

# **Fulton Circuit and Superior Courts**

## **LOCAL RULES**

*Updated September 30, 2019*

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**LR25-AR00-1**

A. **Purpose.** This Court seeks to provide a uniform case numbering system that meets the requirements of Administrative Rule 8 of the Indiana Supreme Court, recognizes the various case numbering methods utilized here in the past, and incorporates these into the computerization of this Court's record keeping systems as commenced on January 1, 1989. Computerized record keeping makes necessary a single numbering and case management system for the entry of current activity. This rule is intended to make uniform a numbering system accordingly.

B. **Directive to the Clerk of the Fulton Circuit Court.**

All cases filed under case numbering systems of this Court in Administrative Rule 8 and which reflect current activity necessitating current case identification shall be renumbered in the following fashion:

1. For cases filed and numbered prior to 1968 where case numbering was by sequential numbers up to five digits only, then the assignment of a case number shall be by the Clerk's determining the original filing year and month of the cause, an identification of the kind of case that was filed and remains active, and the use of the number then assigned to the case. By way of example, the Court notes that former case number 19476 was a mental health proceeding originally filed in this Court in June, 1956. The Clerk should assign the cause number as follows:

25C01-5606-MH-19476

2. For cases filed and numbered following 1968 but before 1987 (the implementation date of administrative Rule 8) where case numbering was annually sequential by docket, then the Clerk shall similarly assign a new file number by determining the original filing year and month of the cause, an identification of the kind of cause that was filed and remains active, and the annually sequential filing numbers of that case. By way of example, for a mental health proceeding originally filed as Cause Number C-78-132 in June of 1978, the Clerk should assign the cause number as follows:

25C01-7806-MH-00132

C. **Directive to Counsel.** In referring to filings before this Court, it shall be required that pleadings provide the cause number created pursuant to this rule. Accordingly, reference may be made to cause number 25C01-7806-MH-00132 without reference to its former cause number or, where convenience suggests the viability of a reference to the earlier cause, the reference may be made to

Formerly Cause Number C-78-132 now known as 25C01-7806-MH-00132

## LR25-AR15-2

The undersigned courts comprise all of the courts of record of Fulton County, Indiana and hereby adopt the following local rule by which the court reporter services shall be governed.

**Section One. Definitions.** The following definitions shall apply under this local rule:

- (1) *A Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
- (2) *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
- (3) *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
- (4) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule Appellate Procedure 7.2.
- (5) *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
- (6) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
- (7) *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty hours per work week.
- (8) *Overtime hours worked* means those hours worked in excess of forty hours per work week.
- (9) *Work week* means a seven consecutive day week that consistently begins and ends on the same days throughout the year; i.e. Sunday through Saturday.
- (10) *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts in Fulton County.
- (11) *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

- (12) *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- (13) *Private transcript* means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

## **Section Two. Salaries**

- (1) The court reporter shall be paid an annual salary for time spent working under the control, direction and direct supervision of the court during any regular work hours, gap hours or overtime hours.
- (2) The court reporter shall, if requested or ordered, prepare any county indigent transcript during regular working hours.
- (3) The court shall enter into a written agreement with the court reporter which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. either monetary compensation or compensatory time off regular work hours.
- (4) Preparation of all state indigent and private transcripts will be completed outside of regular working hours, and the court reporter will not be under the control, direction or supervision of the court. The court reporter will be compensated by persons requesting the private transcript or by the state Public Defenders' Office. The maximum per page fee the court reporter may charge for a private transcript is set in the amount of \$3.50.
- (5) In preparing private transcripts, the court reporter is required to reimburse the court for the use of equipment and supplies as set forth in Section Three of this rule.
- (6) The court reporter shall be required to report annually to the Indiana Supreme Court Division of State Court Administration, on forms prescribed by the Division, all transcript fees received by the court reporter.

