

# SHELBY COUNTY CIRCUIT AND SUPERIOR COURTS

## LOCAL RULES

Administrative Rules  
Trial Rules  
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Rules of Indiana Administrative Judicial District 17

### SHELBY COUNTY LOCAL ADMINISTRATIVE RULES

*Amendments effective April 1, 2015*  
*Caseload Allocation Plans Effective April 1, 2015*

#### **Rules**

LR73-AR15 RULE 1 COURT REPORTER SERVICES  
LR73-AR00 RULE 2 LOCAL CASELOAD PLANS  
LR73-AR00 RULE 3 SHELBY COUNTY CASELOAD ALLOCATION PLAN  
LR73-AR00 RULE 4 EVIDENCE IN POSSESSION OF COURT REPORTER RETENTION  
LR73-AR00 RULE 5 AUDIO & VIDEO RECORDINGS OF COURT PROCEEDINGS

#### **LR73-AR15 RULE 1 COURT REPORTER SERVICES<sup>1</sup>**

##### **1.1 Definitions**

The definitions contained in Administrative Rule 15(B) are adopted for use in this Rule and control any question of interpretation. For the purposes of this Rule, the Regular Hours worked by the Court Reporting Staff shall be Monday through Friday from 8:00 a.m. until 12:00 noon and from 1:00 p.m. until 4:00 p.m. or as otherwise ordered by the Court. The Work Week shall be a seven day period beginning on Sunday and ending on Saturday of each week and shall contain thirty-five (35) hours for which salaried compensation shall be paid.

##### **1.2 Compensation**

The Court Reporter shall work under the control, direction and direct supervision of the Court during all hours of employment and shall be paid an annual salary for regular hours worked during a Work Week. The salaries shall be set by the Court and approved by the County Council. Gap Hours (the 5 hours between 35 and 40 hours per week) shall be compensated in time off from work in an amount equal to the number of Gap Hours worked or by payment of regular time as directed by the court. Overtime Hours shall be compensated in an amount equal to one and one-half (1 ½) times the number of Overtime Hours worked in excess of 40 hours per week.

##### **1.3 Duties And Responsibilities**

The duties of a Court Reporter shall include Reporting the evidence presented in Court proceedings; Preservation and storage of reported testimony and any physical evidence presented in Court proceedings; Preparation of Chronological Case Summary entries at the direction of the Court and providing notice thereof as required by the Rules of Trial Procedure; Preparation of written documents to effectuate the rulings, orders and judgments of the Court or to comply with the Rules of the Indiana Supreme Court; Preparation of transcripts of evidence presented in Court proceedings requested pursuant to the Rules of Trial Procedure; and, Such other functions and responsibilities as required by law or the Court for its effective administration.

#### **1.4 Maximum Per Page Fee**

- 1.4.1 A Court Reporter shall not charge more than the following per page:
  - 1.4.1.1 \$5.00 for a transcript of evidence for appealed cases. The Court Reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts of evidence.
  - 1.4.1.2 \$5.00 for state/county indigent transcript of evidence for appealed cases;
  - 1.4.1.3 \$5.00 for civil transcripts of evidence for appealed cases;
  - 1.4.1.4 \$5.00 for non-appeal transcripts;
  - 1.4.1.5 \$4.00 for deposition transcripts and \$1.50 for copies if Reporter elects to use Court facilities, equipment and/or supplies in the exercise of her private practice;
  - 1.4.1.6 \$7.25 for expedited transcripts
  - 1.4.1.7 \$1.75 for copies of transcripts.
2. Court Reporter shall be allowed \$5.00 for each transcript disk provided.
3. Court Reporter's Certification fee for transcripts shall be \$10.00.
4. Each Court Reporter shall annually report all compensation received for transcripts to the Indiana Supreme Court Division of State Court Administration.

#### **1.5 Private Practice**

- 5.1 A Court Reporter may elect to engage in the private practice of recording of and preparation of deposition transcripts. Such activity, regardless of whether the deposition concerns a case pending before the Court, shall be conducted outside of regular working hours. If a Reporter, in the exercise of such private practice, utilizes, with the consent of the Court, Court facilities, equipment and/or supplies, the Reporter shall reimburse the Court for such usage pursuant to a written agreement between the Court and Reporter.
- 5.2. Such agreement shall establish the:
  - 5.2.1 Reasonable market rate for the use of equipment, facilities and supplies;
  - 5.2.2 Method by which records are kept for the use of the same; and,
  - 5.2.3 Method by which the Reporter shall reimburse the Court for such usage.

*Adopted May 28, 1998, effective June 1, 2008. Amended and renumbered as Rule 1, September 30, 2005, effective October 11, 2005. Amended effective December 17, 2007. Amended, Jan 1, 2012; Amended effective May 1, 2013.*

<sup>1</sup> See, also Rule 2

### **LR73-AR00 RULE 2 LOCAL CASELOAD PLANS**

#### **2.1 Caseload Allocation**

##### **2.1.1 Criminal Cases**

Criminal case allocation shall continue to operate as specified in LR73-AR00 Rule 3 Local Caseload Plans

##### **2.1.2 Civil Cases**

*2.1.2.1. Juvenile Cases.* All Juvenile cases (JC, JT, JD, JS, JM, and JP) shall continue to be filed in Shelby Superior Court No. 1

*2.1.2.2 Remaining Civil Cases*

*2.1.2.2.1* All Plenary (PL) cases shall be filed 50/50 on a random basis in Shelby Circuit Court and Shelby Superior Court No. 1

*2.1.2.2.2* All Domestic Relations (DR) cases shall be filed 50/50 on a random basis in Shelby Circuit Court and Shelby Superior Court No. 1

*2.1.2.2.3* All Reciprocal Support (RS) cases shall be filed in Shelby Circuit Court.

*2.1.2.2.4* All Protective Orders (PO) cases shall be filed in Shelby Superior Court I. *2.1.2.2.5*

All Small Claims (SC) shall be filed in Shelby Superior Court No. 2

*2.1.2.2.6* All remaining types of civil cases (AD, AH, CT, ES, EU, GU, MH, MI and TR) shall be filed as requested by the initiating party.

