

**LOCAL RULES OF PRACTICE  
FOR THE  
COURTS OF THE  
52<sup>ND</sup> JUDICIAL DISTRICT**

**FLOYD COUNTY, INDIANA**

**LOCAL CIVIL RULES OF PRACTICE  
FOR THE COURTS  
OF THE 52<sup>nd</sup> JUDICIAL CIRCUIT**

**FLOYD COUNTY, INDIANA**

**Effective: January 1, 2009**

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**LR22-TR1-100**  
**APPLICABILITY OF RULES**

**A. SCOPE.** The following local rules of practice and procedure shall apply to cases filed in the Circuit and Superior Courts of Floyd County, Indiana, but shall not apply to criminal cases or cases on the Small Claims Docket unless otherwise indicated.

**B. EFFECTIVE DATE.** These local rules shall be effective January 1, 2009, and shall supersede such rules heretofore enacted by said Courts.

**C. CITATION.** These rules may be cited as Local Rule \_\_\_\_\_. (LR22-TR00-\_\_\_)

**D. PURPOSE.** These rules are promulgated pursuant to Trial Rule 81 of the Indiana Rules of Trial Procedure and are intended to supplement the Indiana Rules of Trial Procedure.

### **LR22-TR3.1-101 WITHDRAWAL OF APPEARANCE**

**A. WITHDRAWAL OF APPEARANCE.** Excepting appearances in estates and guardianships, an attorney desiring to withdraw his appearance in any other proceeding shall file a written motion requesting leave to do so accompanied by a notice of hearing or proof satisfactory to the Court that at least ten [10] days prior written notice has been given to the client and to all other parties of record in advance of the withdrawal date, which date shall be set forth in the written notice. The motion must contain the address and phone number of the client.

**B. WITHDRAWAL IN ESTATE AND GUARDIANSHIP CASES.** An attorney desiring to withdraw his appearance in an estate or guardianship shall file a written motion requesting leave to do so accompanied by a notice of hearing which shall be served at least ten [10] days prior to the hearing upon the personal representative or guardian directing said person to appear at the hearing.

**C. WAIVER OF RULE.** A motion for leave to withdraw an appearance accompanied by a written appearance of successor counsel and, excepting appearances in estate or guardianship matters, a motion to withdraw an appearance accompanied by a written consent of the client shall constitute a waiver of the requirements of this local rule.

### **LR22-TR3-102 DUTIES OF ATTORNEYS PREPARATION OF ENTRIES**

**A. STATUS OF PROCEEDINGS.** Each attorney appearing of record and each party to a proceeding shall at all times keep themselves informed of the status of the proceeding and shall be particularly bound by hearing dates orally set by the Court from the bench in their presence.

**B. PREPARATION OF ENTRY.** When opposing counsel has appeared in a proceeding, the attorney who has agreed to prepare an entry as requested by the Court shall place

on the last page of the entry appropriate signature lines indicating "prepared by" and "reviewed by" and shall submit the entry to opposing counsel for examination. Opposing counsel shall promptly examine the entry when submitted, shall sign the entry, and shall submit the entry to the Court within five [5] days of receiving same. If opposing counsel does not agree with the entry, counsel shall advise the Court and request a conference, telephonic or otherwise.

**C. FAILURE TO SUBMIT ENTRY.** If opposing counsel shall fail or refuse to submit the entry without advising the Court as to objections thereto within five [5] days of receiving the same, the preparing attorney shall submit the entry to the Court advising the Court by letter of opposing counsel's failure or refusal and the Court shall accept the entry without opposing counsel's signature.

**D. FAILURE TO PREPARE ENTRY.** If an attorney agrees or is ordered to prepare an entry and then fails to do so within fifteen [15] working days of the Court's request, opposing counsel may prepare the entry and submit same to the Court advising the Court by letter of the efforts made to gain preparation of the entry. Failure of counsel to prepare an entry as agreed or as ordered may subject counsel to sanctions including the assessment of reasonable attorney fees for counsel who prepared the entry.

### **LR22-TR3-103 PAYMENT OF FEES**

**A. INITIAL FEES.** Unless the Court has previously entered a written Order waiving the pre-payment of the filing fee in whole or in part, all fees associated with the filing of a case shall be prepaid to the Clerk when the case is filed.

**B. TRANSFER FEES.** All fees and costs associated with the transfer of a case to another county or transfer of a case from the small claims docket to the civil plenary docket shall be paid within twenty [20] days of the Order directing transfer and the failure to pay such costs shall result in the rescinding of the Order directing transfer and jurisdiction of the case shall remain with the Court, or the case shall be transferred back to the small claims docket as applicable, unless the Court has entered a written order waiving the pre-payment of the fee in whole or in part.

### **LR22-TR5-104 PROOF OF SERVICE**

**A. TRIAL RULE 5 REQUIREMENTS.** Proof of service of pleadings or papers required to be served by Trial Rule 5 may be made either by:

[1] a certificate of service signed by an attorney of record which certificate shall identify by name and address the person or persons to whom service is directed; or

[2] an acknowledgment of service signed by the party served or the attorney of record if such party is represented by an attorney.

**B. VERIFYING SERVICE OF PROCESS.** It is the responsibility of counsel to verify service of process. Court personnel shall not be required to review case files to determine if a party has acquired service of process. Counsel may access the Chronological Case Summary at the City-County Building or online to determine if service of process has occurred.

**LR22-TR10-105  
FORM AND STYLE OF PLEADINGS  
FILING OF PLEADINGS**

**A. SIGNATURE REQUIRED.** Any pleading, motion, brief or paper not signed by an attorney admitted to practice or a party who is acting pro se, shall not be accepted for filing, or, if inadvertently accepted for filing, shall upon discovery be stricken from the record by the Court upon its own motion.

**B. PAPER SIZE.** All pleadings, motions, entries, orders, judgments and other papers shall be filed on letter size [8 1/2 x 11] paper.

**C. 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 the Court shall be flat and unfolded.

**D. ORDERS AND ENTRIES.** Except as required by Local Rule LR22-TR3-102, all proposed orders and entries shall reflect the name of the preparer under the indication "prepared by", shall be submitted in sufficient number for each person entitled to service and shall contain a distribution list identifying by name and address each person entitled to service. The preparer shall provide sufficient pre-stamped pre-addressed envelopes to the court for mailing of the orders or entries.

**TR22-TR16-106  
PRE-TRIAL CONFERENCES  
ASSIGNMENT OF CASES FOR TRIAL**

**A. COURT CALENDAR.** A calendar of cases assigned for bench trial or jury trial shall be kept by the Court and the Court Reporter shall enter on the calendar at the direction of the Court, the style, cause number, and the time and date the trial is assigned to commence.

**B. REQUIRED PRE-TRIAL CONFERENCE.** No case shall be assigned for jury trial without the Court having conducted a pre-trial conference thereon and any party or attorney of record desirous of acquiring a jury trial shall first file a motion requesting a pre-trial conference accompanied by a proposed order.

**C. OTHER PRE-TRIAL CONFERENCES.** The Court, in its discretion, may require a pre-trial conference on certain cases to be heard at bench trial and the Court shall, sua sponte, set such cases for conference. Any party or attorney of record desirous of having a pre-trial conference for such cases may file a motion requesting same accompanied by a proposed order.

**D. ATTENDANCE AT PRE-TRIAL CONFERENCE.** At least one attorney for each party who is a member of the Indiana Bar and who will participate in the trial shall appear at the pre-trial conference. An attorney who fails to attend a pre-trial conference shall be bound by the trial date set by the Court as well as such other matters as contained in the Court's Pre-Trial Order.

**E. REQUESTS FOR BENCH TRIAL.** The assignment of a case for bench trial may be had by motion duly filed and accompanied by a proposed order. Said motion shall reflect an estimate of the trial time required.

**F. TRIAL ASSIGNMENTS.** The Court may assign a case for trial by jury on a primary and/or secondary basis. Ten [10] days prior to the scheduled trial date, an attorney whose case has been assigned for trial on a primary basis may file a Certificate of Readiness indicating the intention of proceeding to trial as scheduled. The failure to file such Certificate may result in forfeiture of the primary trial date if an attorney whose case has been assigned on a secondary basis files such Certificate and in such event the case assigned on a secondary basis shall be heard.

**G. CERTIFICATE OF READINESS.** If a Certificate of Readiness is filed pursuant to subsection F of this Local Rule, the Certificate shall be served on all parties in a cause and shall contain a certificate of service. The Certificate shall state:

- [1] that the cause is at issue;
  - [2] that discovery has been completed or will be completed by the scheduled trial date;
- and
- [3] that opposing counsel was advised of the party's intention to file the Certificate five (5) days prior to its filing.