## **Section Three. Reimbursement for use of equipment**

- (1) If the court reporter elects to engage in private practice through recording of depositions and/or preparing of deposition transcripts, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

- (a) the reasonable market rate for the use of equipment, work space and supplies;
  - (b) the method by which records are to be kept for the use of equipment, work space and supplies;
  - (c) the method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.
- (2) If the court reporter elects to engage in private practice through recording a deposition and/or the preparing of a deposition transcript, that such private practice shall be conducted outside of regular working hours.

**LR25-AR1 (E)-3**

The undersigned courts comprise all of the courts of record of Fulton County, Indiana and hereby adopt the following local rule in compliance with the directives of the Indiana Supreme Court to assure relative balance of caseload among all courts of each county.

1. Current filing methods require the filing of all juvenile proceedings in Fulton Circuit Court and all small claims and infractions proceedings in Fulton Superior Court. Criminal case assignment is directed by Local Rules for Non-Discretionary Assignment of Criminal Cases, requiring all misdemeanor and traffic felony cases into Fulton Superior Court and all other felonies to be divided between the courts by date. All other civil and probate matters may be filed in the court selected by the party initiating the cause of action.

2. Fulton County courts are comfortably in compliance with all guidelines suggested by the Weight Caseload Measures statistical analysis for balance of caseload, and have been since the 1993 inception of the Fulton Superior Court. No modification of existing filing methods are deemed necessary.

3. At any time that annual caseload statistics reflect an imbalance of greater than 25%, the judges of the Fulton County courts shall meet within 45 days and submit such amendment to this rule as may be necessary to achieve continuing compliance. In addition, should the judges of Fulton County agree that an emergency circumstance exists relating to caseload imbalance, then they may meet at any time and submit such an amendment.

## **LR 25-TR79 (H)-4 Appointment of Special Judge- Civil**

### **Purpose of Rule**

This rule is adopted to comply with the requirements of Trial Rule 79(H) of the Indiana Rules of Trial Procedure. It is intended to provide a means of selection of special judges ensuring the effective use of all judicial resources within Administrative District 8 (which is comprised of Cass County, Fulton County, Howard County, and Miami County) and includes each person eligible for appointment under Section (J) of Trial Rule 79.

### **Central Office Established**

There is established a Central Office for the keeping of records of appointment and selection of special judges for this District. The Central Office of this District shall be the Howard Circuit Court.

The Courts of this County shall hereafter refer to the Central Office of this District whenever selection of a special judge is required under this rule. Each of the Courts of this County shall accept from the Central Administrator the name of the individual to then be appointed as special judge for a given case.

The person serving as the Central Administrator shall have the following responsibilities:

1. To maintain a list of persons qualified to serve as special judge under Section (J) of Trial Rule 79.
2. To take referrals from the several courts of this District, requesting appointment of a special judge.
3. To alternately and on a rotating basis appoint qualified judges from the list maintained for that purpose.
4. To notify the referring court of the individual to be appointed under this rule.

### **Current Rotation Schedule**

The following shall be the rotation schedule used by the Central Administrator:

1. The Judge of the Cass Superior Court I
2. The Judge of the Howard Superior Court III
3. The Judge of the Fulton Superior Court
4. The Judge of the Howard Superior Court II
5. The Judge of the Fulton Circuit Court
6. The Judge of the Howard Circuit Court
7. The Judge of the Miami Superior Court I
8. The Judge of the Howard Superior Court I
9. The Judge of the Cass Circuit Court

10. The Judge of the Miami Circuit Court
11. The Judge of the Cass Superior Court II
12. The Judge of the Howard Superior Court IV
13. The Judge of the Miami Superior Court II

### **Administrative Fee**

Each of the Courts participating under this rule shall pay each year the sum of Fifty Dollars (\$50.00) to the Central Administrator, payable directly to the Administrator by the 15th day of September of each year.

### **Certification to the Supreme Court**

In cases in which no judge is eligible to serve as special judge in a particular case or where the circumstances of a case require it, the Court shall certify those circumstances to the Supreme Court and that Court shall make the appointment.

