

STATE OF INDIANA)	MARION CIRCUIT AND
)	SUPERIOR COURTS
)	
COUNTY OF MARION)	
)	
In Re Local Court Rules)	

Notice of Proposed Local Rule Amendments, Finding Good Cause to Deviate from the Schedule for Amending Local Court Rules, and Requesting Comments

The Judges of the Marion County Courts in compliance with the provisions of Trial Rule 81 give Notice of proposed amendments to their local court rule concerning **Criminal Division Rules** at **LR49-CR2.2-100 RANDOM ASSIGNMENT OF CRIMINAL CASES**, and **Civil Division** at **LR49-TR3-200 RANDOM FILING OF CIVIL CASES**. And, pursuant to Trial Rule 81(D), the Judges find that good cause exists to deviate from the schedule established by the Division of State Court Administration for the publishing of amendments to local rules. Accordingly, the Courts issue the following proposed amendments to the Marion County Local Court Rules and ask for comment from the bar and the public. Underlining indicates proposed additions and ~~striking through~~ indicates deletions. The amended rule will be effective on **January 25, 2016**.

Comments to this proposed Local Rule amendment will be received through **Noon on January 22, 2015**. Comments to this proposed amended Local Rule should be e-mailed to the Office of the Court Administrator, c/o Emily VanOsdol, at Emily.Vanosdol@indy.gov or mailed to:

Emily VanOsdol
Office of the Court Administrator
Marion County Circuit and Superior Courts
200 East Washington St., Ste. T-
1221 Indianapolis, IN 46204

All of the above is so ORDERED this 17th day of December, 2015.

/s John M.T. Chavis, II

* Judge John M.T. Chavis, II
Presiding Judge

* Original signature on file with the Court.

LR49-CR2.2-100 RANDOM ASSIGNMENT OF CRIMINAL CASES

(a) All criminal cases filed in Marion County in the Superior Courts shall be assigned to an individual courtroom on a random basis. The random assignment rule for criminal cases does not apply to certain cases designated by the Court and Prosecutor as belonging in the:

- domestic violence courts; or
- protection order court; or
- major felony and class D/Level 6 felony drug court; or
- traffic court; or
- those cases involved in LR49-CR2.3-101 Case Consolidation.

This rule strives for the equalization of caseload among all of the individual courtrooms.

(b) All hearings for Major Felony cases will be conducted in the Major Felony Court. Any new filing for a major felony case shall be randomly assigned to one of the multiple courtrooms designated as Major Felony Courts (G01, G02, G03, G04, G05, and G06). ~~with the exception of~~ a All major felony drug offense cases and a major felony handgun cases which shall be assigned to courts G20 or G26.

(c) Initial hearings for all Class D/Level 6 Felony Cases that are the result of a custodial arrest where the defendant is still in custody shall be conducted in the Initial Hearing Court (G11). These cases shall be subsequently assigned on a random basis to one of the multiple courtrooms designated as Class D/Level 6 Felony Courts (G09, G15, G18, G24 and G25). The random assignment rule for criminal cases does not apply to Class D/Level 6 felony cases involving allegations of domestic violence or to Class D/Level 6 felony cases designated as drug court cases. Cases involving an allegation of domestic violence shall be randomly assigned to either of the domestic violence courts (G16 and G17). Class D/Level 6 felony drug cases shall be assigned to the D felony/Level 6 drug court (G14).

(d) Initial hearings for cases involving Misdemeanor Cases that are a result of a custodial arrest where the defendant is still in custody shall be conducted in the Initial Hearing Court, Court 11. These cases shall be assigned on a random basis to one of the multiple courtrooms designated as Misdemeanor Courts (G07, G08, G10, G12 and G19). Misdemeanor cases involving allegations of domestic violence shall be randomly assigned to either of the domestic violence courts (G16 and G17). If the judge, defense counsel or prosecutor believe the defendant may have a mental illness and/or mental disability, the judge, defense counsel or prosecutor may apply to the PAIR Roundtable for evaluation. If, after evaluation, the PAIR Roundtable finds the defendant is PAIR eligible, the case shall be transferred to the designated PAIR court. In the event the defendant fails the PAIR program, the case shall be returned to the originating court for adjudication.

(e) In the event that a defendant has a Misdemeanor or D Felony/Level 6 Domestic Violence case, and that case is amended to include a class C/Level 5 Felony charge, that case shall stay in the Domestic Violence Court to which it was originally assigned.

LR49-TR3-200 RANDOM FILING OF CIVIL CASES

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

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

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

1. Civil Plenary (CP/PL) cases

- a. 1% shall be randomly filed in Circuit Court, and
- b. 99% shall be filed in Superior Court, divided randomly and evenly among the judges of the Civil Division (49D01, 49D02, 49D03, 49D04, D9D05, 49D06, 49D07, 49D10, 49D11, 49D12, 49D13, and 49D14).

2. Mortgage Foreclosure (MF) cases

- a. 5% shall be randomly filed in Circuit Court, and
- b. 95% shall be filed in Superior Court, divided randomly and evenly among the judges of the Civil Division (49D01, 49D02, 49D03, 49D04, D9D05, 49D06, 49D07, 49D10, 49D11, 49D12, 49D13, and 49D14).

3. Civil Collections (CC) cases

- a. 1% shall be randomly filed in Circuit Court, and
- b. 99% shall be filed in Superior Court, divided randomly and evenly among the judges of the Civil Division (49D01, 49D02, 49D03, 49D04, D9D05, 49D06, 49D07, 49D10, 49D11, 49D12, 49D13, and 49D14).

4. Civil Torts (CT) and Domestic Relations (DR) cases

Shall be assigned in the proportion of 100% in Superior Court, divided randomly and evenly among the judges of the Civil Division (49D01, 49D02, 49D03, 49D04, D9D05, 49D06, 49D07, 49D10, 49D11, 49D12, 49D13, and 49D14).

D. Marion Superior Court, Civil Division D02 shall be assigned the following cases:

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

2. Any civil action that includes a count based upon or involving Indiana Code Title 13/ Environment or Title 14/ Natural and Cultural Resources;
3. Any civil action requiring judicial review from final agency action involving an environmental matter;
4. Department of Revenue UST and solid waste fee tax warrants;
5. Common law theories of recovery such as toxic torts, property contamination cases alleging nuisance, trespass, negligence and environmental cleanup and contribution actions;
6. Open Door and Public Record suits or appeals related to IDEM, DNR, ISHD, State Fire Marshall or the Fire Prevention and Building Safety Commission; and
7. Contract or other disputes involving a substantive environmental issue.

E. Civil cases involving judicial review of a zoning decision pursuant to IC 36-7-4-1601 et seq. shall be filed in Marion Superior Court, Civil 7 (D07).

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

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

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

I. G21 Court will change designation to a Magistrate Court docket designation within Civil Division D04. The Magistrate Court docket will keep all ACTIVE/PENDING Cases from court G21, and will include –

- All Ordinance Violations (OV case type) cases originally filed in Court G21 will now be filed in the Magistrate Court Docket.
- All Protective Order (PO case type) Cases originally filed in court G21 will now be filed in the Magistrate Court Docket.

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

(Amended effective ~~January 1, 2015~~ January 25, 2016)