#### **LR22-TR7-107 MOTIONS**

**A. GENERALLY.** Excepting motions made during the course of a recorded proceeding, all motions shall be in writing.

**B. PROPOSED ORDERS REQUIRED.** Proposed orders shall accompany motions or applications in the following matters:

- [1] to enlarge or shorten time
- [2] for setting of hearing, conference or trial
- [3] for continuance
- [4] for default judgment
- [5] to compel discovery
- [6] to withdraw appearance
- [7] for dismissal
- [8] for change of venue

- [9] for restraining order, temporary injunction
- [10] for summary judgment
- [11] for such other orders, judgments or decrees as the Court may direct.

**C. HEARINGS REQUIRED.** Excepting motions to correct error, motions for summary judgment or other motions described in subsection F, subsection G and subsection H of this rule, all motions shall be set for hearing at the time of their filing and shall be accompanied by a separate instrument requesting a hearing and an order for the setting of a hearing date.

**D. NOTICE OF MOTION AND ORDER.** In lieu of the requirement of subsection C of this rule, an attorney may utilize a Notice of Motion and Order for routine matters such as a motion for continuance, motion to amend pleading, motion to shorten time, motion to add parties, motion to compel discovery and the like. The Notice of Motion shall indicate that the Court will rule on the motion and enter its Order beginning at 9:00 A.M. on the Monday which is not less than five [5] working days from the date of the Court's actual receipt of the Notice of Motion.

**E. MOTION TO CORRECT ERROR.** Any party may request a hearing upon a Motion to Correct Error by filing a written request therefore by separate instrument at any time before the Court has ruled upon such motion. It shall be discretionary with the Court whether a hearing shall be held on such Motion to Correct Error.

**F. HEARING NOT REQUIRED.** At the time of filing, the following motions shall be summarily granted or denied ex parte unless the Court, in its discretion, determines a hearing should be scheduled on any such motion and schedules such hearing;

- [1] Motion for Enlargement of Time [initial request]
- [2] Motion to Reconsider [denial of]
- [3] Motion for Change of Venue from Judge/County
- [4] Motion for Default Judgment [subject to Trial Rule LR22-TR3.1-101]
- [5] Joint Motion for Continuance
- [6] Motion to Dismiss Settled
- [7] Motion to Set Hearing/Pre-trial conference/Bench Trial
- [8] Motion to Withdraw Appearance excepting in Estate, Guardianship or Criminal Matters [subject to Local Rule LR22-TR3.1-101]
- [9] Such matters as permitted by statute or Trial Rule.

**G. MOTIONS UNDER TRIAL RULES 12, 24, 42, and 60.** Motions seeking relief under Trial Rules 12, 24, 42, and 60 shall be accompanied by a brief and proof of service upon opposing counsel. An adverse party shall have fifteen [15] days after service of the movant's brief to file an answer brief, and the movant shall have seven [7] days after service to file a reply brief.

Upon expiration of the time provided by the briefing schedule, the proponent of the motion shall file a written request to schedule the matter for hearing.



**LR22-TR53.5-108  
CONTINUANCES**

**A. GENERALLY.** A motion for continuance of a hearing or trial shall be accompanied by an order which shall contain adequate space for insertion of a new time and date for re-scheduling purposes.

**B. CONTENT OF MOTION.** A motion for continuance shall set forth the scheduled date, the reason for continuance, the specific length of time the moving party desires the cause to be delayed, and reference as to whether opposing counsel agrees or disagrees to a continuance of the scheduled hearing or trial. It shall be the duty of the moving party to obtain a mutually acceptable future date if and when the motion is granted.

**C. TIMING OF MOTION.** No continuance shall be granted at the request of a party unless a written motion for same is filed not less than ten [10] days prior to the scheduled hearing or trial, unless it is made to appear by affidavit that the facts which are the basis of the motion did not then exist or were not then known by the moving party.

**D. SANCTIONS.** All delays and continuances of a cause shall be at the cost of the party causing the same, except where otherwise provided by law, and the adverse party may have such costs taxed and judgment rendered therefore upon motion duly made.

**LR22-TR52-109  
FINDINGS OF FACT**

In all cases where findings of fact by the Court are requested or required, counsel of record shall submit to the Court proposed findings setting forth all facts claimed to have been established and the conclusions of law thereon. Such form of findings shall be submitted to the Court within such time as directed by the Court. A computer disc of the findings and conclusions shall be submitted along with the written proposals.

**LR22-TR26-110  
DISCOVERY**

**A. USE OF FORM DISCOVERY.** No "form" discovery shall be served upon a party unless all discovery requests on such forms are consecutively numbered and applicable to the case in which the same are utilized. The intent and purpose of this rule is to prohibit the use of form discovery unless applicable to the case at bar or where the nature of the case or the number of the parties makes the use of such forms necessary and appropriate.

**B. ADMISSIONS FORMAT.** Answers or objections to requests for admissions filed and served pursuant to Trial Rule 36 shall set forth in full the request for admissions being answered or objected to immediately preceding the answer or objection.

**C. MOTIONS FOR DISCOVERY.** The Court shall refuse to rule on any and all motions for discovery concerned with the production of documents or things, permission to enter upon land or other property for inspection and other purposes, for physical or mental examination, or to compel discovery provided in Trial Rules 26 through 37, unless moving counsel shall first advise the Court in writing that after personal consultation and sincere attempts to resolve differences with opposing counsel, they are unable to reach an accord. Such written advisement to the Court shall include a history with the date, time and place and the names of all parties and attorneys with whom the effort has been attempted.

**D. LIMITATION ON INTERROGATORIES.** The number of interrogatories which may be served pursuant to Trial Rule 33 shall be limited so as to require the answering party to make no more than forty [40] answers, each sub-part of an interrogatory counting as one [1] answer. Waiver of this limitation will be granted by order of the Court in cases in which such limitation would work a manifest injustice or would be impractical because of the complexity of the issues of the case. Each motion requesting waiver of this limitation shall contain as an exhibit the interrogatories which the party proposes to serve. This limitation does not mean a limit of forty (40) interrogatories and answers for the entire case but rather to each set of interrogatories propounded.

**LR22-TR32-111  
PUBLICATION OF DEPOSITIONS**

The seal on depositions shall be broken and the deposition deemed published upon filing with the Court. When depositions are utilized in support of, or in opposition to, a motion for summary judgment or other matter, the pleadings and/or memoranda filed in support or opposition to such motion shall make specific reference by page and line or question number to those places in such deposition which purport to demonstrate the presence or absence of material fact.

**LR22-TR51-112  
JURY INSTRUCTIONS**

Proposed final instructions, special or pattern, shall be submitted on letter size [8 1/2 x 11] paper, double-spaced, with all designations including indications for the Court's disposition placed on the bottom three [3] inches of the instruction.

The parties shall submit a second set of proposed final instructions containing no designation of who submitted them, or other identifying references, and shall contain only the statement of law. This set of jury instructions may be sent with the jury to the jury room for use during deliberations. These instructions shall also be presented to the court on computer disc or by e-mail in the Court's discretion.

**LR22-AR15-113  
PRAECIPES/TRANSCRIPTS**

**A. CONTENT.** All notice of appeal and requests for transcripts shall be in writing and filed with the Clerk of the Court. Such notices and requests for transcripts relating to trials by jury shall not include voir dire, opening statements, and closing statements unless specifically

requested.

**B. COSTS.** The party requesting a transcript shall obtain an estimate of the cost of the transcript from the Court Reporter and shall pay a deposit equal to one-half of the estimated cost of the transcript before the transcription process is undertaken by the Court Reporter. The remaining estimated cost of the transcript shall be paid upon notification by the Court Reporter to the requesting party that one-half of the transcript has been completed. The actual total cost of the transcripts shall be paid in full before the transcript is released to the requesting party.

**C. COURT REPORTER RULE (Pursuant to Adm. Rule 15) Definitions.** The following definitions shall apply under this local rule:

- (1) *Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
- (2) *Equipment* means all physical items owned by the court or other governmental entity and used by a Court Reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes and any other device used for recording and storing, and transcribing electronic data.
- (3) *Work space* means that portion of the court's facilities dedicated to each Court Reporter, including but not limited to actual space in the courtroom and any designated office space.
- (4) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- (5) *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
- (6) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
- (7) *Gap hours worked* means those hours worked that are in excess of the regular hours worked but not in excess of forty (40) hours per work week.
- (8) *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.
- (9) *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; *i.e.* Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- (10) *Court* means the particular court for which the Court Reporter performs services. Court may also mean all of the courts in Floyd 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 2

**A. Salaries.** Court Reporters shall be paid an annual salary for time spent working

under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the Court Reporter is to be compensated for gap and overtime hours; *i.e.* monetary compensation or compensatory time off regular work hours.

**B. Per Page Fees.** The Court Reporter shall be compensated at the rate of Five Dollars (\$5.00) per page for any county indigent, state indigent or private transcripts prepared. The Court Reporter shall submit directly to the county a claim for the preparation of the county indigent transcript as other county claims are submitted.