## 2.2 Evaluation of Caseload Allocation

- A. The Allocation of Judicial Resources described herein should place the Shelby County Courts in compliance with guidelines issued by the Indiana Supreme Court's Order for Development of Local Caseload Plans. No later than March 1 of each year, the judges of the courts of record in Shelby County shall meet and evaluate the caseload data as reported to the Indiana Supreme Court Administration.
- B. The caseload evaluation shall factor in the allocation of administrative duties among the judges as well as any special circumstances such as death penalty cases.
- C. Special service by Shelby County judges outside their own courts or special, senior judges or transfer judges serving in the Shelby County Courts shall also be considered. Such service shall be calculated in accordance with the weighted caseload worksheet and criteria established by the Indiana Supreme Court Division of State Court Administration.
- D. Modification or changes necessary for the Shelby County Courts to remain in compliance with the Order for Development of Local Caseload Plans shall be developed and approved by a majority vote of the judges and shall become effective on April 1 of each year.

*Adopted as local Rule 1991-1, September 8, 1999, effective November 1, 1999. Amended and renumbered as Rule 3, September 30, 2005, effective October 11, 2005. Amended and renumbered as LR73-AR00 Rule 2 effective Sept 1, 2011.*

### **LR73-AR00 RULE 3 LOCAL CASELOAD PLANS**

#### A. Criminal Cases

All A, B & C felonies and murder as defined in Local Rule 73-CR2.2-1, shall be filed in the respective courts in the following percentages:

- 45% in Shelby Circuit Court
- 45% in Shelby Superior Court No. 1
- 10% in Shelby Superior Court No. 2

All misdemeanor and D felonies under 9-30-5 shall be filed in Shelby Superior Court No. 2. The remaining D felonies shall be filed in the respective courts in the following percentages:

- 45% in Shelby Circuit Court
- 10% in Shelby Superior Court 1
- 45% in Shelby Superior Court 2

#### B. Criminal Cases

All Level 1, 2, 3, 4 & 5 felonies shall be filed in the following percentages:

- 45% in Shelby Circuit Court
- 45% in Shelby Superior Court 1
- 10% in Shelby Superior Court 2

All Level 6 felonies shall be filed in the following percentages:

- 45% in Shelby Circuit Court
- 10% in Shelby Superior Court 1
- 45% in Shelby Superior Court 2

All misdemeanor cases shall be filed in Superior Court 2.

#### C. Civil Cases

Small claims and Infractions shall be filed in Shelby Superior Court No. 2. Protective orders shall be filed in Shelby Superior Court I unless there is a related case in one of the other courts in which case the Protective Order case would be filed in the other court along with the related case. Mortgage Foreclosure (MF), Plenary (PL), Civil Collections (CC), and Domestic Relations (DR) cases shall be filed on a 50/50 random basis between Shelby Circuit Court and Shelby Superior Court No. 1. All other civil actions shall be filed in the court chosen by the initiating party. Notwithstanding the caseload allocation plan, a judge of Shelby Circuit or a Superior Court may, by appropriate order entered in the Record of Judgments and Orders, transfer and reassign to any other court of record in the county with jurisdiction to hear the matter in dispute, any pending civil case subject to acceptance by the receiving court, where the interests of justice or the interest of judicial economy so require. For cases filed after January 1, 2014 the clerk shall change the court identifier characters to reflect the new receiving court pursuant to Indiana Administrative Rule 8. Such a change shall be noted in the CCS as well.

#### D. Juvenile Cases

All juvenile cases shall be filed in Shelby Superior Court 1. Notwithstanding the caseload allocation plan, a judge of Shelby Circuit or a Superior Court may, by appropriate order entered in the Record of Judgments and Orders, transfer and reassign to any other court of record in the county with jurisdiction to hear the matter in dispute, any pending Juvenile case subject to acceptance by the receiving court, where the interests of justice or the interest of judicial economy so require. For cases filed after January 1, 2014 the clerk shall change the court identifier characters to reflect the new receiving court pursuant to Indiana Administrative Rule 8. Such a change shall be noted in the CCS as well.

*Effective September 1, 2011, amended effective July 1, 2014; Amended February 2015-effective April 1, 2015.*

#### **LR73-AR7-RULE 4: EVIDENCE HANDLING, RETENTION AND DESTRUCTION**

In all cases, the Court shall proceed pursuant to these Rules unless the Court directs a longer retention period after motion by any party or on its own motion. This section shall not apply to exhibits that are on 8.5 x 11 inch paper or that can otherwise be easily stored in a flat court file.

##### **4.1 CIVIL CASES, INCLUDING ADOPTION, PATERNITY, AND JUVENILE PROCEEDINGS.**

All models, diagrams, documents, or material not on 8 ½ by 11 paper admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, four (4) months after the case is decided unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for two (2) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later. The court will destroy or otherwise dispose of items not removed by the parties within a reasonable time of the notice. The court or the parties may substitute photographs for the actual exhibits if approved by the court. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7.

##### **4.2 RETENTION PERIODS FOR EVIDENCE INTRODUCED IN CRIMINAL MISDEMEANOR, CLASS D, CLASS C FELONIES AND LEVEL 5 AND 6 FELONIES.**

Unless otherwise agreed to by the parties, and except for deoxyribonucleic acid (DNA) evidence, all models, diagrams, documents, or material not on 8 ½ by 11 paper and admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence except as otherwise ordered by the Court, one (1) year after the case is dismissed or the defendant is found not guilty. If the defendant is sentenced, unless an appeal is taken, exhibits shall be taken away after three (3) years. If an appeal is taken, all such exhibits shall be retained by the court reporter for three (3) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending. The court will notify the parties at their last known address when the items need to be removed. The court will destroy or otherwise dispose of items not removed by the parties within a reasonable time of the notice. The court or the parties may substitute photographs for the actual exhibits if approved by the court. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7.

##### **4.3 RETENTION PERIODS FOR EVIDENCE INTRODUCED IN CRIMINAL CLASS B AND A FELONIES AND LEVEL 1, 2, 3, AND 4 FELONIES.**

Unless otherwise agreed to by the parties, and except for deoxyribonucleic acid (DNA) evidence, all models, diagrams, documents, or material not on 8 ½ by 11 paper and admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, two (2) years after the case is dismissed or the defendant found not guilty. If the defendant is sentenced, unless an appeal is taken they shall be taken away after 10 years. If an appeal is taken, all such exhibits shall be retained by the court reporter for ten (10) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending. The court will notify the parties at their last known address when the items need to be removed. The court will destroy or otherwise dispose of items not removed by the parties within a reasonable time of the notice. The court or the parties may substitute photographs for the actual exhibits if approved by the

court. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7. Courts should be encouraged to photograph as much evidence as possible and courts and parties reminded of the requirements of Appellate Rule 29(B).

