STATE OF INDIANA – COUNTY OF LAKE
IN THE LAKE CIRCUIT AND SUPERIOR COURTS

Notice of Proposed Local Rule Amendment and Finding Good Cause to Deviate From Established Schedule

The judges of the Lake Circuit and Superior Courts, pursuant to Trial Rule 81(B), give notice of amendments to the local court rules and find good cause to deviate from the schedule for amending local rules under Trial Rule 81(D). All new text is shown by underlining and deleted text is shown by ~~strikethrough~~.

Notice has been given to the public by posting on the website of the Lake County Clerk and on the Indiana Judicial Website, and by furnishing a copy to the officers of the Lake County Bar Association. Comments may be made until September 30, 2020.

These rule amendments will be effective on January 1, 2021, and after approval of the Indiana Supreme Court for those rules requiring approval.

DATED this 31st day of August, 2020 on behalf of the Judges of Lake County.

/S/ John M. Sedia
John M. Sedia, Judge
Chief Judge
Lake Superior Court

LR 45–TR1 Rule 1. SCOPE AND TITLE

A. Scope. These rules shall apply in the Lake Circuit Court and the Superior Court of Lake County, Civil Division and Juvenile Division.

B. These rules shall also apply to all civil cases in the Superior Court, County Division that are not designated as SC, IF or OV. However, LR 45–TR75 Rule 15, regarding the assignment of special judges, shall apply to small claims cases.

C. Title. These rules may be known as the Lake County Rules of Civil Procedure, and abbreviated as LR.

Adopted effective January 1, 1993. Amended effective May 21, 1997; December 5, 2006; October 18, 2013.

LR 45–TR10 Rule 2. PREPARATION OF PLEADINGS, MOTIONS AND OTHER PAPERS

For the purpose of uniformity, convenience, clarity and durability, the following requirements shall be observed in the preparation of all pleadings, motions and other papers:

A. Paper–Print, Quality and Binding. All pleadings, motions, ~~chronological case summary entry forms,~~ orders, process [, exhibits, attachments,] and other papers shall be neatly and legibly printed, typewritten or mechanically reproduced, on one side only, on white opaque paper. To satisfy the recordkeeping requirements of Indiana Rule of Trial Procedure, Trial Rule 77, the print shall be of sufficient density and clarity for preservation and reproduction[.] ~~of microfilming, optical disk or other secondary sources. For this reason, the use of non-letter-quality printers is discouraged.~~

~~Paper and ink shall be of such quality as to withstand the test of time. All documents shall be produced on acid-free, non-thermal paper. It is recommended that a minimum of 20-pound, 25% cotton paper product be used. Documents of multiple pages shall be submitted in bound or stapled fashion, and the binding or stapling shall be at the top only. Covers or backings shall not be used.~~

B. Sanctions. Whenever materials submitted fail to meet the foregoing standards, the Court may ~~impose appropriate sanctions.~~ [reject the non-conforming materials.]

~~**C. Papers–Handwritten; Electronic Facsimile Transmission ("FAX").** Handwritten papers may be filed only if approved by the Court and a typewritten or printed true rendition thereof is filed within three (3) days thereafter and approved by the Court. Upon such approval, they shall be deemed and filed as the original, while the handwritten papers shall be retained therewith for evidentiary purposes.~~

~~Only when necessary on an emergency basis (i.e., when certified mail or other means of filing will not bring the document to the Judge's attention prior to the scheduled hearing or ruling), pleading, motions and other papers may be filed by electronic facsimile transmission, or when specifically authorized by the Court.~~

~~D~~[C]**. Minute Sheets;** [Chronological Case Summaries:] **Motion Blanks.** Minute sheets, [chronological case summaries,] and motion blanks shall no longer be used.

~~E~~[D]**. Special Judge Matters.** The caption of all ~~CCS Entry Forms,~~ pleadings, motions, orders and other papers to be filed in a special judge case shall include in block test the words SPECIAL JUDGE and the name of the judge directly below the cause number on the caption.

Adopted effective January 1, 1993. Amended effective November 1, 1994; May 21, 1997; December 5, 2006; January 1, 2009. [Adopted effective _____ 2020. Amended effective _____, 2020.]