If the Court Reporter is requested to prepare an expedited transcript, the per page fee shall be Eight Dollars and Fifty Cents (\$8.50) per page where the transcript must be prepared within twenty-four (24) hours or less and Seven Dollars (\$7.00) per page where the transcript of fifty (50) pages or more and is to be prepared in an expedited fashion, the maximum per page fee shall be Seven Dollars (\$7.00) per page and shall be prepared within a time frame to be agreed upon between the Court Reporter and the Attorney. Index and Table of Contents will be charged at the same rate as the other pages.

Copies shall be made at the rate of Two Dollars and Fifty Cents (\$2.50) per page.

**C. Minimum Fee.** A minimum fee of Fifty Dollars (\$50.00) will be charged for transcripts less than ten (10) pages in length.

**D. Binding and Disk Fees.** An additional fee shall be added to the cost of the transcript for:

- (1) The time spent binding the transcript and the exhibit and index volumes at an hourly rate based on the Court Reporter's hourly rate.
- (2) The costs of office supplies and utilized for finding and transmission of the transcript pursuant to the Indiana Rules of Appellate Procedure 28 and 29. Said costs shall be pursuant to a Schedule of Transcript Supplies established and published annually by the Courts.

**E. Annual Report Requirement.** Each Court Reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

**F. Private Practice.** If a Court Reporter elects to engage in private practice through the recording of a deposition and/or preparing a deposition transcript, all such private practice work shall be conducted outside regular working hours.

If a Court Reporter engages in such private practice and the Court Reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the Court Reporter shall enter into a written

agreement which must, at a minimum, designate the following:

- (1) The reasonable market rate for the use of equipment, work space and supplies.
- (2) The method by which records are to be kept for the use of equipment, work space and supplies.
- (3) The method by which the Court Report is to reimburse the court for the use of the equipment, work space and supplies.

**G. Disk as Official Record.** Upon the filing of a notice of appeal or written request for transcript or the Court Reporter shall transcribe any court proceeding requested and produce an original paper transcript along with an electronically formatted transcript. Multiple disks containing the electronically formatted transcript shall be prepared and designated as "Original Transcript," "Court Reporter's Copy" and "Court's Copy." Each disk shall be labeled to identify the case number, the names of the parties, the date completed, the Court Reporter's name, and the disk number if more than one disk is required for a complete transcript. The court's copy of the electronic transcript shall become the official record of the court proceeding, in lieu of a paper copy of the transcript, and shall be retained in the court where said proceeding was held. The Court Reporter's copy shall be retained by the Court Reporter. The original paper transcript along with the disk designated as the original transcript shall be forwarded to the Clerk if the transcript was prepared for purposes of appeal. If the transcript was not prepared for purposes of appeal, the original paper transcript shall be delivered to the requested party.

#### **LR22-TR00-114 EX PARTE ORDERS**

Ex parte proceedings are highly disfavored. In civil cases the Court may enter orders, ex parte, in those matters as set forth in Local Rule LR22-TR7-107(F).

Upon motion of any party adversely affected by any ex parte proceeding not in conformity with this rule, the Court, after notice and opportunity to be heard, may direct that the party or attorney seeking an ex parte order shall pay to the adversely affected party the reasonable attorneys fees associated with the opposition to the ex parte order.

#### **LR22-TR00-115 SANCTIONS**

**A. COURT ACTION.** When a party or counsel for a party fails to comply with any of these Local Rules, the Court, after advising the party of the noncompliance, may direct the Clerk of the Court to refuse to accept the pleadings or papers to be filed, or, if inadvertently accepted for filing, direct that such pleadings or papers be stricken from the record.

**B. COSTS.** In addition to the foregoing, the Court may order the party or counsel for the party failing to comply with these Local Rules to pay reasonable expenses, including attorneys

fees, caused by the failure.

**LR22-TR79-116**  
**APPOINTMENT OF SPECIAL JUDGES**

**A. Selection of Assignment Judge.** On or before October 1st of each year, the Judges of the Circuit and Superior Courts of Floyd County shall meet with the presiding judges of Administrative District 14 for the purpose of selecting a judge designated as the assignment judge who shall serve the Administrative District for a period of twelve (12) months.

**B. Section H Appointments.** In the event it becomes necessary to appoint a special judge under Section H of Trial Rule 79 of the Indiana Rules of Trial Procedure, the judge before whom the case is pending shall send notice of the need of the appointment of a special judge to the Administrative District's assignment judge who shall then make such assignment within five (5) days of receiving said notice.

**C. Method of Assignment.** The Administrative District's assignment judge shall select special judges from a roster of the available judges in the Administrative District. The assignments shall be in a sequential order beginning with the name of the judge following the last judge so assigned. If, however, because of travel considerations a judge has been passed over or if a judge is otherwise disqualified to hear a particular case, that judge shall be deemed to be the next in sequence until assigned a case. The assignment judge shall maintain a record of all assignments and shall issue a summary report of the assignments on a quarterly basis.

**D. Travel Considerations.** In making the selection of a special judge, the assignment judge shall consider that travel of more than forty (40) miles in one direction is not an effective use of judicial resources.

**E. Roster of Available Judges.** The roster of available judges in Administrative District 14 shall be maintained by Court designation in the following sequential order and shall include senior judges as available:

- |                       |                          |
|-----------------------|--------------------------|
| (1) Clark Circuit     | (11) Harrison Superior   |
| (2) Clark Superior #1 | (12) Orange Circuit      |
| (3) Clark Superior #2 | (13) Orange Superior     |
| (4) Clark Superior #3 | (14) Scott Circuit       |
| (5) Crawford Circuit  | (15) Scott Superior      |
| (6) Floyd Circuit     | (16) Washington Circuit  |
| (7) Floyd Superior #1 | (17) Washington Superior |
| (8) Floyd Superior #2 | (18) Senior Judges       |

- (9) Floyd Superior #3
- (10) Harrison Circuit

**F. Appointment Order.** Upon selecting a special judge, the assignment judge shall prepare an Order of Appointment and forward said Order to the judge before whom the case is pending who shall then sign and enter the Order of Appointment and forward a copy of the Order to the special judge and the attorneys of record.

**G. Acceptance of Jurisdiction.** The Order of Appointment, when entered by the judge before whom the case is pending, shall constitute acceptance of jurisdiction by the appointed special judge unless the judge is otherwise disqualified, and no special appearance, oath or additional evidence of acceptance shall be required.

**I. Implementation of Rule.** In the event a selected judge does not accept an appointment to serve as a special judge under the provisions of Section (D), (E) or (F) of Trial Rule 79 of the Indiana Rules of Trial Procedure, the judge before whom the case is pending shall notify the assignment judge of the need for an appointment of a special judge under this local rule.

**J. Certification To Supreme Court.** If, under the provisions of this Rule, no judge is eligible to serve as a special judge in a case, the assignment judge shall notify the judge before whom the case is pending who shall then certify such fact to the Indiana Supreme Court for the appointment of a special judge.

If the judge before whom the case is pending is of the opinion that the particular circumstances of a case warrants selection of a special judge by the Indiana Supreme Court, said judge shall certify such facts to the Indiana Supreme Court for the appointment of a special judge. Under such circumstance this Rule shall not be implemented unless the Indiana Supreme Court declines to appoint a special judge.

#### **LR22-TR00-117**

### **ASSIGNMENT OF CASES TO EQUALIZE WORKLOAD BETWEEN COURTS**

**A. Assignment.** The judges of the Circuit and Superior Courts shall meet on or before October 15 of each year to assign cases to review the Caseload Allocation Plan. Different numbers of cases may be assigned to each court per the caseload statistics received each year.

**B. Transfer.** Transfer between the Floyd Circuit Court and the Floyd Superior Courts shall be accomplished pursuant to IC 33-29-1-9 & 10, which allows the judges to transfer cases between courts with mutual consent and to sit on any case in either court with mutual consent.

**C. Floyd Superior Court #3 (Newly created January 1, 2009).** While the Court has

jurisdiction equal to the two other Superior Courts, the following cases will be assigned to the Floyd Superior Court #3 until the caseload equalizes between the four Courts. This assignment will be reviewed on or before October 15, 2009. These cases include: the exclusive filing of all Pro Se Divorces, all Protective Orders, and all Civil Collection cases over \$6,000.

**D. Criminal Cases.**

(1) All Murder cases shall be divided equally between the Circuit, Superior #1 and Superior #3 Courts. All Class A, Class B, Class C, Class D Felony and Domestic Battery cases (Misdemeanor and Felony) shall be filed as follows (except as otherwise designated below):

- (a) 25% shall be filed in the Circuit Court
- (b) 50% shall be filed in the Superior Court #1
- (c) 25% shall be filed in the Superior Court #3

(2) All Traffic Infractions and Ordinance Violations shall be filed in the Superior Court #2.

(3) All Motor Vehicle Code, Traffic Misdemeanor and Class D Felony Traffic cases shall be filed in Superior Court #2.

(4) All other Misdemeanor offenses, excepting Domestic Violence cases shall be filed in the Superior Court #2 unless the Defendant has a pending case, or is presently on probation, or has a case under advisement, or a case which has been diverted, in the Circuit, Superior #1 or Superior #3 Court. In the event of such occurrence, the new charge shall be filed in the respective Court where the Defendant is on probation or the other case is pending, under advisement or diverted.

