>vs.</u>)	
)	
)	
<u>Defendant.</u>)	

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

<u>Title</u>	<u>Page(s)</u>
<u>Affidavit of Mary Rose (“Exhibit A”).....</u>	<u>3 - 5</u>
<u>Credit Card Statements 2007-2017 (“Exhibit B”, previously marked “Exhibit F”)</u>	<u>6 - 45</u>
<u>Deposition of John Henry (“Exhibit C”)</u>	<u>46 - 66</u>
<u>Map of St. Joe Road (“Exhibit C.1”).....</u>	<u>67</u>
<u>Police Report (“Exhibit C.2”).....</u>	<u>68 - 72</u>
<u>Complaint (“Exhibit D”)</u>	<u>73 - 78</u>

Respectfully submitted,

[typed name]

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the _____ day of _____, 2018, 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 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 that the following are true and accurate statements:

1. I am an adult.
2. I have personal knowledge of 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.

9. These statements are made under oath.

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

DESIGNATION OF EVIDENCE AND TABLE OF CONTENTS - EXHIBIT D

COMPLAINT

APPENDIX G Order Amending Deadlines

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

ALLEN SUPERIOR 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 August 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 August 1, 2018.

APPENDIX I Consolidation Proposed Order

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

ALLEN SUPERIOR COURT
CAUSE NO. _____

_____,)
 Plaintiff,)
)
vs.)
)
_____,)
 Defendant.)

ORDER OF CONSOLIDATION

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 August 1, 2018.

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 August 1, 2018.

APPENDIX E K Questioning by the Court Concerning Use of Technology During Trial

- Do any of you routinely use any of the following communication devices: cellular phone, PDA or other Blackberry device, 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. Renumbered 2018, effective August 1, 2018.

APPENDIX F 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 August 1, 2018.

APPENDIX G 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 August 1, 2018.

APPENDIX H N Short Form Admonishment

During the recess, you may discuss the ~~ease~~ evidence among yourselves only while you are all together in the jury room. Do not discuss the ~~ease~~ 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 August 1, 2018.

APPENDIX I Q 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 August 1, 2018.

APPENDIX J 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 August 1, 2018.