

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 the **Criminal Division Rules**. 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 **August 17, 2017**.

Comments to this proposed Local Rule amendment will be received through **Noon on August 16, 2017**. 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. T1221
Indianapolis, IN 46204

All of the above is so ORDERED this 17th day of July, 2017.

s/ Timothy Oakes
* Judge Timothy Oakes
Presiding Judge
Marion Superior Court

* Original signature on file with the Court.

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. Cases involving a petition for change of name filed under I.C. § 34-28-2 shall be filed in the Marion Circuit Court.

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.

LR49-TR5-203. REQUIREMENTS FOR MOTIONS

A. Notice. When a motion requires notice, the serving of the copy of the motion upon the other parties in the cause shall constitute notice of filing. If the motion requires a hearing or oral argument, the Court shall set the time and place of hearing or argument on the motion. Except for initial motions made pursuant to subsection D herein, all motions filed with the court shall include a brief statement indicating whether opposing party(ies) object to or approve of the granting of said motion.

B. Response. If the statement regarding the position of the opposing party(ies) required under subsection A herein indicates that objection to the granting of said motion may ensue, said objecting a party shall have 15 days from the date of filing to file a response to said motion.

C. Oral Arguments on Motions and Other Pleadings. When an oral argument is requested, the request shall be by separate instrument and filed with the pleading to be argued. Any such oral argument requested may be heard at the discretion of the Court, except for motions for summary judgment which shall be set for hearing upon request of any party.

D. Enlargement of Time. Initial written motion for enlargement of time pursuant to Rule TR 6(B)(1) to respond to a claim shall be automatically allowed for an additional 30 days from the original due date without a written order of the Court. Any motion filed pursuant to this rule shall state the date when such a response is due and the date to which time is enlarged. The motion must be filed on or before the original due date or this rule shall be inapplicable. All subsequent Motions shall be so designated and will be granted only for good cause shown.

E. Tender of Orders. All motions must be accompanied by a proposed order. seeking an order of the Court shall be accompanied by a sufficient number of orders to be executed by the Court in granting said motion. In addition to the orders, the notice shall be accompanied by stamped, addressed envelopes to all parties of record. When a non-party is the subject of the proposed order's distribution list, the filing party must tender to the Court stamped envelopes addressed to that non-party.

LR49-TR8-204. PREPARATION OF PLEADINGS, MOTIONS AND OTHER PAPERS

All pleadings, motions and other papers shall be prepared in accordance with the provisions of the Indiana Rules of Procedure. For the purpose of uniformity and convenience, the following requirements shall also be observed.

A. Production. Pleadings, motions and other papers may be either printed or typewritten and filed electronically. ~~on white opaque paper of at least 16 pound weight, 8 1/2 inches wide and 11 inches in length. All copies shall likewise be on white paper of sufficient strength and durability to resist normal wear and tear.~~ If typewritten, the lines shall be double spaced, except for quotations, which shall be indented and single spaced. Script type shall not be used.

B. Caption. Every pleading shall contain a caption setting forth the name of the Court, the Division and Room Number, the title of the action and the file number.

C. Titles. Titles on all pleadings shall delineate each topic included in the pleading e.g. where a pleading contains an Answer, a Motion to Strike or Dismiss, or a Jury Request each shall be set forth in the title.

D. Margins and Binding. Margins shall be one inch. ~~Binding or stapling shall be at the top and at no other place. Covers or backing shall not be used.~~

E. Signature. All pleadings and motions shall contain the original or authorized signature of the attorney, the name of the attorney in typed or printed form, the name of the law firm if a member of a firm, the attorney's address, identification number, e-mail address, telephone number, fax number, and the designation as to the party for whom he appears. The following form is recommended:

John Doe
Attorney Identification Number
DOE, ROWE, and SMITH
Suite 35 Blackacre Building
Indianapolis, Indiana 46204
John.doe@DRSlaw.com
939-3000 Fax: 233-1744
Attorney for Defendant
(Name)

LR49-TR5-205. FILING OF PLEADINGS, MOTIONS AND OTHER PAPERS

- A. Room Clerk.** All pleadings, petitions and motions are electronically filed with the Clerk designated by the Court at any time during office hours established by the Clerk and the Court. ~~All orders submitted to the Court shall be in sufficient number and shall be accompanied by postage paid envelopes addressed to each party or counsel of record.~~
- B. Facsimile.** Facsimile filing is not permitted in the Marion Circuit and Superior Court.
- C. Counsel to Furnish Pleadings to Special Judge.** When a Special Judge who is not a Marion County Judge is selected, all parties or attorneys shall furnish such Judge with copies of all filings prior to the qualification of such Special Judge. Thereafter, copies of all filings shall be delivered in person, by mail or by facsimile to the office of the Special Judge with certificate of forwarding same made a part of the filing.
- D. Number.** Counsel shall file with the court an original and one copy of all briefs, and memoranda of law filed in support of a motion.
- E. Appearance Form.** Pursuant to Trial Rule 3.1(A), an appearance form shall be filed by the initiating party at the time an action commenced.