**E. Civil Cases.** Except as provided by statute, the Circuit and Superior Courts will participate in open filing of all Civil Tort, Civil Plenary, Mortgage Foreclosure, and Miscellaneous cases. Pursuant to Section C of this local rule, the Superior Court #3 will have exclusive filing of the following new cases: all Pro Se Divorces, Protective Orders, and Civil Collection cases over \$6,000. Civil Collection cases under \$6,000 shall be filed in the Superior Court #2.

**F. Domestic Relations Cases.** Pursuant to Section C of this local rule, all Pro Se Divorces shall be filed in the Superior Court #3. All non-pro se divorces may be filed in either the Circuit or Superior Courts #1 and #3.

**G. Small Claims.** All Small Claims cases shall be filed in Superior Court #2

**H. Mental Health.** Mental Health cases may be filed in any of the Floyd County Courts.

**I. Juvenile.** Circuit Court shall have exclusive jurisdiction over all juvenile matters subject to LR22-TR00-17 (B).

**J. Guardianships and Estates.** Circuit Court shall have exclusive jurisdiction over all Adoptions, Guardianship, Trust and Estate (supervised and unsupervised) proceedings subject to LR22-TR00-17 (B).



**K. Reciprocal Support Cases.** Reciprocal Support Cases may be filed in the Circuit, Superior #1 or Superior #3.

**LR22-TR00-118**

**CONTEMPT/RULE TO SHOW CAUSE/BODY ATTACHMENT**

**A. Contempt.** Upon failure of a party/person to appear as ordered for any Court proceeding a contempt citation may be filed as to said party/person.

**B. Body Attachment.** Body Attachment shall be requested and issued only when the party/person previously ordered to appear for a Court proceeding was personally served with notice of a contempt hearing pursuant to I.C. 34-47-4-1.

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

(1) **Expiration.** Body Attachments expire one year after issuance.

(2) **Recall.** If during the pendency of a Body Attachment, a party desires to recall said Body Attachment, said party shall file a written notice to recall Body Attachment forthwith stating the reason for the recall.

**APPENDIX**

**Local Civil Forms**

- 1 **Body Attachment** - (Local Rule: LR22-TR00-118)

**IN THE FLOYD CIRCUIT/SUPERIOR/COUNTY COURT  
STATE OF INDIANA**

\_\_\_\_\_  
PLAINTIFF/PETITIONER

VS

CAUSE NO: \_\_\_\_\_

\_\_\_\_\_  
DEFENDANT/RESPONDENT

**WRIT OF BODY ATTACHMENT**

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

TO THE SHERIFF OF FLOYD COUNTY, STATE OF INDIANA:

You are hereby commanded to attach the body of:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

DOB: \_\_\_\_\_

SS#: \_\_\_\_\_

pursuant to IC 34-47-4-2, and forthwith bring him/her before the Judge of the Floyd Circuit/Superior Courts to answer for a Contempt of Court for: [state reason].

BAIL:           \$ \_\_\_\_\_ COURT CASH OR SURETY

**OR**

ESCROW:       \$ \_\_\_\_\_ DEPOSITED WITH THE FLOYD COUNTY CLERK  
[IF CHILD SUPPORT ARREARAGE]

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

\_\_\_\_\_  
JUDGE \_\_\_\_\_  
FLOYD CIRCUIT/SUPERIOR COURT

**LOCAL CRIMINAL RULES OF  
PRACTICE**

**FOR THE COURTS**

**OF THE 52<sup>nd</sup> JUDICIAL CIRCUIT**

**FLOYD COUNTY, INDIANA**

**Effective: January 1, 2009**

## TABLE OF RULES

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### **LR22-CR1-200 APPLICABILITY OF RULES**

**A. SCOPE.** The following local criminal rules of practice and procedure shall apply to cases filed in the Circuit and Superior Courts of Floyd County, Indiana.

**B. EFFECTIVE DATE.** These local rules shall be effective January 1, 2009.

**C. CITATION.** These rules may be cited as Local Criminal Rule \_\_\_\_. LR22-CR00-\_\_)

**D. PURPOSE.** These rules are promulgated pursuant to, and are intended to supplement, the Indiana Criminal Rules as adopted by the Indiana Supreme Court.

**LR22-CR2.1-201  
WITHDRAWAL OF APPEARANCE**

**A. WITHDRAWAL OF APPEARANCE.** An attorney desiring to withdraw his appearance shall file a written motion requesting leave to do so accompanied by a notice of hearing which shall be served upon the defendant directing said person to appear at the hearing, unless incarcerated, in which event the defendant shall be produced in Court for said hearing. The motion must contain the address and phone number of the defendant.

**B. WAIVER OF RULE.** A motion for leave to withdraw an appearance accompanied by a written appearance of successor counsel and a written consent of the defendant shall constitute a waiver of the requirements of this local rule.

**C. TERMINATION OF APPEARANCE.** An attorney's representation of a Defendant shall be conclusively presumed to be withdrawn/terminated five (5) days from the expiration of the time within which a Notice of Appeal must be filed.

**LR22-CR18-202  
DUTIES OF ATTORNEYS  
PREPARATION OF ENTRIES**

**A. STATUS OF PROCEEDINGS.** The Prosecuting Attorney and each attorney appearing of record shall at all times keep themselves informed of the status of the proceeding and shall be particularly bound by hearing dates orally set by the Court from the bench in their presence.

**B. PREPARATION OF ENTRY.** When the Prosecuting Attorney or an attorney of record for a defendant has agreed to or has been directed by the Court to prepare an order or entry, such attorney shall place on the last page of the entry appropriate signature lines indicating "prepared by" and "reviewed by" and shall submit the entry to opposing counsel for examination. Opposing counsel shall promptly examine the entry when submitted, shall sign the entry, and shall submit the entry to the Court within five [5] days of receiving same. If opposing counsel shall fail or refuse to sign or submit the order or entry within five (5) days of receiving same without advising the Court and the preparing attorney as to objections thereto, the preparing

attorney shall advise the Court by letter of opposing counsel's failure or refusal to sign or submit such order or entry and submit the same to the Court. The Court shall accept such order or entry without opposing counsel's signature unless after examining the record, the Court determines that the same is erroneous.

**C. 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 the Court shall be flat and unfolded.

**D. PAPER SIZE.** All pleadings, motions, entries, orders, judgments and other papers shall be filed on letter size [8 ½ x 11] paper.

**E. PROPOSED ORDERS AND ENTRIES.** All proposed orders and entries shall reflect the name of the preparer under the indication "tendered by", shall be submitted in sufficient number for each person entitled to service and shall contain a distribution list identifying by name and address each person entitled to service. The preparer shall provide sufficient pre-stamped pre-addressed envelopes to the court for mailing of the orders or entries.

### **LR22-TR7-203 MOTIONS**

**A. PROPOSED ORDERS REQUIRED.** Proposed orders shall accompany motions in the following matters:

- [1] to enlarge or shorten time
  - [2] for setting of hearing, conference or trial
  - [3] for continuance
  - [4] for reduction of bond
  - [5] for psychiatric examination for competency
  - [6] to compel discovery
  - [7] to withdraw appearance
  - [8] for dismissal
  - [9] for change of venue
  - [10] for modification of sentence
  - [11] for post-conviction relief
  - [12] for such other orders, judgments or decrees as the Court may direct;
- and shall comply with Local Rule LR22-CR18-202(E).

**B. HEARINGS REQUIRED.** Excepting motions to correct error, all motions shall be set for hearing at the time of their filing and shall be accompanied by a separate instrument requesting a hearing and an order for the setting of a hearing date.

**C. GENERALLY.** Excepting motions made during the course of a recorded proceeding, all motions shall be in writing.

**LR22-CR2.2-204**  
**PRE-TRIAL CONFERENCES**  
**OMNIBUS HEARINGS**  
**ASSIGNMENT OF CASES FOR TRIAL**

**A. COURT CALENDAR.** A calendar of cases assigned for bench trial or jury trial shall be kept by the Court and the Court Reporter shall enter on the calendar at the direction of the Court, the style, cause number, and the time and date the trial is assigned to commence. In order to comply with Indiana Criminal Rule 4, the Prosecuting Attorney may submit a motion for trial date setting out the requested trial date which the Court will grant unless a congested calendar exists in which event the next available date shall be the trial date.

**B. PRE-TRIAL CONFERENCES AND OMNIBUS HEARINGS.**

Pre-trial Conferences. The Court, in its discretion, may require a pre-trial conference on certain cases and, sua sponte, set such cases for conference. Any party or attorney of record desirous of having a pre-trial conference for any case may file a motion requesting same accompanied by a proposed order.

Omnibus Hearings. Omnibus hearings shall be set by the Court pursuant to the Indiana Statutes. All matters required to be resolved, filed or notices given, and all time limits required to be observed, shall be complied with on or before said date as required by the Indiana Statutes.