#### **4.4 MURDER**

Unless otherwise agreed to by the parties, and except for deoxyribonucleic acid (DNA) evidence, all models, diagrams, documents, or material not on 8 ½ by 11 paper and admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, 5 years after the case is dismissed or the defendant is found not guilty. If the defendant is sentenced, the exhibits shall be taken away after fifty (50) years. If an appeal is taken, all such exhibits shall be retained by the court reporter for fifty (50) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending. The court will notify the parties at their last known address when the items need to be removed. The court will destroy or otherwise dispose of items not removed by the parties within a reasonable time of the notice. The court or the parties may substitute photographs for the actual exhibits if approved by the court. The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7. Courts should be encouraged to photograph as much evidence as possible and courts and parties reminded of the requirements of Appellate Rule 29(B).

#### **4.5. NON-DOCUMENTARY AND OVERSIZED EXHIBITS.**

Non-documentary and oversized exhibits shall not be sent to the Appellate level Court, but shall remain in the custody of the trial court or Administrative Agency during the appeal. Such exhibits shall be briefly identified in the Transcript where they were admitted into evidence. Photographs of any exhibit may be included in the volume of documentary exhibits. Under no circumstances should drugs, currency, or other dangerous or valuable items be included in appellate records.

#### **4.6. NOTIFICATION AND DISPOSITION.**

In all cases, the Court shall provide actual notice, by mail or through the Shelby County Courthouse mailbox system, to all attorneys of record and to parties if unrepresented by counsel, that the evidence will be destroyed by a date certain if not retrieved before that date. Counsel and parties have the duty to keep the Court informed of their current addresses and notice to the last current address shall be sufficient. Counsel's last known address shall be ascertained by reference to the Indiana Roll of Attorneys maintained by the Indiana Supreme Court. Court reporters should maintain a log of retained evidence and scheduled disposition date and evidence should be held in a secure area. At the time of removal, the party receiving and removing the evidence shall give a detailed receipt to the court reporter, and the receipt will be made part of the court file. In all cases, the Court, or the sheriff on the Court's order, should dispose of evidence that is not retaken after notice. The sheriff should be ordered to destroy evidence if its' possession is illegal or if it has negligible value. The sheriff should auction evidence of some value with proceeds going to the county general fund. These Rules and their retention periods will take precedence over inconsistent language in statutes. I.C. 35-33-5-5(c)(2).

#### **4.7 BIOLOGICALLY CONTAMINATED EVIDENCE.**

A party who offers biologically contaminated evidence should notify the trial court that the evidence may be biologically contaminated prior to offering the evidence at trial. A party can show contaminated evidence or pass photographs of it to jurors, but no such evidence, however contained, shall be handled or passed to jurors or sent to the Jury Room unless specifically ordered by the Court.

### **LR73-AR10-RULE 5: AUDIO AND/OR VIDEO RECORDINGS OF COURT PROCEEDINGS**

**5.1** As proscribed by Indiana Judicial Conduct rule 2.17 and because the court is further required to prohibit broadcasting or televising court proceedings, any distribution of audio and video recordings of court proceedings shall not occur without explicit leave of court and accompanying protective orders regarding such recordings. Unauthorized distribution of such recordings may be punishable as a contempt of court matter.

**5.2** Except for an authorized court reporter, Audio and/or video recording of any court proceeding by any person for any reason without pre-approved leave of court is punishable by contempt of court. A person that aids, induces, or causes the unauthorized recording of court proceedings or a person that possesses or distributes an unauthorized recording of a court proceeding is also subject to contempt of court proceedings.

**LR73-AR00 RULE 6 WEAPONS IN THE COURTHOUSE**

Except for law enforcement and judicial officers, and other individuals excepted by the Court, it shall be unlawful for any person to carry or to attempt to carry into the Shelby County Courthouse a firearm, a knife, or other edged weapon. Law enforcement officers who are a party to a court case unrelated to their duties as a law enforcement officer are prohibited from carrying a weapon into the courthouse. Individuals that violate this order may be subject to contempt of court.

**SHELBY COUNTY LOCAL TRIAL RULES**

*Effective Jan 1, 2012 except for Pool Felony*

**Rules**

LR73-TR45 RULE 1. POOL FELONY

LR73-TR76 RULE 2. SELECTION OF SPECIAL JUDGE

LR73-TR-33 RULE 3 INTERROGATORIES

LR73-TR-05 RULE 4 COURTHOUSE MAILBOX

**LR73-TR45 RULE 1. POOL FELONY**

1.1 All A, B, & C felonies, (hereafter “pool” felonies), shall be assigned on a random basis among the three courts by the Shelby County Clerk with Shelby Superior No. 1 receiving forty-five percent (45%), Shelby Circuit Court forty-five percent (45%) and Shelby Superior No. 2 receiving ten percent (10%) of said cases;

1.1.2 All co-defendants in “pool” felony cases shall be assigned to the same court, based upon a single random draw by the Shelby County Clerk.

1.1.3 The Shelby County Prosecutor’s Office shall notify the Clerk at the time of filing if the cases involve co-defendant. Each co-defendant case will be assigned an individual cause number. For purposes of this Rule, the cases involve co-defendants as provided by I.C. 35-34-1-9 and amendments thereto.

1.1.4 Except in felony cases involving co-defendants under 1.1.3 above, any new “pool” felony case filed against a defendant who has an open “pool” felony case already pending in any Court, shall be assigned to the Court where the current case is pending. The Shelby County Prosecutor’s Office shall notify the Clerk at the time of filing if the defendant has a pending pool felony case.

1.2 All misdemeanor cases and D felonies under Indiana Code 9-30-5 shall be filed in Shelby Superior Court No. 2. The remaining D felonies (hereinafter “pool felonies” shall be filed in the respective courts in the following percentages:

45% in Shelby Circuit Court

10% in Shelby Superior Court 1

45% in Shelby Superior Court 2.

