

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 the Marion County local 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 March 22, 2021, or the date of approval by the Indiana Supreme Court.

Comments to this proposed Local Rule amendment will be received through noon on March 19, 2021. 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 February 2021.

/s/ Amy Jones _____
Judge Amy Jones
Presiding Judge
Marion Superior 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~~ Marion Superior Court, Family Division Courts D09 and D15 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 Courts D01, D02, D03, D04, D05, D06, D07, D11, D12, and D13.

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 Courts D01, D02, D03, D04, D05, D06, D07, D11, D12, and D13.

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 Courts D01, D02, D03, D04, D05, D06, D07, D11, D12, and D13.

4. Civil Torts (CT)

Shall be assigned to Superior Court, divided randomly and evenly among Courts D01, D02, D03, D04, D05, D06, D07, D11, D12, and D13.

5. Protective Order (PO) cases that do not involve a relationship as defined by IC 35-31.5-2-128 shall be assigned to Superior Court, divided randomly and evenly among Courts D01, D02, D03, D04, D05, D06, D07, D11, D12, and D13.

5. Family Cases

- a. DC and DN cases shall be assigned to the Marion Superior Court, ~~divided randomly and evenly among~~ Family Division Courts D09, D10, D14, D15, and D16.

b. JP cases shall be assigned in the following manner:

1. 30% of JP filings, not initiated by the Prosecutor's Office shall be assigned to ~~the~~ Marion Superior Court, ~~divided randomly and evenly among Courts D10, D14, and D16~~ Family Division Courts D09, D10, D14, D15, and D16.

2. JP filings initiated in conjunction with an existing juvenile case ~~in Superior Court D09 or D15~~ shall be assigned to the Court that houses the accompanying juvenile case.

3. All other JP filings shall be assigned to the Marion Circuit Court.

~~c. All cases filed in the Juvenile Division shall be divided and randomly assigned to courts D09 and D15, including case types JQ, JC, JD, JS, JM, JT. Juvenile case types, with the exception of those detailed in paragraph (b)(3) of this rule shall be assigned to the Marion Superior Court, Family Division Courts D09, D10, D14, D15, and D16.~~

d. Protective order cases that are domestic in nature (those that involve a relationship as defined by IC 35-31.5-2-128) shall be divided and randomly assigned to Courts D10, D14, and D16.

1. When there is an existing DN, DR, DC, or JP case, any related PO filing shall be assigned to the same court as the existing family case.

D. Marion Superior Court, Civil Division D13 shall be assigned the following case filings:

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 assigned to Court 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 Marion Superior Court, Family Division Courts D09 and D15. ~~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.

Amended effective January 1, 2021

~~LR49-TR76-222 TRANSFER OF CASES ASSIGNED TO THE MARION COUNTY FAMILY COURT PROJECT~~

~~This Rule applies only in the following situations: (1) a child who is the subject of a Child in Need of Services or a Delinquency case is also the subject of a divorce, paternity or guardianship case in which there is a pending or continuing custody, visitation and/or child support order, and (2) these multiple cases have been assigned to the Marion County Family Court Project. The purpose of the rule is to allow the transfer of cases involving the same child or children to the same judge for a temporary period of time. The rule will help to ensure that multiple cases involving the same child will have consistent orders regarding custody, visitation, care, and child support, and multiple hearings and re-hearings will not occur before different judges regarding the same issues.~~

~~When consistent with the best interest of the child, the lead Family Court Project Judge may issue an order transferring any of the cases specifically assigned to the Marion County Family Court Project to the Marion Circuit Court or to any Marion Superior Court, Juvenile or Civil Division. The Order of Family Court Assignment shall include the Order of Case Transfer and the order shall state to what court and division the cases have been transferred. The transferred cases will not be consolidated. The court receiving the cases shall have jurisdiction in those cases. Each case will retain its own original docket number and separate Chronological Case Summary.~~

~~The lead Family Court Judge shall transfer back to the court of origin any case or cases when the lead judge determines that the purpose of the family court assignment has been completed. The~~

~~supervising judge shall issue an order “Closing the Family Court Assignment and Transferring Case/s back to the Court of Origin.”~~

~~A transfer for family court purposes shall not constitute a transfer for purposes of the Quarterly Status Report.~~

LR49-TR79-224. APPOINTMENT BY CLERK

Upon the parties not reaching an agreement or the agreed upon judge not accepting the case under Local Rule 225, the appointment of an eligible special judge shall be made by means of the Marion County Clerk selecting a name of the next judge from lists of judges from Marion County maintained by the Clerk. A separate list shall be kept for domestic and juvenile cases.