**C. ATTENDANCE AT PRE-TRIAL CONFERENCE AND OMNIBUS HEARING.**

At least one attorney for each defendant who is a member of the Indiana Bar and who will participate in the trial shall appear at the pre-trial conference and omnibus hearing. The defendant must also be present for any pre-trial conference or omnibus hearing in the Circuit and Superior Courts. An attorney and a defendant who fails to attend a pre-trial conference or omnibus hearing shall be bound by the trial date set by the Court as well as such other matters determined at the conference or omnibus hearing. A bench warrant may be issued in the discretion of the Court for any defendant who fails to attend a pre-trial or omnibus hearing.

**D. REQUESTS FOR BENCH TRIAL.** The assignment of a case for bench trial may be had by motion duly filed and accompanied by a proposed order. Said motion shall reflect an estimate of the trial time required.

**LR22-TR53.5-205**  
**CONTINUANCES**

**A. GENERALLY.** A motion for continuance of a hearing or trial shall be accompanied by a proposed order which shall contain adequate space for insertion of a new time and date for re-scheduling purposes. The proposed order shall comply with Local Criminal Rule LR22-CR18-202.

**B. CONTENT OF MOTION.** A motion for continuance shall set forth the scheduled date, the reason for continuance, the specific length of time the moving party desires the cause to be delayed, and reference as to whether opposing counsel agrees or disagrees to a continuance of



the scheduled hearing or trial.

**C. TIMING OF MOTION.** No continuance shall be granted at the request of a party unless a written motion for same is filed not less than fourteen [14] days prior to the scheduled hearing or trial, unless it is made to appear by affidavit that the facts which are the basis of the motion did not then exist or were not then known by the moving party.

**LR22-CR00-206  
FINDINGS OF FACT**

**A. PROPOSED FINDINGS.** In all cases where findings of fact by the Court are requested or required, counsel of record shall submit to the Court proposed findings setting forth all facts claimed to have been established and the conclusions of law thereon. Such findings shall be submitted to the Court with a copy on computer disc within such time as directed by the Court.

**LR22-CR00-207  
BONDS AND BOND SCHEDULES**

**A. BOND SCHEDULE.** During regular court hours the judge of each court, or magistrate on cases assigned to him in each court, shall determine the bond on all cases filed in that court. The judges of the various courts may, in their discretion, institute and adopt bond schedules. These bond schedules are for the convenience of the court's and sheriff's offices for use after regular court hours. The sheriff's office may assign bonds for any individual arrested based on the nature of the charge per the schedule.

**B. EXCEPTIONS.** The bond may be changed by the judge of the court providing the bond schedule, and the magistrate on cases assigned to him in such court, at any time for any specific case. Any of the other judges and the magistrate may change a bond on any individual after court hours regardless of which court the individual is charged in, if the bond has not already been reviewed by one of the other judges or magistrate.

**C. OTHER CASES.** The bond on any case that is not on a bond schedule due to the severity and nature of the offense, may be set by any of the judges and the magistrate after regular court hours. The judges of the courts wherein the case is appropriate to be sent should be contacted first. In the event said judge or judges are unavailable, then a judge of either of the other courts or the magistrate may set the bond. Nevertheless, any judge or the magistrate may assign a bond to any individual case regardless of the offense or where the case will be filed provided none of the other judges or the magistrate have previously reviewed said bond and taken action thereon.

**D. TYPES OF BONDS.** The following bonds are approved for the courts of Floyd County: Surety, Cash and Ten (10%) percent Bonds posted in the Clerk's Office (Court Cash Bonds).

**LR22-CR2.2-208  
CASE ASSIGNMENT**

**A. APPLICATION.** In the event a case charges both a felony and a misdemeanor, the case shall be considered a felony for the application of this rule.

**B. ASSIGNMENT.** For specific case assignment, refer to LR22-TR00-117 ‘Assignment of Cases’.

**LR22-CR2.3-209  
TRANSFER**

**A. TRANSFER BETWEEN COURTS.** Transfer between the Floyd Circuit Court and the Floyd Superior Courts shall be accomplished pursuant to I.C. 33-29-1-9 & 10, which allows the judges to transfer cases between courts with mutual consent and to sit on any case in either court with mutual consent.

**LR22-CR2.2-210  
REASSIGNMENT**

**A. CRIMINAL CASE REASSIGNMENT.** In any criminal proceeding in the Floyd Circuit or Superior Courts when a change of judge is granted, or it becomes necessary to assign another judge, the case shall be reassigned on an alternate basis to the Judge of the Floyd Circuit or Superior Courts or a Senior Judge assigned to that court. If a conflict still exists then a Special Judge shall be sequentially selected from an alphabetized alternative list composed of Judges from contiguous counties.

**LR22-CR00-211  
WARRANTS**

**A. RE-ISSUANCE OF WARRANTS.** All warrants issued for misdemeanors shall be returned to the issuing court six (6) months from issuance date and shall be reissued at the request of the Prosecuting Attorney. All warrants for felonies shall be returned to the issuing court one (1) year from issuance date. All bench warrants for contempt of court, failure to appear, revocation of probation, etc.; whether felony or misdemeanor, shall be returned to the issuing court one (1) year from issuance date. The court shall then reissue said warrants as it deems necessary.

**LR22-TR28-212  
DEPOSITIONS**

**A. PUBLICATION.** The seal on depositions shall be broken and the deposition deemed published upon filing with the Court. When depositions are utilized, specific reference by page and line or question number to those places in such deposition which purport to demonstrate the presence or absence of material fact shall be provided.

**LR22-TR51-213  
JURY INSTRUCTIONS**

**A. FORM.** Proposed final instructions, special or pattern, shall be submitted double-

spaced with all designations including indications for the Court's disposition placed on the bottom three [3] inches of the instruction. The parties shall submit a second set of proposed final instructions containing no designation of who submitted them, or other identifying references, which shall contain only the statement of law. These instructions shall also be presented to the court on computer disc or by email as the Court shall direct.

**LR22-CR00-214  
TRANSCRIPT**

**A. COSTS.** Costs for a transcript shall be in accordance with the Local Civil Rules. The party requesting a transcript shall obtain an estimate of the cost of the transcript from the Court Reporter and shall pay a deposit equal to one-half of the estimated cost of the transcript before the transcription process is undertaken by the Court Reporter. The remaining estimated cost of the transcript shall be paid upon notification by the Court Reporter to the requesting party that one-half of the transcript has been completed. The actual total cost of the transcript shall be paid in full before the transcript is released to the requesting party. Nevertheless, this provision shall not apply to defendants whom the Court has determined to be indigent and unable to pay for the cost of a transcript.

**LR22-CR00-215  
SANCTIONS**

**A. COURT ACTION.** When a party or counsel for a party fails to comply with any of these Local Criminal Rules, the Court, after advising the party of the noncompliance, may direct the Clerk of the Court to refuse any pleadings or papers filed in non-compliance with these rules; or, if inadvertently accepted for filing, direct that such pleadings or papers be stricken from the record; or take whatever other appropriate action deemed necessary.

**LR22-CR00-216  
FLOYD COUNTY SUBSTANCE ABUSE PROGRAM  
SCHEDULE OF FEES**

- |  |       |
|--|-------|
| 1. Convictions for Driving While Intoxicated/Reckless Driving amended from Driving While Intoxicated | \$400 |
| *Includes clinical impression assessment, classes, case management and workbooks.                    |       |
| 2. Convictions for Marijuana/Controlled Substance  | \$400 |
| * Includes clinical impression assessment, classes, case management and workbooks.                   |       |
| 3. Convictions for other alcohol or substance offense  | \$250 |
| * Includes clinical impression assessment, classes, case management and workbooks.                   |       |
| 4. Conditions of Bond (Court Referral)   | \$250 |
| *Includes clinical impression assessment, classes, case management and workbooks.                    |       |

- |    |  |       |
|----|--|-------|
| 5. | Referral/transfer to another agency-tracking client to completion of the ordered substance abuse program | \$100 |
| 6. | Clinical Impression Assessment and Recommendation  | \$50  |
| 7. | Clinical Impression Assessment and Referral to another outpatient agency or in-patient facility          | \$250 |
|    | *Includes case management tracking the client to completion of the treatment program.                    |       |
| 8. | Drug Screenings  | \$30  |

**LOCAL FAMILY RULES OF PRACTICE**

**FOR THE COURTS**

**OF THE 52<sup>ND</sup> JUDICIAL CIRCUIT**

**FLOYD COUNTY, INDIANA**

**Effective January 2009**

## **TABLE OF RULES**

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LR22-FR00-302	Financial Disclosure Form
LR22-FR00-303	Child Support: Use of Guidelines
LR22-FR00-304	Parenting Time
LR22-FR00-305	Transparenting Seminar Requirement
LR22-FR00-306	Relief Under Trial Rule 65 (E)(1)
LR22-FR00-307	Ex Parte Orders/Emergency Relief
LR22-FR-00-308	Expedited Hearings
LR22-FR-00-309	Final Hearing on Dissolution of Marriage
LR22-FR00-310	Submission of Agreed Matters
LR22-FR00-311	Exhibit Requirements for Contested Hearings
LR22-FR00-312	Service on Re-Docketed Matters
LR22-FR00-313	Child Support Modifications

## APPLICABILITY OF RULES

**A. Scope.** These rules shall apply in the Floyd County Circuit and Superior Court in all family law matters.

**B. Local Civil Rules.** The Local Civil Rules of Practice enacted by the Courts shall be applicable in all family law matters when not in conflict with these Local Family Rules.