LR 45–TR5 Rule 3. FILING

A. Filing and Submission Only to the Clerk; Proof of Service; Sanctions. All papers presented for filing shall be submitted to the Clerk [pursuant to Trial Rule 86.] and not to the court. ~~All papers submitted for filing shall be mailed or delivered to the Clerk's office at the courthouse in which the case is pending; provided however, for special judge matters where the special judge is a full-time judge or magistrate serving with Lake County, all papers submitted for filing shall be delivered or mailed to the Clerk's office at the courthouse where the special judge regularly serves.~~ All pleadings, motions and other papers submitted for filing which are required to be served under Trial Rule 5(A) ~~shall be filed no later than three (3) days after service and~~ shall contain proof of service pursuant to Trial Rule 5(B)(2). If such papers are filed before service, proof of service thereof shall be filed no later than three (3) business days ~~thereafter~~ [after service.] Upon failure to comply with this rule, the Court may, on motion of any party or on its own motion, impose appropriate sanctions.

B. Separate Motions and Orders; ~~Order by Chronological Case Summary Entry Form;~~ Service; [Motions Requiring an Order]. [Any motion requiring an order shall be accompanied by a proposed order.] Proposed orders shall be prepared and filed separately from the pleadings, petitions, motions or other papers to which they have reference.

~~Orders, either routine in nature or uncontested including, for example, those setting or continuing a hearing, shall be effected by the chronological case summary entry only, which shall contain the concise substance of the order.~~

~~All orders shall be accompanied with sufficient copies and stamped, pre-addressed envelopes, so that copies may be mailed to all parties.~~

~~**C. Chronological Case Summary (CCS) Entry Forms.** All filings shall be accompanied by a Chronological Case Summary (CCS) Entry Form to define or identify the documents filed. The Form used should be substantially similar to Appendix A.~~

[**C. Chronological Case Summary Entry Forms.** Chronological Case Summary Entry Forms shall no longer be used.]

Adopted effective January 1, 1993. Amended effective May 21, 1997; December 5, 2006; January 1, 2009; amended July 31, 2009, effective January 1, 2010; October 18, 2013. [Adopted effective _____ 2020. Amended effective _____, 2020.]

LR 45–TR7 Rule 4. MOTIONS

[**A. Unopposed Motions.** Any motion that is agreed, joint, or unopposed shall be so designated in the title. All other motions shall be subject to Rule 9(B), set below.]

~~A~~[B]. **Briefs.** All motions filed pursuant to Trial Rules 12 and 56 of the Indiana Rules of Trial Procedure shall be accompanied by a separate supporting brief. An adverse party shall have thirty (30) days after service of the initial brief in which to serve and file an ~~answer~~ [response] brief, and the moving party shall have ten (10) days after service of the ~~answer~~ [response] brief in which to serve and file a reply brief. With regard to all other motions or matters submitted to the court, and so long as consistent with the Indiana Rules of Trial Procedure, an adverse party wishing to respond shall do so withing fifteen (15) days of service. The moving party shall have ten (10) days after service of the response within which to reply. Each motion shall be separate, while alternative motions filed together shall each be identified on the caption. Failure to file an ~~answer~~ [response] brief or reply brief within the time prescribed shall be deemed a waiver of the right thereto and shall subject the motion to summary ruling.

~~B~~[C]. **Oral Arguments.** The granting of a motion for oral argument, unless required by the Indiana Rules of Trial Procedure [or otherwise required by law], shall be wholly discretionary with the court.

Adopted effective January 1, 1993. Amended effective December 5, 2006. [Adopted effective _____ 2020. Amended effective _____, 2020.]

LR 45–TR3 Rule 5. APPEARANCE BY ATTORNEY

A. Initiating Party. At the time an action is commenced, an attorney representing the initiating party must:

(1) be a member in good standing of the Bar of the State of Indiana; and

(2) file with the Clerk of the Court an appearance form setting forth the printed name, address, attorney number, the name of the firm, if any, telephone number, FAX number [, email address,] and signature of any attorney representing the initiating party as applicable.

B. Responding Party. At the time the responding party or parties first appear in a case, if that party or parties are represented by an attorney, the attorney must:

(1) be a member in good standing of the Bar of the State of Indiana; and

(2) file with the Clerk of the Court an appearance form setting forth the printed name, address, attorney number, the name of the firm, if any, telephone number, FAX number [, email address,] and signature of any attorney representing the responding party as applicable.

C. Pro Hac Vice. A person not a member of the Bar of the State of Indiana shall not generally be permitted to practice in the Civil Division of the Lake County Court System. The Court in its discretion may permit such counsel to appear only for a specifically limited purpose and time. Counsel's Motion shall strictly comply with Admission and Discipline Rule 3, and disclose such purpose, time, and all other cases in which the attorney or members of the firm have been permitted to appear in the State of Indiana.