All judges of the Marion Circuit and Superior Court Civil Division are eligible persons under this rule except as follows: the judge of the Marion Circuit Court shall not be named on the list for domestic relation cases; the judges of the Family Division shall be the only judges on the lists for domestic relations and juvenile cases. ~~Juvenile Division shall not be named on any list; and the judge of the Probate Division shall be named only on the lists for domestic relations and juvenile cases.~~

Should the next judge on the list be disqualified pursuant to the *Code of Judicial Conduct*, ineligible for service under this rule, or excused from service by the Indiana Supreme Court, the clerk shall continue down the list until all judges on the list have been exhausted. Upon exhaustion of the list, the judge from whom the change of judge was taken, or who is ineligible or disqualified, shall certify the case to the Indiana Supreme Court for the appointment of a special judge by the Court. Further, the judge may certify a case directly to the Indiana Supreme Court where the particular circumstances of the case warrant selection by the Court without reference to the clerk for selection from a list.

(Amended effective August 12, 2013)

LR49-AR00-301. Administrative Management

A. The Executive Committee shall, by Rules of the Court, divide the work of the Court into various divisions, including but not limited to the following:

1. Civil Division;
2. Criminal Division; and
3. Family Division
- ~~3. Juvenile Division; and~~
- ~~4. Probate Division.~~

The Executive Committee shall appoint a chair for each division for a period of two years. The chairs of the divisions shall alternate between parties unless there is only one judge in a division.

B. The Executive Committee shall determine the assignment of judges following a

general election as follows:

1. An incumbent judge shall be allowed the option of remaining in a particular division or room.
2. The expertise and abilities of the judge shall be given consideration.
3. Seniority shall be a primary consideration, but not the sole determinant factor. Seniority is defined as length of service as a judge on the Marion Superior or former Marion Municipal Courts
4. The desire of the particular judge regarding his or her assignment shall be given consideration.
5. The political balance of each division shall be considered along with the desire to maintain racial and gender diversity within each division. All appointments shall reflect the bipartisan composition of the Court, whenever possible.
6. Reassignment of a sitting judge to a different courtroom requires a unanimous vote of the Executive Committee.

C. The Executive Committee shall fill a vacancy on the Court in the following manner:

1. Any qualified judge wishing to be a candidate for the vacancy on the Court shall notify the Executive Committee in writing not more than ten days after the vacancy is created.
2. The Executive Committee may interview any qualified judge interested in reassignment to fill a vacancy
3. The Executive Committee shall consider the criteria used for assignment of judges following an election in determining who shall fill a vacancy.
4. The Executive Committee shall fill the vacancy within 30 days after the vacancy is created or as soon as possible.

D. The Executive Committee shall assign cases, offices and courtrooms for judges or reassignment of newly filed cases in the interests of the speedy, economical and uniform disposition of cases.

E. Pursuant to LR49-AR00-300(G), the Executive Committee shall determine the number of hearing judges, commissioners, referees, bail commissioners, court reporters, probation officers, and other personnel required to efficiently serve the Court. The salaries of the personnel shall be fixed and paid as provided by law.

F. The Executive Committee shall prepare and administer a budget for the Court so that the Court is provided with supplies and sufficient personnel. Each judge shall appoint the

judge's bailiffs, clerks, court reporters and secretary.

G. On the first Monday of each month, unless otherwise designated, the Presiding Judge of the Executive Committee shall preside over a General Term Meeting of the judges. A special order book shall be kept for the Court in which shall be entered all appropriate records, rules, orders and assignments of the Court.

1. **Voting:** Judges may cast their votes in person or by written proxy at any duly constituted meeting of the Marion Superior Court. All votes shall be by voice vote unless any judge present shall request a written ballot. Proxies may only be given to another member of the court to be exercised as directed.