### **Credit for Voluntary Acceptance of Certain Special Judge Cases**

If, outside the normal rotation schedule, a judge voluntarily accepts a Cass County, Fulton County, Howard County, or Miami County civil case at the request of the parties to the case or at the request of the Court in which the case is pending, that judge may then receive credit for taking that case, with the Central Administrator skipping over that judge the next time that judge's name comes up for appointment for a case under the above-described rotation schedule. In order to receive such credit, the judge shall notify the Central Administrator of his or her voluntary acceptance of such a civil case no later than seven (7) days after his or her formal qualification and assumption of jurisdiction in that case. At the time that such notification is provided to the Central Administrator, the notifying judge shall also provide the Central Administrator the cause number of the civil case that he or she has voluntarily accepted.

*(Effective January 1, 2019)*

## **LR25-CR2.2-5**

### **Sec. 1.1 – Juvenile Assignment**

Pursuant to the jurisdictional limitations imposed by I.C. 33-5-10.9-3, all juvenile proceedings will be filed in the Fulton Circuit Court.

### **Sec. 1.2 – Misdemeanors**

All misdemeanor filings will be assigned to the Fulton Superior Court Misdemeanor Division created by I.C. 33-5-10.9-11. In the event a case charges both non-traffic felony and misdemeanor offenses, the case will be considered a felony for the application of this rule.

### **Sec. 1.3 – Felonies**

1.3(a) All felony filing arising from traffic violations will be filed in the Fulton Superior Court.

1.3(b) The following weekly rotation is adopted for the courts of Fulton County: Week 1, Fulton Circuit; Week 2, Fulton Superior. The weekly rotation will be from 12:01 a.m. Monday until 12:00 a.m. the following Monday. All non-traffic felony filings will be assigned in a weekly rotation based on the day on which the offense alleged in the charging document occurred. In the event of multiple offenses, the date of the earliest offense alleged in the charging document will control the rotation date and the assignment of court. Equalization of a caseload between the courts will be required to compensate for transfer and reassignment.

## **LR25-CR2.2-6**

A judge of Fulton Circuit or Superior Court, by appropriate order entered in the Record of Judgments and Orders, may transfer and reassign to any other court of record in the county with jurisdiction to hear the charged offense in any pending case subject to acceptance by the receiving court.

## **LR25-CR2.2-7**

When the State of Indiana dismisses a case and chooses to refile that case, the case will be assigned to the court from which the dismissal was taken.

In the event additional charges are filed against a criminal defendant subsequent to the assignment of the case, all such additional charges to be resolved in conjunction with the pending case will be assigned to the court of initial assignment.

If a criminal defendant is on probation for a felony offense, any new felony case filed against the defendant shall be filed in the same court supervising the defendant's felony probation.



**LR25-CR2.2-8**

In the event it becomes necessary to reassign a case due to the disqualification or recusal of the presiding Judge, the case shall first be assigned to the other Fulton County Judge. If neither of the judges of the courts of Fulton County can preside over the case, the case shall be assigned to the sitting Judge of Miami County Circuit Court. If the Miami Circuit Court Judge is unable to accept the case, the case shall be assigned to Miami Superior Court I, and if that Judge is unable to serve the case shall be assigned to Miami Superior Court II. In the event none of the Miami County Judges are able to accept the case, then the clerk shall assign the case to a judicial officer from one of these contiguous counties on a rotating basis: Cass, Kosciusko, Marshall, and Pulaski, or from the remaining non-contiguous county within the Administrative District: Howard.

**LR25-CR2.2-9**

In the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case will be certified to the Indiana Supreme Court for the appointment of a special judge. In the event the judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a special judge, this presiding judge may request the Indian Supreme Court for such appointment.

**LR25-AR00-10  
ALCOHOL AND DRUG PROGRAM FEES**

Those persons directed to participate in the Fulton County Alcohol and Drug program shall pay fees in accordance with the following schedule:

ASSESSMENT	\$150.00
REFERRAL AND CASE MANAGEMENT	\$150.00
CASE TRANSFER IN FEE	\$100.00

*(Adopted effective May 1, 2018)*