**C. Effective Date.** These local family rules shall be effective January 2009.

**D. Citation.** These rules shall be cited as Local Family Rule \_\_\_\_ (LR22-FR00-\_\_).

## LR22-FR00-301 PROVISIONAL ORDERS

**A. Content of Provisional Pleading.** A motion requesting provisional relief under I.C. 31-15-4-1 must be accompanied by an affidavit setting forth the factual basis and the relief requested pursuant to I.C. 31-15-4-2. If the relief requested is in the nature of child support or other monetary assistance, the motion must contain information and documentation regarding each party's employment status and weekly gross income. When child support is requested, the motion must be accompanied by a Child Support Guideline Worksheet.

**B. Order Scheduling Hearing/Preliminary Hearing.** A motion requesting provisional relief must be accompanied by a proposed order for the setting of a hearing. If the provisional request includes relief in the nature of child custody or child support, the Court will set the matter for a preliminary hearing on those issues.

**C. Procedure in Lieu of Hearing.** A movant may waive the hearing requirements of I.C. 31-15-4-4 & 5 through the use of a Notice of Ruling accompanying the motion for provisional relief. The Notice of Ruling shall contain the following:

- (1) A waiver of the hearing requirements;
- (2) The date for ruling which shall not be less than ten (10) working days from the filing of the motion, the movant's counsel to select the date;
- (3) Notice that the Court will consider a written response to the Motion filed before the ruling date.

If a response to the motion for provisional relief is filed on or before the ruling date, the Court shall extend the ruling date by five (5) working days to allow the movant to file a reply to the response.

If service of the Summons and Notice of Ruling occurs on a date beyond the selected ruling date, the ruling date shall be automatically extended for ten (10) working days from the date of service and the time limitations for the filing of a response and a reply to the response shall be followed.

**D. Request for Hearing.** When a waiver of the hearing requirements has been made by the movant for provisional relief, the opposing party may, nonetheless, request hearing dates in accordance with the provisions of I.C. 31-15-4-4 & 5. A request for hearing dates must be filed within ten (10) days of the service of Summons and Notice of Ruling and must be accompanied by a proposed Order for the setting of a hearing. A request for hearing shall cancel the Notice of Ruling procedure described in Section C and the Court shall immediately schedule a hearing.

**E. Effect of Change of Venue.** The filing of a motion for a change of venue from the Judge

by either party shall not divest the Court of jurisdiction from issuing a preliminary order on temporary custody, child support or parenting time. A written request for such a determination must be filed within five (5) days of service on the motion for change of venue. The filing of such a request shall be accompanied by a proposed Order for the setting of a preliminary hearing on those issues.

**LR22-FR00-302  
FINANCIAL DISCLOSURE FORM**

**A. Requirement.** In all contested dissolution and separation actions, each party shall prepare and exchange within forty -five (45) days of the filing of the action, a Verified Financial Disclosure Form in substantial compliance with the form set forth in the Appendix to these Local Family Rules of Practice. For good cause, the time limit may be extended or shortened by Court Order.

At the time of the filing of the action, the moving party shall serve a Notice upon the opposing party of the requirement to exchange a Verified Financial Disclosure Form. Such Notice shall be in substantial compliance with that set forth in the Appendix to these Local Family Rules of Practice.

**B. Exceptions.** The Verified Financial Disclosure Form need not be exchanged if the parties agree in writing within thirty (30) days of the initial filing to waive exchange or the proceeding is uncontested, or the proceeding is one in which service is by publication and there is no pro se response by the Respondent or appearance by counsel for Respondent, or upon order of Court waiving such exchange.

**C. Mandatory Discovery.** The exchange of the Verified Financial Disclosure Form constitutes mandatory discovery, therefore, the Indiana Trial Rule of Procedures, Trial Rule 37 sanctions apply. Additionally, pursuant to Trial Rule 26 E(2) and (3), the Form shall be supplemented if additional material becomes available.

**D. Statement Considered Confidential.** When a Verified Financial Disclosure Form is filed with the Court, it shall be sealed and designated “**Confidential.**”

**LR22-FR00-303  
CHILD SUPPORT  
USE OF SUPPORT GUIDELINES**

**A. Contested Hearings.** In all hearings involving child support, each party shall submit to the Court an Indiana Child Support Guideline Worksheet in such form consistent with that set forth in the Indiana Child Support Rules and Guidelines.

**B. Settlement Agreements.** In all settlement agreements in which child support is established, a Child Support Guideline Worksheet shall be attached as an exhibit with the affirmation executed by the parties.

**C. Deviation from Guidelines.** If an agreement of the parties or a court order regarding child support deviates from the Guidelines, an adequate explanation for such a deviation must be set forth in the agreement or the order.

**D. Effective Date.** All orders establishing or modifying child support shall be effective on



the Friday immediately following the date on which the request for child support was filed unless otherwise provided for by statute, case law or agreement of the parties approved by the Court.

**LR22-FR00-304  
PARENTING TIME**

**A. Use of Parenting Time Guidelines.** Unless the Court enters specific orders to the contrary or unless the parties otherwise agree parenting time shall be in accordance with the Indiana Parenting Time Guidelines.

**B. Settlement Agreement.** In all settlement agreements in which parenting time is established, the parties shall certify in such agreement that they have received a copy of such guidelines and have read and understand the same.

**LR22-FR00-305  
TRANSPARENTING SEMINAR REQUIREMENT**

**A. Mandatory Attendance.** In any dissolution or separation proceeding involving children under the age of eighteen (18) years of age, both parties to the proceedings shall attend and complete the “Transparenting Seminar” or such other program or seminar which the Court may designate. In any post-dissolution proceeding where custody is in issue, both parties shall attend and complete the seminar or program unless a party has completed the seminar or program within the prior two (2) years.

**B. Failure to Attend Seminar.** A failure to register, attend, and complete the seminar or program may constitute cause for denial of the granting of the dissolution or the relief requested and a continuance of the matter until attendance has been accomplished. A party, with leave of court, may attend another similar seminar or program.

**C. Notice Requirement.** At the time of the filing of a dissolution or separation proceeding or a post-dissolution proceeding where custody is in issue, the moving party shall serve a Notice upon the opposing party of the requirement of attendance in the “Transparenting Seminar” or other such program.

**D. Waiver of Requirement.** Upon motion or its own motion, the Court may waive the requirement for either or both parties to attend and complete the seminar.

**LR22-FR00-306  
RELIEF UNDER TRIAL RULE 65 (E) (1)**

**A. Temporary Restraining Order.** In accordance with the provisions of Trial Rule 65(E)(1), the court will issue a temporary restraining order applicable to both parties upon the filing of a verified petition by either party alleging that injury would result to the moving party if no order were to issue and requesting that both parties be enjoined from:

- (1) Transferring, encumbering, concealing or otherwise disposing of any joint property of the parties or assets of the marriage without the written consent of the parties or permission of the court; and/or;
- (2) Removing any child of the parties then residing in the State of Indiana from the

State with the intent to deprive the court of jurisdiction over such child without the prior written consent of the parties or permission of the court.

**B. Form of Temporary Restraining Order.** The moving party shall prepare such order in compliance with Trial Rule 65 (E) (1).

**C. Immediate Entry of Temporary Restraining Order.** A request for a temporary restraining order will be entered in the record by the Clerk of the Court immediately upon filing and without bringing the matter to the attention of the Judge or waiting for the Judge to sign the original. Attorneys may use the Court's signature stamp for the convenience of the Clerk and counsel.

**LR22-FR00-307**  
**EX PARTE ORDERS/EMERGENCY RELIEF**

**A. Requests for Emergency Relief.** All requests for emergency relief in family law matters shall comply with the provisions of Indiana Trial Rule 65(B) and I.C. 31-15-4.

**B. Court Scrutiny.** All requests for emergency relief will be carefully reviewed by the Court giving due regard to the following:

- (1) Rule 3.5 of the Rules of Professional Conduct, In the Matter of Anonymous, 729 NE 2d 566, and In the Matter of Anonymous, 786 NE 2d 1185.
- (2) Canon 3(b)(8) of the Code of Judicial Conduct and Opinion Canon 3#1-01 issued by the Indiana Commission on Judicial Qualifications.

**C. Issuance of Ex Parte Order.** The Court may, without the necessity of notice or hearing, issue the requested emergency order ex parte upon the Court's finding that an emergency exists and that immediate and irreparable injury, loss or damage will occur before an adversarial hearing can be scheduled.