LR49-FR00-502. ADMINISTRATIVE PROCEDURES

A. Provisional Orders. A request for provisional orders may be made a part of the petition for dissolution of marriage, legal separation or paternity, in which case the petition shall be titled "Petition for Dissolution of Marriage [Legal Separation] [Paternity] and for Provisional Orders".

B. Time Required. In all contested family law matters, the moving party shall advise the court of the time required for hearing and contested issues to be considered in the text of a petition or praecipe for hearing. Parties should petition for time necessary for hearing with the expectation that each side will be allotted one-half of the total time allocated. The court normally allows 15 minutes for preliminary hearings and contempt petitions.

C. Summary Presentation. By agreement of the parties, all issues and evidence relevant to a domestic relations case may be presented in summary fashion by counsel.

~~**D. Copies Required.** The parties shall submit sufficient copies of the Final Decree and Property Settlement for the court to retain an original and two copies of each and provide copies to all parties or counsel of record.~~

D. Bench Warrant. In order to obtain a bench warrant from the court, a party must have personal service on the adverse party and complete a bench warrant information sheet. The court may issue a bench warrant on copy service with sworn testimony confirming actual notice to the adverse party.

F. Summons and Appearance. In all family law matters, the petitioner shall use the form of summons and appearance form set forth in Appendix A and shall attach the Verified Financial Declaration Form. Only the last 4 digits of a social security number should appear on the appearance form.

G. Verification. Verification language where required shall be in the form as stated in Indiana Trial Rule 11(B): I affirm, under the penalties for perjury, that the foregoing representations are true.

H. Mandatory Mediation. Parties must submit all contested final hearing issues requiring two hours or more of court time and all non-contempt post-decree child related issues to mediation prior to presenting the issues to the court for hearing, unless this rule is waived for good cause shown after written request by a party. The court may in its discretion assign matters to mediation at any stage of the proceeding.

I. Negotiations. Parties and counsel shall exchange documents, negotiate pending issues prior to scheduled hearing time and report to the Court.

LR49-FR00-508 CHILD CUSTODY AND VISITATION: REFERRALS FOR INVESTIGATION AND REPORT

On motion of either party with the approval of the court, or on the court's own motion, contested matters involving child custody and parenting time shall be referred to the Domestic Relations Counseling Bureau or to other sources for investigation and submission of a report to the court.

A. Domestic Relations Counseling Bureau. The DRCB shall conduct an investigation and report to the court on all contested matters referred to its attention, including written notice to the court when the evaluation has been conducted and the anticipated date a report will be submitted. In addition, the Bureau shall file a written report to the court if an investigation or evaluation is not conducted and the reason it was not completed.

B. Domestic Relations Counseling Bureau Fees. DRCB services shall be assessed as detailed below. Fees for DRCB services may be reduced or suspended upon a showing of good cause by the party and a written determination by the Court.

Intake: \$150.00 per person

Limited Issue Evaluation: \$250.00 per issue

Site visit: \$250.00

Full Evaluation: \$1,500.00

Each party will be assessed a \$50.00 fee for each missed appointment with the DRCB.

~~B.~~ C. Scope. This Rule shall apply to disputes involving child custody or parenting time that may exist either before or after the entry of a Final Decree of Dissolution of Marriage or an Entry of Paternity. The parties to contested matters shall meet and cooperate with the Domestic Relations Counseling Bureau as required.

~~C.~~ D. Continuance. It shall be grounds for a continuance that a court ordered custody/parenting time evaluation or report has not been submitted to the court within seven days prior to the hearing date.

~~D.~~ E. Admissibility. A court ordered custody/parenting time evaluation or report shall be admissible into evidence on the motion of either party without the evaluator needing to be present at the hearing. No part of this Rule is intended to supplant the right of either party to compel the attendance of the evaluator or other witnesses as set out in Indiana Trial Rule 45.-

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~~E.~~ F. Release of Custody/Parenting Time Evaluation or Report. Upon written request, a court ordered custody/parenting time evaluation or report that was submitted only to the Court may be released to all parties.

~~F.~~ G. Physical and Mental Examinations. In all contested family law matters involving child custody or parenting time, the provisions of Indiana Trial Rule 35 providing for physical or mental examinations by a physician shall be extended to include examinations and evaluations by a psychologist, therapist or other qualified evaluator upon order of the court.

G. H. Non-disclosure of Report. Regardless of whether or not the evaluation/report was court-ordered, was conducted by the DRCB, or was a private evaluation, the content of the evaluation/report shall not be discussed with or in the presence of any minor child of the parties. Violation of this rule may result in a contempt of court proceeding. This provision regarding contempt applies even if the information is not provided to the minor child directly by the party, if the party has allowed, directly or indirectly, any other individual to have access to the evaluation/report, and that individual then discusses the matter with the child.