D. Non-Resident Attorney. Whenever in its discretion the Court believes it would facilitate the conduct of litigation, the Court may require any attorney who is a member of the Bar of Indiana and who does not maintain an office in Indiana, to retain as local counsel a member of the Bar of Indiana who maintains a local office in Indiana. Notice served upon such local counsel shall constitute service upon all other counsel appearing of record for such party.

E. Withdrawal of Appearance.

[(1)] All withdrawals of appearance shall be in writing and by leave of Court. Permission to withdraw shall be given only after the withdrawing attorney has given a client ten (10) days' written notice of intention to withdraw. A copy of the notice of intention to withdraw shall be attached to the motion seeking leave to withdraw. This rule may be waived by the Court if withdrawal is at the written request of the client; accompanied by the appearance of successor counsel; or for other good cause. In any event, all withdrawals shall fully comply with the Rules of Professional Conduct, Rule 1.16 [and Trial Rule 3(H) of the Indiana Rule of Trial Procedure].

[(2) In addition to the information required for withdrawal under Trial Rule 3(H), the withdrawing attorney shall certify the last known email address of the client, if any.]

F. Withdrawal Shall Not Effect Continuance. Withdrawal, in and of itself, shall not effect a continuance of any pending matter.

[**G. Duty to Update Electronic Distribution.** Any attorney entering their appearance shall enter their name, contact information, including email address, on the Odyssey distribution list for the case. Upon receiving an order of withdrawal, the withdrawn attorney shall remove their name and contact information, replacing it with the name,

contact information, including email address, if any, of their former client on the Odyssey distribution list. The requirement to add a former client's information does not apply where a substitution of counsel has occurred.]

Adopted effective January 1, 1993. Amended effective November 1, 1994; December 5, 2006. [Adopted effective _____ 2020. Amended effective _____, 2020.]

LR 45–AR10 Rule 6. ~~REMOVAL OF RECORDS AND BOOKS*~~ [RULE STRICKEN BUT RETAINED FOR FUTURE USE]

~~Consistent with the intent of Administrative Rule 10, neither the Case File, Chronological Case Summary nor contents of the Record of Judgments and Orders may be removed from the custody of the court or Clerk; provided, however, the Case File or Chronological Case Summary, upon proper receipt, may be entrusted to an attorney with whom the Clerk is familiar for delivery to the court.~~

~~No books may be removed from the judge's chambers or law libraries maintained in the respective courthouses or by the Lake County Central Law Library~~ .

Adopted effective January 1, 1993. Amended effective December 5, 2006.

*; Rule Nameline supplied by publisher. *[Adopted effective _____ 2020. Amended effective _____, 2020.]*

LR 45–TR53.5 Rule 7. CONTINUANCES–EXTENSION OF TIME TO ANSWER

A. Motion. A motion for continuance, unless made during the hearing of a matter, shall be for cause, in writing and verified[.] ~~, with a copy thereof timely served upon opposing counsel unless the court otherwise directs.~~ A motion for continuance may be granted ex parte only if the movant's attorney certifies to the court in writing the efforts, if any, which have been made to give notice and the reasons supporting ~~his~~ [the] claim that actual notice should not be required.

B. Time for Filing. A motion for continuance must be filed as soon as possible after the cause for continuance is discovered, and not later than ten (10) days before hearing or trial, unless the reason therefor is shown by affidavit to have occurred with that period.

C. By Agreement of Counsel. An agreement by counsel to continue the hearing of any pending matter shall be signed by both counsel and parties (or proof of written notice to parties in lieu of their signatures), and filed at least ten (10) days before hearing or trial, or such shorter period as the court in its discretion may allow.

D. Automatic Extension for Answer. Provided it is timely filed, the mere entry of appearance by a party or counsel in response to a summons in an action that requires an answer shall effect an extension of thirty (30) days from the filing thereof within which to respond. This provision is inapplicable to actions in repleven and ejectment.

Adopted effective January 1, 1993. Amended effective December 5, 2006. [Adopted effective _____ 2020. Amended effective _____, 2020.]

LR 45–TR26 Rule 8. DISCOVERY

A. Commencement and Extensions. In general, counsel are expected to begin discovery promptly and shall be granted extensions only upon a showing of diligence and good cause.

B. Interrogatories. Interrogatories shall be tailored specifically to the cause in which they are served and numbered consecutively to facilitate response. No party shall serve on any other party more than thirty (30) interrogatories or more than thirty (30) requests for admission (other than requests relating to the authenticity or genuineness of documents in the aggregate), including subparagraphs, without leave of court. Subparagraphs shall relate directly to the subject matter of the interrogatory or request for admission. Any party desiring to serve additional interrogatories or requests for admissions shall file a written motion setting forth those proposed and the necessity therefor.