*Joint Local Rule No. 1, amended effective October 1, 2001. Amended and renumbered as Rule 1, September 30, 2005, effective October 11, 2005. Amended September 1, 2011, effective Jan 1, 2012.*

**LR73-TR79 RULE 2. SELECTION OF SPECIAL JUDGE**

2.1 Selection of a Special Judge in a Civil Case shall be conducted pursuant to Indiana Judicial Administrative District Rule DR17 – TR79 – 00002.

2.2-**Reserved.**

2.3-**Reserved.**

2.4 **Reserved.**

2.5 **Reserved.**

*Adopted as Coordinated Local Rule, 1995. Amended and renumbered as Rule 2, September 30, 2005, effective October 11, 2005. Amended effective April 8, 2009. Amended December 4, 2012; Approved May 13, 2012; Effective May 1, 2013.*

**LR73-TR33-RULE 3. INTERROGATORIES**

- 3.1 **Number Limited.** Interrogatories shall be limited to a total of 25 including subparts and shall be used solely for the purpose of discovery and shall not be used as a substitute for the taking of a deposition. For good cause shown and upon leave of Court additional interrogatories may be propounded.
- 3.2 **Answers and Objections.** Answers or objections to interrogatories under Rule TR 31 or 33 shall set forth in full the interrogatories being answered or objected to immediately preceding the answer or objection.
- 3.3 **Duplicated Forms.** No duplicated forms containing interrogatories shall be filed or served upon a party unless all interrogatories on such forms are consecutively numbered and applicable to the cause in which the same are filed and served.

**LR73-TR05-RULE 4. MAILBOX SERVICE**

Pursuant to Trial Rule 5(B)(1)(d), the Circuit and Superior Courts of Shelby County hereby designate the courthouse mailboxes located in each respective court for service of pleadings upon attorneys/ law firms who have such boxes. Each law firm must notify each court if they wish to establish a mailbox in the court. Each law firm must notify the court in writing if they wish to terminate the use of the courthouse mailbox. If an attorney or law firm declines to consent to receiving service by courthouse mailbox, then they are prohibited from using courthouse mailboxes to serve other attorneys. To the extent that an Attorney or firm designates an electronic mail box for purposes of having the court send orders to such electronic mailbox, **the courts** reserve the right to send such court orders electronically. However, the court does not accept electronic filing by attorneys at this time.

**SHELBY COUNTY FAMILY RULES**

*Effective Jan 1, 2012*

**Rules**

- LR73-FL00 RULE 1. DISSOLUTION EDUCATION WORKSHOP
- LR73-FL00 RULE 2. ADR IN DOMESTIC RELATIONS
- LR73-FL00 RULE 3. GUARDIAN AD LITEM FEES
- LR73-FL00 RULE 4 AUTOMATIC WITHDRAW

**LR73-FL00 RULE 1. DISSOLUTION EDUCATION WORKSHOP**

Pursuant to I.C. 31-1-11.5-19, Shelby Circuit Court, Shelby Superior Court I and Shelby Superior Court II find that the best interests of the minor child or children of the parties shall be served by encouraging mediation and cooperation between divorcing parents prior to and after the dissolution of their marriage.

The Courts further find that the Mandatory Divorce Workshop will:

- 1. Aid parents in post-separation parenting;
- 2. Encourage agreements between parties concerning child related matters; and,
- 3. Aid Courts in maximizing the use of Court time.

THEREFORE, Shelby Circuit Court, Shelby Superior Court I and Shelby Superior Court II now Order both parties in any Dissolution of Marriage cause of action in which there are minor children to attend the workshop entitled “Children Cope With Divorce”. Attendance shall be mandatory for all parties in any Dissolution of Marriage filed on or after April 1, 1994, if there are unemancipated children under eighteen (18) years of age.

Each party must complete the four-hour course prior to the Final Hearing. The parties shall be responsible for paying the cost of the program, currently Thirty-five Dollars (\$35.00) per person; waiver of the fee for indigency may be allowed.

The parties in this cause of action are ordered to contact:

*The Visiting Nurse Service  
4701 N. Keystone Avenue  
Indianapolis, IN 46205  
(317) 722-8201  
1-800-248-6540  
<http://www.vnsi.org/chil.asp>*

within fifteen (15) days of their notice of this Order to make an appointment to attend the workshop without further notice. Failure to complete the workshop may result in a party having to show cause why he/she should not be held in contempt of Court. The Sheriff of Shelby County is ordered to make due service of the Notice of Order on the Respondent when the Petition for Dissolution is served and make due return thereon.

*Adopted and effective April 9, 1996. Amended and renumbered as Rule 1, September 30, 2005, effective October 11, 2005; Amended and effective Jan 1, 2012 .*

## **LR73-FL00 RULE 2. ALTERNATIVE DISPUTE RESOLUTION (ADR) IN DOMESTIC RELATIONS**

### **2.1 PROGRAM OVERVIEW.**

The purpose of the ADR Plan is to provide alternative dispute resolution opportunities to litigants involved in dissolution of marriage, legal separation and paternity cases. The goal is to offer litigants the opportunity to resolve conflict amicably, arrive at acceptable resolutions, have ownership of outcomes, and provide a basis upon which to resolve later issues all with the overriding goal of furthering the best interests of children. A primary aspect of the program is to provide alternative dispute services to litigants of modest means.

The forms of alternative dispute to be used are mediation, arbitration and family counseling in high conflict cases. Mediation will be the favored process. The parties may agree to submit to non-binding arbitration. Courts may require the parties submit to non-binding arbitration.

Court may require the parties to participate in counseling in high conflict matters. If mediation or arbitration are used, the Indiana Rules for Alternative Dispute Resolution apply.

The ADR Plan is to be effective with cases filed after September 1, 2005. The Clerk of Shelby County shall commence collecting the additional \$20.00 alternative dispute resolution fee, pursuant to Indiana Code 33-23-6-1, on September 1, 2005.

### **2.2 ELIGIBILITY CRITERIA.**

All domestic relations litigants with custody and/or visitation disputes reasonably expected to take one hour or more of court time to litigate their custody and/or visitation dispute shall be required to participate in the ADR Plan. A party currently charged with or convicted of a crime under Indiana Code 35-42- et seq. Or a substantially similar crime in another jurisdiction may not participate in the ADR Plan.