2. **Special Meetings:** The presiding judge may call a special meeting upon proper notice given and shall call a special meeting at the request of at least three of the judges of the Marion Superior Court.

3. **Notice:** Notice of any special meeting shall be given in writing to each judge at least 24 hours before such scheduled special meeting.

4. **Quorum:** The presence of one-third (1/3) of the judges shall constitute a quorum for any meeting of the Marion Superior Court. Proxies shall be included in determining whether a quorum exists.

LR49-AR15-307 Court Reporter Services: Model One

Application of Rule. All courts of record in Marion County, Indiana hereby adopt the following local rule by which all Court Reporter services shall be governed.

A. Definitions. The following definitions shall apply under this local rule:

1. A *Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
2. *Equipment* means all physical items owned by the Court or other governmental entity and used by a Court Reporter in performing court-reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
3. *Work Space* means that portion of the Court's facilities dedicated to each Court Reporter, including but not limited to actual space in the courtroom and any designated office space.

4. *Page* means the page unit of transcript, which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 28A. A *page* does not include an Exhibit Page.
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 are hours 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 workweek.
9. *Compensatory Time* means that time off to which an employee may be entitled by reason of the employee having worked gap hours and/or overtime hours as defined herein, and for which an employee would otherwise be entitled to receive regular pay and/ or overtime pay. An employee's compensatory time off for gap hours worked shall be computed at an hour for hour basis. Compensatory time off for overtime hours worked shall be computed at a rate of one and one half compensatory time for each hour of overtime hours accrued. An employee shall receive compensatory time off for gap hours and/or overtime hours in lieu of gap and/or overtime pay.
10. *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.
11. *Court* means the particular court for which the court reporter performs services. In Marion County, pursuant to LR49-AR00 Rule 301, the Courts are broadly grouped into divisions. The divisions are as follows: Civil Division, ~~Juvenile Division, Probate Division and~~ Criminal Division, and Family Division. ~~The Criminal Division is further divided by case filings to include: Major Felony Courts, Domestic Violence Courts, Drug Courts, Level 6 Felony Courts, and Misdemeanor Courts.~~
12. *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.
13. *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.
14. *Private transcript* means a transcript, including but not limited to a deposition transcript that is paid for by a private party.

15. *Expedited Transcript* means a transcript that is to be completed within seven (7) days of the request for the transcript.
16. *Schedule of Transcript Supplies* means those supplies and or services necessary for the binding of the transcript and exhibit binders pursuant to Appellate Rules 28 and 29. Transcript supplies shall include, but not be limited to CD ROM disks, software disks, tabs and binders.
17. *Minimum Transcript Fee* means the minimum fee charged for the preparation of a transcript or any portion thereof.
18. *Exhibit Page* means all documentary, non-documentary and oversized exhibits and includes an index of exhibits pursuant to Appellate Rule 29.
19. *Court Reporter Agreement* means a contractual agreement between Marion County Circuit and Superior Courts, by and through its Executive Committee and Supervising Judge with the Court Reporter outlining and defining the reporter's terms of employment.
20. *Government transcript* is a transcript requested by an agent of the county or state on behalf of an indigent party, or by a prosecutor.
21. *Indigent transcript* means any transcript the Court has ordered to be prepared at no cost. (See also Appellate Rule 40.)

B. The Court Reporter shall type all transcripts outside of regular work hours and receive payment via the Court's approved transcript ordering site by the ordering party for all transcripts completed at the per page rate, with the exception of those transcripts prepared pursuant to paragraph B(9) below. Work on transcripts shall be considered and treated as private practice, except the Court Reporter shall advise the Judge when they receive a transcript request.

A Court Reporter Agreement shall be entered addressing the following topics and any other terms of employment:

1. Court Reporters shall be paid an annual salary for time spent working under the control, direction, and direct supervision of the Court during any regular work hours, gap hours, or overtime hours.
2. The annual salary paid to the court reporter shall be based upon 37.5 working hours per week.
3. The amount of the annual salary shall be set by the Marion Superior Court salary classification schedule.

4. Court Reporters shall not type any transcripts during regular work hours, except for indigent transcripts. The Court Reporter will receive payment directly from the ordering party for transcripts, except for indigent transcripts, pursuant to the per page fee schedule.