**D. Order Scheduling Hearing.** If the Court issues an ex parte order granting the emergency relief requested, the matter shall be set for an adversarial hearing as soon as possible. The party granted the emergency relief shall tender a proposed order for the setting of a hearing date. This order shall include the following language:

“As the recipient of this ex parte order for \_\_\_\_\_, upon two (2) working days notice to the party who obtained such order (or in such shorter notice as the court may prescribe), you shall be allowed to appear before the Court and be heard regarding the issuance of this order.”

**LR22-FR00-308**  
**EXPEDITED HEARINGS**

An expedited hearing is a proceeding in open Court where the evidence is presented in summary narrative fashion by counsel or the parties, pro se, accompanied by the submission of documentary evidence when applicable. The Court may question the parties or counsel. Formal rules of evidence and procedure shall not apply, except that the Court shall endeavor to insure that traditional concepts of trustworthiness of evidence and fundamental fairness are observed.

All requests for enforcement or modification of existing orders and decrees may first be scheduled for an “expedited” hearing. Each party shall bring to the expedited hearing all

documentary evidence as required by these Local Rules. All persons seeking relief, and any party opposing the relief sought, are required to attend the expedited hearing. The parties shall first meet in a settlement conference at least thirty (30) minutes prior to the scheduled hearing. If they are unable to agree, the Court will hear and determine the matters at issue between the parties at the expedited hearing.

Any party, in open Court at the commencement of the expedited hearing, may demand an evidentiary hearing at which all rules of trial procedure and evidence will be observed. If such demand is made, the matters then at issue between the parties will be scheduled, heard, and determined at such evidentiary hearing. The Court may, however, conduct an expedited hearing to consider and determine any emergency matters or other necessary temporary orders until the evidentiary hearing can be held. The Court may, on its own motion, either before or after the expedited hearing, decline to determine any issues on the evidence presented at such hearing and shall thereafter schedule such issues for evidentiary hearing.

**LR22-FR00-309**  
**FINAL HEARING ON DISSOLUTION OF MARRIAGE**

**A. Scheduling.** A final hearing on a Petition for Dissolution of Marriage shall be set by the Court in accordance with Local Civil Rule LR22-TR16-106(E) if the cause is contested. If the cause is not contested, a final hearing shall be held at such time as is mutually convenient to the parties and the Court or at such time as generally set by the Court for hearings on uncontested matters.

**B. Expedited Hearing.** Any party may request that the Final Hearing on a Petition for Dissolution of Marriage be held under the procedure for an expedited hearing. Such request shall be made in writing and filed with the Court. Unless the other party files, within ten (10) working days, a written objection to proceeding in expedited fashion, the Court will schedule the trial for an expedited hearing under the procedures outlined in Local Family Rule LR22-FR00-308.

**C. Notice in Uncontested Action.** In an uncontested action, written notice of an intention to proceed to final hearing on a date and time certain shall be given to a party not represented by counsel. The written notice shall be sent to the last known address of the party not represented and proof of service shall not be required, however, a copy of said notice shall be submitted to the Court at the time of the final hearing.

**D. Summary Disposition/Attachments Required.** A summary disposition on a Petition for Dissolution of Marriage shall be entered by the Court upon submission of the appropriate documentation to the Court in accordance with statutory requirements.

In all summary dispositions in which child support is established, a copy of the child support guideline worksheet shall be attached as an exhibit with the affirmation thereon executed by the parties. In cases where there is a deviation from the child support guidelines, an adequate explanation for such a deviation must be set forth in the summary disposition decree.

In all summary dispositions in which parenting time is referenced in the settlement agreement/dissolution decree, the parties shall certify that they have received a copy of the Indiana Parenting Time Guidelines and that they have read and understand the same.

**LR22-FR00-310**  
**SUBMISSION OF AGREED MATTERS**

No agreed matter shall be submitted to the Court unless it is in writing and signed by the parties and/or counsel and accompanied with other appropriate documents. However, if the parties reach an agreement just prior to hearing or trial, then the Court may accept evidence of that settlement by way of a handwritten entry or on the record followed by the submission of a written agreement within a reasonable time thereafter.

#### **LR22-FR00-311**

### **EXHIBIT REQUIREMENTS FOR CONTESTED HEARINGS**

In all contested hearings, each party shall submit the following exhibits to the Court, if applicable.

- (a) A Child Support Guideline Worksheet.
- (b) A calculation of the child support arrearage.
- (c) A listing of the marital assets with an indication of fair market value.
- (d) A listing of the marital debts with an indication of the balance due and the minimum monthly payment requirement.
- (e) The parties' proposed distribution of marital assets and debts.

#### **LR22-FR00-312**

### **SERVICE ON REDOCKETED MATTERS**

**A. Trial Rule 4 Service Required.** Service of process on a party in post-dissolution actions, such as petitions for modifications and applications for rule to show cause, must comply with Trial Rule 4 of the Indiana Rules of Trial Procedure. Service of process upon the attorney who represented the party in the underlying dissolution action shall be deemed insufficient.

**B. Termination of Appearance.** The appearance of an attorney for, and his or her representation of, a party shall be conclusively presumed to be withdrawn or terminated five (5) days from the expiration of the time within which a Notice of Appeal must be filed.

#### **LR22-FR00-313**

### **CHILD SUPPORT MODIFICATIONS**

Unless waived by the parties in writing or by Order of the Court, a hearing on a Petition to Modify a child support obligation established by an Order of Dissolution of Marriage, an Order Establishing Paternity, an Order Decreeing a Legal Separation, or an Order Establishing Child Support Obligation, will not be scheduled until discovery has been completed and notice of compliance is filed with the Court. The Court shall then schedule a hearing on the pending Petition to Modify.

#### **APPENDIX**

### **FINANCIAL DISCLOSURE FORM**

**NOTICE**

**YOU ARE HEREBY NOTIFIED THAT YOU MUST FILE YOUR VERIFIED FINANCIAL DISCLOSURE STATEMENT WITH THE OPPOSING PARTY WITHIN 45 DAYS OF THE FILING DATE OF THIS CASE. FAILURE TO COMPLY WILL RESULT IN YOUR ADMITTING ALL INFORMATION CONTAINED IN THE OPPOSING PARTY’S VERIFIED FINANCIAL DISCLOSURE STATEMENT.**

**THE VERIFIED FINANCIAL DISCLOSURE STATEMENTS CAN BE OBTAINED FROM THE COURT WHERE THIS ACTION IS FILED.**

**FINANCIAL DISCLOSURE STATEMENT  
COMMENTARY**

The form included herein is intended to expedite and facilitate the preparation for trial and disposition of contested marriage dissolution cases.

It is for use in all dissolution cases in which distribution of property is an issue. It is intended also to facilitate a full disclosure of all assets of the parties and should be supplemented where necessary to accomplish that purpose. If needed, use additional sheets and attach with appropriate references.

The parties shall stipulate in writing those assets and liabilities and other matters as to which there is no disagreement.

When supplying the information called for, give the actual or, where the nature of the assets requires, the appraised or estimated value (indicating which) of each asset at the date of the final separation of the parties.

If any asset is located outside the jurisdiction of this Court, state where it is located and, if necessary, give details on a separate sheet. Indicate how much of the value of each asset held in joint ownership was contributed by the husband (h) and how much by the wife (w).

The parties shall state under oath that they have made full disclosure of assets and liabilities.

The Court recognizes that this form calls for information that may not be appropriate in every case. In those cases in which it is not totally inappropriate, merely supply information appropriate to the case at hand and indicate those inquiries that are not applicable.

STATE OF INDIANA )  
  ) SS:  
COUNTY OF FLOYD )

IN THE FLOYD \_\_\_\_\_ COURT  
CAUSE NO \_\_\_\_\_

IN RE THE MARRIAGE OF

---

Petitioner

vs

---

Respondent

**VERIFIED FINANCIAL DISCLOSURE STATEMENT**

In accordance with Local Rules and Indiana Trial Rules 33 and 34, the undersigned, Petitioner or Respondent, herewith submits the following VERIFIED FINANCIAL DISCLOSURE STATEMENT:

**I. PRELIMINARY INFORMATION**

Full Name \_\_\_\_\_

Address \_\_\_\_\_

Date of Birth \_\_\_\_\_

Social Security No \_\_\_\_\_

Date of Marriage \_\_\_\_\_

Spouse's Name \_\_\_\_\_

Spouse's Social Security No \_\_\_\_\_

Spouse's Date of Birth \_\_\_\_\_

Children:

Name \_\_\_\_\_ Age \_\_\_\_\_ DOB \_\_\_\_\_

Name \_\_\_\_\_ Age \_\_\_\_\_ DOB \_\_\_\_\_

Name \_\_\_\_\_ Age \_\_\_\_\_ DOB \_\_\_\_\_

Name \_\_\_\_\_ Age \_\_\_\_\_ DOB \_\_\_\_\_

Name of Health Care Provider(s): \_\_\_\_\_ Weekly Cost: \_\_\_\_\_

Name of Health Insurance Company: \_\_\_\_\_

Weekly Cost: Single Plan \_\_\_\_\_; Family Plan \_\_\_\_\_

Extraordinary Medical Expenses: \_\_\_\_\_

Extraordinary Educational Expenses: \_\_\_\_\_

**II. INCOME INFORMATION**

**A. EMPLOYMENT**

Current Employer \_\_\_\_\_

Address \_\_\_\_\_

Telephone No \_\_\_\_\_ Length of Employment \_\_\_\_\_

Job Description \_\_\_\_\_

Gross Income \_\_\_\_\_

Per Week

Bi-Weekly

Per Month

Yearly

Net Income      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_      \_\_\_\_\_  
                          Per Week      Bi-Weekly      Per Month      Yearly

**B. EMPLOYMENT HISTORY FOR LAST 5 YEARS**

Employer	Dates of Employment	Compensation (Per/Wk/Mo/Yr)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**C. OTHER INCOME**

List other sources of income; including but not limited to Dividends, Earned Interest, Rents, Public Assistance (AFDC), Social Security, Worker's Compensation, Child Support from prior marriage, Military or Other Retirement, Unemployment Compensation, etc.