### **2.3 FINANCIAL QUALIFICATIONS.**

Litigants whose income is less than 125% of the federal poverty guidelines and have less than \$10,000.00 of assets will participate without cost. Litigants whose income is between 125% and 175% of the federal poverty guidelines and have less than \$20,000.00 of assets will pay a co-payment of \$50.00 per hour for the services of the mediator. Litigants whose income is less than 125% and have \$20,000.00 or more in assets will co-pay \$50.00 per hour for the services of the mediator. Litigants whose income is greater than 175% of the federal poverty guidelines or who own more than \$20,000.00 in assets will pay the mediator the normal hourly rate of the mediator.

### **2.4 REFERRAL AND PLAN ADMINISTRATION.**

The administrator of the Shelby County Public Defender Program and Pro Bono Program will be the Plan Administrator. She will be responsible for the initial intake of litigants. If a litigant is determined to qualify for no-cost or reduced rate mediation, they will be referred to a volunteer mediator through the Shelby County Pro Bono Program. If the litigant is determined not to qualify for no-cost or reduced rate mediation, the litigant may choose the alternative dispute resolution facilitator of their choice. If one party qualifies but one does not, they shall be referred to a volunteer mediator and the non-qualifying party shall pay the mediator the normal hourly charge of the mediator. Attorneys and Judges shall refer the appropriate cases to the ADR Plan. All registered domestic law mediators,



including Senior Judges, are eligible to act as mediators under the plan. Funds generated by the Plan shall be managed by the Shelby County Auditor.

## **2.5 PLAN EDUCATION.**

Information about the Plan, including the additional \$20.00 filing fee, its implementation, purpose and goals will be presented to the Shelby County Bar Association, the Shelby County Clerk, and local mental health counselors. The general public will be advised through newspaper and radio outlets.

## **2.6 PLAN COORDINATION.**

The ADR Plan will work closely with the Shelby County Pro Bono Program to facilitate the resolution of domestic relations cases without the necessity of extended court hearings. Participants in the Pro Bono Program in domestic relations cases will be required to participate in the ADR Plan to attempt an amicable resolution of the case. The ADR Plan will provide a funding source for resolution of high conflict disputes for litigants of modest means.

## **2.7 PROJECTED BUDGET.**

The Shelby Circuit Court estimates \$3,000.00 will be collected annually. These figures are based on the total number of domestic cases filed in 2004 in Shelby Circuit Court (160) and Shelby Superior Court No. 1 (158). There were approximately 5 private paternity actions filed in 2004. There were approximately 20 domestic relation cases filed in which the filing fee was waived or reduced.

## **2.8 PROJECTED ANNUAL BUDGET**

Income \$6,200.00

Expenses 6,200.00

Compensation for intake and referral

Coordinator \$13.28/hour x 5 hours/week x 52 weeks = 3,452.80

Publicity regarding program 250.00

High conflict counseling 1,497.20

Mediation\* 1,000.00

\$6,200.00

\*Mediation costs are low because most mediators will serve on pro bono basis as part of their voluntary participation in Shelby County Pro Bono Plan.

## **2.9 PROGRAM EVALUATION AND REPORTING.**

An annual Report containing data related to the Plan shall be submitted to the judicial Conference by December 31 of each year. It shall be the responsibility of the Judge of Shelby Superior No. 1 to prepare and submit the Annual Report. The Annual Report shall be used to evaluate the program in conjunction with ongoing discussions with the Plan Administrator and representatives from the Pro Bono Program. The Judges and representatives from the Pro Bono Program will also evaluate the Plan on an ongoing basis by reviewing exit surveys which each participant will be asked to complete.

*Adopted as ADA Plan. Amended and renumbered as Rule 2, September 30, 2005, effective October 11, 2005.*

## **LR73-FL00 RULE 3. GUARDIAN AD LITEM FEES**

The Shelby County Courts, recognizing it is appropriate to require parents and custodians of children who are involved in litigation and use the services<sup>1</sup> of the Shelby County Guardian Ad Litem to be financially responsible for those services, hereby establishes a standard fee schedule for the services<sup>1</sup> of the Shelby County Guardian Ad Litem in cases other than Child in Need of Services cases.

- 1) For custody and/or visitation evaluations, each parent/custodian shall pay the sum of \$200.00.
- 2) For cases in which the services of the Guardian Ad Litem is required on an ongoing basis, each parent/custodian shall pay the sum of \$75.00 per month. The Court in which the case is pending retains the discretion to deviate from the schedule in a particular case based upon the circumstances of the parties.

*Adopted effective November 18, 1997. Amended and renumbered as Rule 3, September 30, 2005, effective October 11, 2005.*

**LR73-FL00-RULE 4: AUTOMATIC WITHDRAWAL OF APPEARANCE**

In Domestic Relation (DR) cases and Paternity (JP) cases, an attorney's Appearance in the case shall automatically be deemed to be withdrawn thirty-five (35) days after the conclusion of the pending action, i.e., Final Decree, Modification, or Citation. If a new action, i.e., Modification or Citation, is filed more than thirty-five (35) days after the conclusion of a prior action, an attorney will need to re-enter his or her Appearance to represent a party in the new action.

# SHELBY COUNTY LOCAL CRIMINAL RULES

*Except for Caseload Allocation, Effective Jan 1, 2012*

## Rules

LR73-CR2.2 RULE 1	CRIMINAL CASELOAD ASSIGNMENT
LR73-CR00 RULE 2	BOND SCHEDULE
LR73-CR00 RULE 3	AUTOMATIC MUTUAL DISCOVERY
LR73-CR02 RULE 4	SERVICE OF SUBPOENAS IN CRIMINAL CASES
LR73-CR00 RULE 5	COMMUNITY TRANSITION VIOLATIONS
LR73-CR00 RULE 6	PROBATION FEES
LR73-CR00 RULE 7	AMENDMENT TO BOND SCHEDULE
LR73-CR00 RULE 8	SCHEDULE OF FEES FOR COURT ALCOHOL AND DRUG ASSESSMENT