C. Attorney Conference. 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 that, after personal or telephonic conference in good faith effort to resolve differences, counsel are unable to reach accord. 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.

Adopted effective January 1, 1993. Amended effective December 5, 2006.

LR 45–TR16 Rule 9. PRE-TRIAL PROCEDURE

A. Initial Status Conference. Upon motion of any party or the court, an initial status conference shall be scheduled and held within six (6) months of the filing of any Complaint in a civil plenary or civil tort case. Each party shall be represented at this conference by an attorney familiar with the case, who shall be prepared to discuss and enter into stipulations concerning:

(1) the exchange of lists of witnesses known to have knowledge of the facts supporting the pleadings. The parties thereafter shall be under a continuing obligation to advise opposing parties of other witnesses as they become known;

(2) the exchange of all documents, and any other evidence reasonably available, contemplated for use in support of the pleadings.

(3) a discovery schedule;

(4) the necessity for additional conferences in complex litigation; and

(5) the necessity for amendments to the pleadings and the filing or hearing of dispositive motions. Absent agreement, the court shall schedule the filing, briefing and hearing thereof.

B. Case Management Order. At the conclusion of the initial status conference, the court shall enter a case management order setting forth:

(1) a time limit for completion of discovery;

(2) a time limit for joinder of additional parties and amendment of pleadings;

(3) a time limit for filing all pre-trial dispositive motions;

(4) the scheduling of a pre-trial conference; and

(5) any other matters which the parties or the court have seen fit to address.

C. Mandatory Pre-Trial Conference. A pre-trial conference shall be held in every civil plenary and civil tort action, at which each party shall be represented by the attorney who will conduct the trial.

The parties shall exchange written lists of witnesses and photocopies of exhibits, together with contentions and statements of issues of fact and law, at least thirty (30) days prior to the pre-trial conference. Counsel ~~for the plaintiff~~ [designated by the Court] shall prepare a proposed pretrial order, which shall be executed by counsel for all parties and filed not later than five (5) days prior to the pre-trial conference. The pre-trial stipulation shall set for the following sequence:

(1) the jurisdiction for the court;

(2) the pleadings raising the issues;

(3) a list of motions or other matters requiring action by the court;

(4) a concise statement of stipulated facts, with reservations, if any;

(5) a concise statement of issues of fact which remain to be litigated;

(6) a concise statement of issues of law which remain for the determination by the court;

(7) the plaintiff's contentions;

(8) the defendant's contentions;

(9) the plaintiff's numbered list of trial exhibits;

(10) the defendant's numbered list of trial exhibits;

(11) the plaintiff's numbered list of trial witnesses, with addresses. Expert witnesses shall be so designated;

(12) the defendant's numbered list of trial witnesses, with addresses. Expert

witnesses shall be so designated; and

(13) the estimated length of trial.

When, for any reason, the pre-trial stipulation is not executed by all counsel, each shall file not later than five (5) days prior to the pre-trial conference a written statement of the reason therefor accompanied with a proposed pre-trial stipulation.

D. Pre-Trial Order. At the conclusion of the pre-trial conference, the court shall render a pre-trial order which, when entered, shall control the course of the trial and may not be amended except by order of the court to prevent manifest injustice.

E. Memoranda of Law. Memoranda of law, addressing any unusual questions of law, shall be filed and served no later than seven (7) days prior to trial.

F. Proposed Jury Instructions. Proposed preliminary ~~and final~~ jury instructions shall be filed and served no later than seven (7) days prior to trial. [The date for the submission of final jury instructions shall be designated by the Court.] Instructions covering issues arising at trial which could not reasonably be anticipated may be submitted during the trial. Each instruction shall be accompanied by citations of authority.

G. Sanctions. A failure of the parties or their attorneys to be prepared for the initial status conference, for the pre-trial conference, or to otherwise comply with this Rule, shall subject them to sanctions under Trial Rule 16(K) of the Indiana Rules of Trial Procedure.

Adopted effective January 1, 1993. Amended effective December 5, 2006. [Adopted effective _____ 2020. Amended effective _____, 2020.]

LR 45–TR40 Rule 10. TRIAL SETTINGS

Except for those set by the pre-trial order, all cases shall be set for trial by the court upon motion preceded by good faith effort of the parties to agree to the date thereof.

Adopted effective January 1, 1993. Amended effective December 5, 2006.

LR 45–TR6 Rule 11. BRIEFS

Briefs, other than those addressed in Rules 4 and 9 hereof, shall be filed no later than two (2) calendar days preceding the ~~hearing or trial to which directed~~ [relevant hearing or trial].