Source	Amounts Received	Reason for Entitlement
_____	_____	_____
_____	_____	_____
_____	_____	_____

Fringe Benefits; including but not limited to Company Automobile, Health Insurance, Club Memberships, Cafeteria Plan, etc.

Type of Benefit	Annual Value
_____	_____
_____	_____
_____	_____

\_\_\_\_\_

**III. REQUIRED INCOME VERIFICATION**

You are required by the Trial Court to attach the following:

1. Your three most recent paycheck stubs.
2. A full and complete copy including schedules of your last Federal Income Tax Return.
3. The first page of your last State Income Tax Return.

**IV. PROPERTY**

**A. MARITAL RESIDENCE**

Description \_\_\_\_\_

---

Location \_\_\_\_\_

Date Acquired \_\_\_\_\_

Purchase Price \_\_\_\_\_ Down Payment \_\_\_\_\_

Source of Down Payment \_\_\_\_\_

Current Indebtedness \_\_\_\_\_

Monthly Payment \_\_\_\_\_

Current Fair Market Value \_\_\_\_\_

**B. OTHER REAL PROPERTY**

Description \_\_\_\_\_

---

Location \_\_\_\_\_

Date Acquired \_\_\_\_\_

Purchase Price \_\_\_\_\_ Down Payment \_\_\_\_\_

Source of Down Payment \_\_\_\_\_

Current Indebtedness \_\_\_\_\_

Monthly Payment \_\_\_\_\_

Current Fair Market Value \_\_\_\_\_

**C. PERSONAL PROPERTY (Automobiles, Boats, Furnishings, Household Goods, Jewelry, Motorcycles, Tractors, Trucks, etc. [Attach additional pages if necessary])**

Description      Date Acquired      Purchase Price      Indebtedness      Payment      Current Value





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**VI. STOCKS, BONDS AND CD'S**

Name of Depository	Description & No	Date Acquired	Balance Date Separated	Current Balance
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

**VII. INSURANCE POLICIES**

Company	Owner	Policy No	Beneficiary	Cash Value	Face Value
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

**VIII. RETIREMENT BENEFITS, IRA, KEOGH, PENSION, ETC.**

Company	Type of Plan	Account No	Value
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____


**IX. INTEREST IN BUSINESS**

Name of Business	Type (Corp, Part., Sole Owner)	% Owned	Estimated Value

**X. DEBTS (Including but not limited to Mortgages, Charge Cards, Loans, Credit Union, Etc.; attach separate list if necessary)**

Creditor	Account No	Monthly Payment	Current Balance	Balance Date of Filing

Total Monthly Payment-----\$ \_\_\_\_\_  
 Total Debts Owed-----\$ \_\_\_\_\_

**XI. MONTHLY EXPENSES**

Housing (Rent or Mortgage)_____	Transportation
2 <sup>nd</sup> Mortgage _____	(a) Gas/Oil _____
Gas/Electric _____	(b) Car Repairs _____
Water/Sewer _____	Car Payment _____
Telephone _____	Home Ins. _____
Garbage Pickup _____	Property Tax _____
Food _____	Charge Accounts
Medical (Self) _____	(a) Name _____
Medical (Children) _____	Balance _____
Dental (Self) _____	Monthly Pmt _____
Dental Children _____	(b) Name _____
Med/Dental Insurance _____	Balance _____
Cleaning/Laundry _____	Monthly Pmt _____
Hair Care _____	(d) Name _____
Toiletries _____	Balance _____
School Lunch _____	Monthly Pmt _____
School Tuition _____	(e) Name _____
School Supplies _____	Balance _____
Newspaper _____	Monthly Pmt _____
	Other _____
	Other _____

Cablevision \_\_\_\_\_ Other \_\_\_\_\_  
**Total Monthly Expenses**      \$ \_\_\_\_\_

**XII. ASSETS ACQUIRED PRIOR TO OR DURING THE MARRIAGE OR THROUGH INHERITANCE OR GIFT (Whether now owned or not)**

(Show significant assets only)

**A. ASSETS OWNED BY YOU PRIOR TO THE MARRIAGE**

(Value as of the date of marriage)

Asset	Gross Value	Less: Lien/Mortgage	Net Value	Valuation Date
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

**B. ASSETS ACQUIRED BY YOU DURING THE MARRIAGE**

(Value as of the date of acquisition)

Asset	Gross Value	Less: Lien/Mortgage	Net Value	Valuation Date
_____	_____	_____	_____	_____
Acquired from _____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Acquired from _____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Acquired from _____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Acquired from _____	_____	_____	_____	_____

**XIII. SUMMARY OF ASSETS AND LIABILITIES AS OF DATE OF FINAL SEPARATION**

Asset	Husband's Name	Wife's Name	Jointly Held	Total
Family Dwelling	_____	_____	_____	_____
Other Real Property	_____	_____	_____	_____
Bank or Savings Accts	_____	_____	_____	_____
Stocks/Bonds/Securities	_____	_____	_____	_____
Notes & Accts Receivable	_____	_____	_____	_____
Furniture/Motor Vehicles	_____	_____	_____	_____
Life Ins-Cash Surrender Value	_____	_____	_____	_____
Retirement Funds-Vested	_____	_____	_____	_____
Business Interests	_____	_____	_____	_____
Other Assets	_____	_____	_____	_____
<b>Total Assets</b>	<b>\$_____</b>	<b>\$_____</b>	<b>\$_____</b>	<b>\$_____</b>
Liabilities				
General Creditors	_____	_____	_____	_____
Mortgage on Family Dwelling	_____	_____	_____	_____
Mortgages on Other Real Estate	_____	_____	_____	_____
Notes to Banks and Others	_____	_____	_____	_____
Loans on Insurance Policies	_____	_____	_____	_____
Other Liabilities	_____	_____	_____	_____
<b>Total Liabilities</b>	<b>\$_____</b>	<b>\$_____</b>	<b>\$_____</b>	<b>\$_____</b>
<b>ASSETS MINUS LIABILITIES</b>	<b>\$_____</b>	<b>\$_____</b>	<b>\$_____</b>	<b>\$_____</b>

**XIV. PERSONAL STATEMENT REGARDING DIVISION OF PROPERTY**

Indiana law presumes that the marital property be split on a 50/50 basis. However, the

Judge may order a division which may differ from an exact 50/50 division of your property. Please provide a brief statement as to your reasons, if there be any, why the Court should divide your property on anything other than a 50/50 basis.

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**XV. VERIFICATION & DUTY TO SUPPLEMENT OR AMEND**

I affirm, under penalties for perjury, that the foregoing representations are true to the best of my knowledge and belief. Further, I understand that I am under a duty to supplement or amend this VERIFIED FINANCIAL DISCLOSURE STATEMENT prior to trial if I learn that the information which has been provided is either incorrect or that the information provided is no longer true.

SO DECLARED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

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Signature

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing Verified Financial Disclosure Statement was this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_, delivered to the opposing party or their attorney of record [list names and addresses] either in person, or by U.S. Mail-postage prepaid, or by Courthouse Mailbox.

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Petitioner/Respondent by Counsel or Pro se

**NOTICE: THIS VERIFIED FINANCIAL DISCLOSURE STATEMENT IS TO BE TREATED AS A REQUEST FOR ADMISSIONS TO THE RECIPIENT. SHOULD THE RECIPIENT FAIL TO PREPARE AND SEND HIS STATEMENT, THEN THE STATEMENTS CONTAINED HEREIN WILL BE DEEMED ADMITTED BY THE COURT.**

**YOU ARE FURTHER NOTIFIED THAT YOU HAVE 45 DAYS FROM THE DATE OF FILING IN THIS DISSOLUTION ACTION TO DELIVER YOUR VERIFIED FINANCIAL DISCLOSURE STATEMENT.**