### LR73-CR2.2 RULE 1. CRIMINAL CASELOAD ASSIGNMENT

- 1.1 All misdemeanors shall be filed in Shelby Superior No. 2;
- 1.2 All felonies (including murder) shall be assigned on a random basis among the three courts by the Shelby County Clerk pursuant to the Shelby County Caseload Allocation Plan under LR73-AR00 Rule 3. Thus, Shelby Circuit and Superior Court I shall receive 45% of Murder and Level 1, 2, 3, 4, & 5 felonies and Superior Court II shall receive 10% of such cases. Circuit and Shelby Superior Court II shall each receive 45% of Level 6 felonies and Superior Court I shall receive 10% of Level 6 felonies.
- 1.3 The most serious level of charge filed determines where the case is assigned.
- 1.4 When the State of Indiana dismisses a pool felony case and chooses to refile that case, the case shall be assigned to the court from which dismissal was taken;
- 1.5 All co-defendants in felony cases shall be assigned to the same court based upon a single random draw by the Shelby County Clerk;
  - 1.5.1 The Shelby County Prosecutor's Office shall notify the Clerk at the time of filing if the cases involve co-defendants. Each person will be assigned an individual cause number. For purposes of this Rule, the cases involve co-defendants as provided by I.C. 35-34-1-9 and amendments thereto.
- 1.6 Except in felony cases involving co-defendants as defined above, any new felony case filed against a defendant who has an open felony case already pending in any Court, shall be assigned to the Court where the current case is pending. The Shelby County Prosecutor's Office shall notify the Clerk at the time of filing if the defendant has a pending felony case.
- 1.7 A judge of Shelby Circuit or a Superior Court may, by appropriate order entered in the Record of Judgments and Orders, transfer and reassign to any other court of record in the county with jurisdiction to hear the charged offense(s), any pending case subject to acceptance by the receiving court, where the interests of justice or the interest of judicial economy so require.
- 1.8 The prosecuting attorney or the defendant may seek to transfer a case, and upon good cause shown, a case may be transferred to any of the other courts for consolidation with a companion case, or with other cases pending in that court against the defendant with the acceptance of the judge of the receiving court.
- 1.9 In the event a motion for change of judge is granted the case shall be reassigned pursuant to Local Rule or District Rule DR17-CR12-00003 Appointment of a Special Judge In Criminal Cases.

*Adopted as Joint Local Rule No. 1, effective October 11, 2001. Amended and renumbered as Rule 1, September 30, 2005, effective October 11, 2005. Amended on April 8, 2009. Amended 06-14-2011; effective September 1, 2011. As Amended July 1, 2014 Effective Aug 1, 2014.*

**73-CB00 RULE 2 BOND SCHEDULE**

THE FOLLOWING IS THE PRESUMPTIVE BOND SCHEDULE FOR ALL SHELBY COUNTY COURTS:

2.1 Bond Schedule. Unless otherwise ordered by a Judge, the following shall be the amounts set for the bail bonds:

a.

Charge	Bond Amount
Class C Misdemeanors	\$3,000.....10% Cash
Class B Misdemeanors	\$4,000.....10% Cash
Class A Misdemeanors	\$6,000.....10% Cash
Class D Felony	\$7,500 .....10% Cash
Level 6 Felony	\$7,500.....10% Cash
Level 5 Felony	\$10,000.....10% Cash
Class C, B, A Felony.....	NO BOND
Level 1-4 Felonies.....	NO BOND
Murder .....	NO BOND

b. In the event that an arrest is made without a warrant signed by a judge endorsing a specific bond, the charts above shall establish the bond for a “preliminary charge”. In the event that the individual is arrested on more than one “preliminary charge”, the bond shall be set in the amount of bond for the most serious offense

2.2 In the event that the arresting officer believes that the above schedule is not appropriate for a specific arrest based upon facts known to the officer or surrounding circumstances, the officer may complete an affidavit in a form substantially conforming to the form attached hereto (**Form A**) and provide it to the Sheriff’s Department and the Sheriff is authorized to hold such arrestee until the sooner of forty-eight (48) hours (excluding weekends and holidays) or until further order of a Judge.

2.3 No bond: this bond schedule shall not be used for nor applicable to the following cases:

2.3.1 A person arrested for a crime while on probation, parole, bond, or while released on their own recognizance. Persons on parole or probation shall have an immediate 15 day probation/parole hold placed upon them by jail staff, including but not limited to persons arrested pursuant to a warrant.

2.3.2 any person arrested on a charge of Invasion of Privacy, Domestic Battery, or Stalking.

2.4 Court Assignments

a. All misdemeanor arrestees will be scheduled by jail personnel into Superior Court 2.

b. All felony arrestees case assignments will be determined by the clerk. Such arrestees shall report to the Shelby County Clerk at the date and time designated by the jail staff when released for information regarding their assigned court, failure to do so may be punished by contempt or additional criminal charges including but not limited to escape.

2.6 Subject to paragraph 2.3, the bond stated on a warrant shall be allowed in all warrant arrests and the arrested person shall report to the appropriate court as instructed by the jail staff.

2.7 Nolle Pros--Upon notification by an authorized representative of the Shelby County Prosecutor’s Office that no charges will be filed in the immediate future, the jail may release any person upon their own recognizance. If the prosecutor’s office notifies the jail or the court after the arrestee has already posted bond, then such bond shall be held by the clerk until further order of the court.

*(Amended June 1, 2014 Effective July 1, 2014)*

**FORM A**

**AFFIDAVIT FOR HOLD FOR PRELIMINARY CHARGE**

Arrestee Name: \_\_\_\_\_

Arrestee DOB: \_\_\_\_ - \_\_\_\_ - \_\_\_\_ Arrestee OLN/ID Card \_\_\_\_\_

Arrestee Home address: \_\_\_\_\_

Street: \_\_\_\_\_

Arrestee City State Zip Code \_\_\_\_\_

The undersigned law enforcement officer makes this affidavit for the purpose of requesting that the Shelby County Sheriff hold the named arrestee, and that said arrestee shall not be allowed to post bond pursuant to the schedule set by the judges of this county. In support the undersigned states the bond schedule is not appropriate for:

Name \_\_\_\_\_ (hereinafter arrestee) in that said arrestee:

\_\_\_ is not a resident of this community and/or appears to have no significant ties to the community and /or appears to the undersigned to present a higher than normal risk to fail to return; or

\_\_\_ has made threats of violence to this officer or to another person which if carried out would warrant a substantially higher charge and bond, and it appears likely to the undersigned that the arrestee would carry out these threats if permitted to post the standard bond; or

\_\_\_ is suspected of additional or more serious charges which will require further investigation, and the bond for the offense for which the arrestee is now held is not likely to be sufficient to assure attendance at proceedings for the suspected offense; or

\_\_\_ other grounds not set forth above: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I affirm under penalties for perjury that the above is true to the best of my knowledge this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_m.