Adopted effective January 1, 1993. Amended effective December 5, 2006. [Adopted effective _____ 2020. Amended effective _____, 2020.]

LR 45–TR43 Rule 12. EXHIBITS

All exhibits offered or admitted into evidence shall be placed in the custody of the Court Reporter unless otherwise ordered. No earlier than three (3) years after the date of the trial, they may be obtained by the parties offering them. A detailed receipt shall be left with the Court Reporter. No earlier than forty-two (42) months after the date of trial, the Court Reporter shall, upon order of the court, dispose of those exhibits unclaimed.

Adopted effective January 1, 1993. Amended effective December 5, 2006.

LR 45–TR63 Rule 13. COURTS

Whenever the presiding judge in any Room of the Civil Division of the Superior Court is absent or otherwise unavailable, and there is no judge pro tempore or temporary judge sitting in his [or her] stead, cases docketed in that Room may be submitted to any other judge in the Civil Division then available.

Adopted effective January 1, 1993. Amended effective December 5, 2006. [Adopted effective _____ 2020. Amended effective _____, 2020.]

LR 45–TR75 Rule 14. EN BANC COURT

In the event the Civil Division is called upon to sit en banc, the following rules shall apply:

A. The judge of the court in which the action is filed shall serve as the presiding judge for all proceedings [and shall alone rule upon all pretrial motions].

B. A majority of the Civil Division judges shall constitute a quorum sufficient to conduct en banc proceedings.

C. Oral arguments will not be heard on any matter without court approval.

D. In the event of an emergency, the presiding judge, or if the presiding judge is unavailable, any of the remaining judges, may hear and determine the matter until en banc action may be taken.

Adopted effective January 1, 1993. Amended effective December 5, 2006. [Adopted effective _____ 2020. Amended effective _____, 2020.]

LR 45–TR79 Rule 15. APPOINTMENT OF SPECIAL JUDGE

A. If a motion for change of Judge is granted in a case or an order of disqualification is entered in a case, and a special judge is not appointed and qualified as provided in Trial Rule 79(D), a special judge shall be appointed, on a rotating basis, from the current roster of judicial officers.

B. Each judicial officer shall have the option to be removed from consideration from some or all case types.

~~D~~[C]. The current roster of judicial officers shall be maintained in the office of the Lake Superior Court Administrator (Administrator). When it becomes necessary to select a special judge from said lists, the following procedure shall be followed:

(1) If a Special Judge is not selected in accordance with Trial Rule 79(D), the judge shall immediately contact the Administrator for the name of the next available judicial officer. The Administrator shall provide a name from the roster of current judicial officers. Selected judicial officers will be selected on a rotating basis.

(2) The selected judicial officer appointed to serve under this local rule must accept jurisdiction unless disqualified under circumstances set out in the Rules of Trial Procedure 79(H). The order of appointment by the regular judge shall constitute acceptance. An oath or additional evidence of acceptance is not required.

~~C~~[D]. This rule shall have no application to the selection of a special judge in a Post Conviction Relief Petition [, which shall be governed solely by the] ~~The rules~~ [Indiana Rules] of Criminal Procedure and the Local Rules of the Lake Superior Court, Criminal Division[.] ~~, shall apply in said instance.~~

~~**CCS ENTRY FORM**~~

~~LAKE SUPERIOR COURT)~~
~~ROOM NUMBER THREE)~~

~~CAUSE NO:~~

~~CAPTION:~~

~~The activity of the Court should be summarized as follows on the Chronological Case Summary (CCS):~~

~~ATTORNEY FOR: ATTORNEY FOR:~~
~~PETITIONER RESPONDENT~~

~~* * * * * * * * * * * * * * * *~~

~~(TO BE DESIGNATED BY THE COURT)~~

~~THIS ENTRY FORM SHALL BE:~~

~~{ } PLACED IN CASE FILE~~

~~{ } DISCARD AFTER ENTRY ON THE CCS~~

~~{ } MAILED TO ALL COUNSEL BY:~~
~~___ COUNSEL ___ CLERK ___ COURT~~

~~{ } THERE IS NO ATTACHED ORDER; OR THE ATTACHED ORDER SHALL BE PLACE IN THE RJO: { } YES { } NO~~

~~DATE: _____ APPROVED: _____~~

Adopted effective January 1, 1993. Amended effective January 23, 1996; May 21, 1997; January 27, 1999; October 2, 2000; October 4, 2005; January 9, 2006; September 29, 2006; December 5, 2006; January 1, 2009; January 1, 2011; October 4, 2012; October 18, 2013; January 1, 2015. [Adopted effective _____ 2020. Amended effective _____, 2020.]