5. A Court Reporter shall be entitled to additional compensation beyond regular salary if the court reporter works beyond the regular work hours of the court, but not for preparing transcripts, except for indigent transcripts. Additional work shall be compensated under one of the two options set forth as follows:

(a) Gap hours shall be paid in the amount equal to the hourly rate of the annual salary and overtime hours shall be paid in the amount of one and one-half (1 ½) times the hourly rate of the annual salary OR

(b) Compensatory time off from regular work hours shall be given in the amount equal to the number of gap hours worked; and compensatory time off from regular work hours shall be given in the amount of one and one-half (1 ½) times the number of overtime hours worked.

6. The Marion Circuit Court through its Circuit Court Judge and the Marion Superior Court, by and through its Executive Committee and the Supervising Judge shall determine which of the preceding two (2) options listed in paragraph 5 shall be utilized.

7. If a Court Reporter elects to engage in private practice through recording a deposition and/or preparing a deposition transcript, such private practice shall be conducted outside of regular working hours.

8. If a Court Reporter elects to engage in private practice through recording a deposition and/or preparing of a deposition transcript, then the Court may agree to the use of court equipment for such purposes. The Court Reporter Agreement must, at a minimum designate the following:

(a) the reasonable market rate for the use of equipment, work space and supplies;

(b) the method by which records are to be kept for the use of equipment, work space and supplies;

(c) the method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.

9. A Court Reporter shall prepare all indigent transcripts, as ordered by the Court, during regular working hours. There shall be no per page charge to the Court for preparation of indigent transcripts.

C. Per Page Fees: For preparation of a transcript of any proceeding in the Marion Circuit and Superior courts, the following fees shall be charged to the requester:

1. For the preparation of a county indigent transcript --- Three Dollars (\$3.00).
For the preparation of a county indigent transcript --- Three Dollars and Fifty Cents (\$3.50). *Effective January 1, 2020.*
For the preparation of a county indigent transcript --- Four Dollars (\$4.00). *Effective January 1, 2021*
For the preparation of a county indigent transcript --- Four Dollars and Fifty Cents (\$4.50). *Effective January 1, 2022.*
2. For the preparation of a state indigent transcript --- Three Dollars and Fifty Cents (\$3.50).
For the preparation of a state indigent transcript --- Four Dollars (\$4.00). *Effective January 1, 2020.*
For the preparation of a state indigent transcript --- Four Dollars and Fifty Cents (\$4.50). *Effective January 1, 2021.*
3. For the preparation of a transcript for the County Prosecuting Attorney --- Four Dollars (\$4.00).
For the preparation of a transcript for the County Prosecuting Attorney transcript --- Four Dollars and Fifty Cents (\$4.50). *Effective January 1, 2020*
4. For the preparation of a private transcript --- Four Dollars and Fifty Cents (\$4.50).
5. For all expedited transcripts, (those to be completed within seven (7) days of the date of the request) --- Five Dollars and Fifty Cents (\$5.50).
6. For the preparation of all daily transcripts, (those to be completed within 24 hours of the request) --- Eight Dollars (\$8.00). A Court Reporter may charge a minimum transcript fee of Fifty Dollars (\$50.00).
7. The Court Reporter's time spent assembling the transcript and exhibit binders shall be set forth and charged at the Court Reporter's regular hourly rate based upon the court reporter's annual compensation.
8. The maximum fee for copies of any transcript shall be One Dollar (\$1.00) per page.
9. The maximum fee for preparing a compact disc recording of a proceeding is one dollar (\$1.00), which should be paid to the Court.
10. The transcript supplies used in the preparation and assembly of the transcript and exhibit binders shall be itemized and charged in accordance with the fee schedule set out in the Schedule of Transcript Supplies and Fees on file in the Court Administrator's office.
11. Each Court Reporter shall, on an annual basis, file a written report with the Indiana Supreme Court, Office of State Court Administration disclosing all transcript fees

received by the Court Reporter for the preparation of County indigent, State indigent or private transcripts. The report shall be made on forms prescribed by the Division of State Court Administration and timely filed with that office.

Effective September 16, 2019