\_\_\_\_\_  
Signature

**LR73-CR00-RULE 3. AUTOMATIC DISCOVERY IN FELONY CASES**

**3.1 GENERAL PROVISIONS-FELONY CASES:**

- 3.1.1 Within thirty (30) days from the entry of an appearance by an attorney for a defendant, or from the formal filing of charges, whichever occurs later, the State shall disclose in all felony cases all relevant items and information under this rule to the defendant, subject to Constitutional limitations and such other limitation as the Court may specifically provide by separate order, and the defendant shall

disclose all relevant items and information under this rule to the State within thirty (30) days after the State's disclosure. Both parties shall furnish items disclosed and required to be furnished under this Rule within a reasonable time thereafter.

- 3.1.2 No written motion is required, except:
  - 3.1.2.1 To compel compliance under this rule;
  - 3.1.2.2 For additional discovery not covered under this rule;
  - 3.1.2.3 For a protective order seeking exemption from the provisions of this rule; or,
  - 3.1.2.4 For an extension of time to comply with this rule.
- 3.1.3 Although each side has a right to full discovery under the terms of this rule, each side has a corresponding duty to seek out the discovery. Failure to do so may result in the waiver of the right to full discovery under this rule.
- 3.1.4 The parties may perform these disclosure obligations in any reasonable manner including by delivery in electronic format. If the discovery is in an electronic format, the party offering the discovery must make a reasonable effort to ensure the discovery is in a format that is readily accessible by the other party. Portable Document Format (PDF) and audio mp3 or .wav files are presumptively readily accessible. Alternative compliance with these rules may include a notification to the defendant or defense counsel that material and information being disclosed may be inspected, obtained, tested, copied, or photographed at a specified reasonable time and place.
- 3.1.5 Discovery shall not be filed with the court.

### **3.2 STATE DISCLOSURES:**

- 3.2.1 The State shall disclose the following materials and information within its possession or control: The names and last known addresses of persons whom the State intends to call as witnesses along with copies of their relevant written and recorded statements. However, addresses and other confidential information is subject to the disclosure limitations in Indiana Admin Rule 9 and the Indiana Access to Public Records Act Indiana Code § 5-14-3-1. In lieu of providing an address or phone number, the Prosecutor's Office may designate their office as a contact point for their listed witnesses.
- 3.2.2 Any written or recorded statements and the substance of any oral statements made by the accused or by a codefendant and a list of witnesses to the making and acknowledgment of such statements.
- 3.2.3 If applicable, the State shall disclose the existence of grand jury testimony of any person whom the prosecuting attorney may call as a witness at any trial or hearing in the case. In addition, the State shall provide a copy of those portions of any transcript of grand jury minutes, within the State's possession, which contain the testimony of such witness or witnesses. If such transcripts do not exist, the defendant may apply to the Court for an order requiring their preparation;
- 3.2.4 Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons;
- 3.2.5 Any books, papers, documents, photographs, or tangible objects that the prosecuting attorney intends to introduce as an exhibit in the hearing or trial or which were obtained from or belong to the accused; and
- 3.2.6 Any record of prior criminal convictions that may be used for impeachment of the persons whom the State intends to call as witnesses at any hearing or trial.
- 3.2.7 The State shall disclose to the defendant(s) any material or information within its possession or control that tends to negate the guilt of the accused as to the offenses charged or would tend to reduce the punishment for such offenses.

### **3.3 DEFENDANT DISCLOSURES:**

Defendant's counsel (or defendant where defendant is proceeding pro se) shall furnish the State with the following material and information within his or her possession or control:

- 3.3.1 The names and last known addresses of persons whom the defendant intends to call as witnesses along with copies of their relevant written and recorded statements and the substance of any oral statements made by them;
- 3.3.2 Any books, papers, documents, photographs, or tangible objects defendant intends to use as evidence or an exhibit at any trial or hearing;

- 3.3.3 Any medical, scientific, or expert witness evaluations, statements, reports, or testimony which may be used at any trial or hearing;
- 3.3.4 Any defense, procedural or substantive, which the defendant intends to make at any hearing or trial; and
- 3.3.5 Any record of prior criminal convictions known to the defendant or defense counsel that may be used for impeachment of the persons whom the defense intends to call at any hearing or trial.

### **3.4 DEFENDANT'S OBLIGATIONS UPON REQUEST OF THE STATE.**

Upon request by the State, the defendant must produce the person of the accused, subject to constitutional and statutory limitations, for purposes of: appearing in a line-up; speaking for identification by witnesses to an offense; being fingerprinted; posing for photos not involving reenactment of a scene; trying on an article of clothing; permitting samples of blood, hair, or other materials of his body, which involve no unreasonable intrusion; providing a sample of the defendant's handwriting; and submitting to a reasonable physical or medical inspection of the defendant's body.

### **3.5 ADDITIONS, LIMITATION, AND PROTECTIVE ORDERS:**

- 3.5.1 Discretionary Disclosures: Upon written request and a showing of materiality, the Court, in its discretion, may require additional disclosure not otherwise covered by this rule.
- 3.5.2 Denial of Disclosure: The Court may deny disclosure required by this rule upon a finding that there is substantial risk to any person of physical harm, intimidation, bribery, economic reprisals, or unnecessary annoyance or embarrassment resulting from such disclosure to defendant or counsel.

### **3.6 MATTERS NOT SUBJECT TO DISCLOSURE**

- 3.6.1 Work Product: Disclosure hereunder shall not be required of legal research or records, correspondence, reports, or memoranda to the extent that they contain the opinions, theories, or conclusions of the State or members of its legal or investigative staff, or of defense counsel or counsel's legal or investigative staff; and
- 3.6.2 Informants: Disclosure of an informant's identity shall not be required where there is a paramount interest of non-disclosure and where a failure to disclose will not infringe upon the Constitutional rights of the accused.
- 3.6.3 Protective Orders: Either the State or defense may apply for a protective order for non-disclosure of discovery required hereunder or any additional requested discovery.

### **3.7 DUTY TO SUPPLEMENT RESPONSES:**

The State and the defendant are under a continuing duty to supplement the discovery disclosures required hereunder as required upon the acquisition of additional information or materials otherwise required to be disclosed hereunder. Supplementation of disclosures shall be made within a reasonable time after the obligation to supplement arises.

### **3.8 SANCTIONS UPON FAILURE TO COMPLY:**

Failure of a party to comply with either the disclosure requirements or the time limits required by this rule may result in the imposition of sanctions against the noncompliant party. These sanctions may include, but are not limited to, the exclusion of evidence at a trial or hearing, contempt of court, and/or financial sanctions.

## **LR73-CR02 RULE 4 SERVICE OF SUBPOENAS IN CRIMINAL CASES**

The Shelby County Sheriff's Department shall serve subpoenas without cost in criminal cases where a defendant is represented by a public defender. Personal service on a individual means physically handing the subpoena to the person named on the subpoena.

*Adopted as Joint Local Rule No. 8, effective February 22, 2000. Amended and renumbered as Rule 2, September 30, 2005, effective October 11, 2005.*

### **LR73-CR00 RULE 5 COMMUNITY TRANSITION VIOLATIONS**

Pursuant to Indiana Code 11-10-11.5-11.5 regarding the procedure for offenders who have violated the rules of the Community Transition Program, the Judges of Shelby County authorize the detention of an offender who has violated the rules of the Shelby County Transition Program in the Shelby County Criminal Justice Center pending their return to the Department of Correction upon request of the Director of Shelby County Community Corrections or the Shelby County Prosecutor or Deputy thereof.

*Adopted effective June 5, 2003. Amended and renumbered as Rule 2, September 30, 2005, effective October 11, 2005. Amended and Renumbered as LR73-CR-00-Rule 4, March 16, 2011.*

### **LR73-CR00 RULE 6 PROBATION FEES**

- 6.1 Any probationer who requests their probation be transferred to a department outside the state of Indiana shall pay a \$125 fee to the Shelby County Probation Department through the Clerk of Shelby County.
- 6.2 Any probationer who lives in Indiana and outside Shelby County for whom a transfer of probation is sought to another probation department in Indiana by the Shelby County Probation Department or the probationer, shall pay a \$25.00 fee to Shelby County Probation through the Clerk of Shelby County.
- 6.3 Each person who is placed on probation as a result of a felony conviction shall pay a \$100.00 administrative fee. Each person who is placed on probation as a result of a misdemeanor conviction shall pay a \$50.00 administrative fee. Said fees shall be paid to the Shelby County Probation Department through the Clerk of Shelby County and shall be applied first before all other fees.
- 6.4 The parents of each child adjudicated a delinquent and placed on probation shall be required to pay a \$100.00 administrative fee to Shelby County Probation through the Clerk of Shelby County.
- 6.5 The above fees are in addition to the probation user fees.

*Adopted effective July 30, 2003. Amended and renumbered as Rule 3, September 30, 2005, effective October 11, 2005. Renumbered as LR73-CR00 Rule 4 March 16, 2011.*

### **LR73-CR00-RULE 7 LATE PAYMENTS –ADDITIONAL FEE**

- 7.1 Any defendant found to have committed a crime; violated a statute defining an infraction; violated an ordinance of a municipal corporation; or committed a delinquent act; and the defendant is required to pay: court costs, including fees; a fine; or a civil penalty; and the defendant is not determined by the Court imposing the court costs, fine, or civil penalty to be indigent; and the defendant fails to pay to the clerk the costs, fine, or civil penalty in full before the later of the following:
  - (1) The end of the business day on which the Court enters the conviction or judgment.
  - (2) The end of the period specified in a payment schedule set for the payment of court costs, fines, and civil penalties under rules adopted for the operation of the Court; then the defendant shall pay an additional \$25.00 late payment fee pursuant to IC 33-37-5-22 and the Clerk of the Court shall collect the late payment fee.
- 7.2 The late payment fees imposed under this rule are authorized for deposit in the clerk's record perpetuation fund under IC 33-37-7-2 and the clerk may use any money in the fund for the following purposes: (1) The preservation of records. (2) The improvement of record keeping systems and equipment.

### **LR73-CR00 RULE 8 SCHEDULE OF FEES FOR COURT ALCOHOL AND DRUG PROGRAM SERVICES**

The schedule of fees set forth under Indiana Code 33-37-4-1 and Indiana Code 35-38-2-1 shall be applicable in all court alcohol and drug program services and shall not exceed \$400.00.

### **LR73-CR00 RULE 9: AUTOMATIC WITHDRAWAL OF APPEARANCE**

In all criminal cases, an attorney's Appearance in the case shall automatically be deemed to be withdrawn thirty-five (35) days after the conclusion of the pending action, i.e., not guilty verdict, sentencing. If a new action, i.e., Modification or probation violation, is filed more than thirty-five (35) days after the conclusion of a prior action, an attorney will need to re-enter his or her Appearance to represent a party in the new action.



# SHELBY COUNTY LOCAL SMALL CLAIMS RULES

Effective Jan 1, 2012

## Rules

LR73-SC08 RULE 1. POLICIES AND PROCEDURES FOR IMPLEMENTATION OF SMALL CLAIMS RULE 8

LR73-SC02 RULE 2 SEQUENTIAL NUMBERING OF CERTAIN PLEADINGS.

### **LR73-SC8 RULE 1. POLICIES AND PROCEDURES FOR IMPLEMENTATION OF SMALL CLAIMS RULE 8**

The following policies and procedures will be utilized in order to properly implement Small Claims Rule 8:

- 1.1 A natural person may appear pro se or by counsel.
- 1.2 A sole proprietor may appear by the sole owner or by counsel.
- 1.3 A partnership may appear by a general partner or by counsel.
- 1.4 A sole proprietor or partnership may appear by a full-time employee if the claim does not exceed \$1,500.00 and proper filings have been made.
- 1.5 A corporation or limited liability corporation, (LLC), must appear by counsel if the claim exceeds \$1,500.00.
- 1.6 A corporation or LLC may appear by a full-time employee if the claim does not exceed \$1,500.00 and proper filings have been made.
- 1.7 The filings required for an employee to appear in a small claims proceedings are as follows:
  - a. A corporation or LLC must have filed a resolution designating the employee and expressing compliance with Small Claims Rule 8.
  - b. A sole proprietor or partnership must have filed a certificate by the owner or each of the partners designating the employee and expressing compliance with Small Claims Rule 8.
  - c. Each designated employee must have filed an affidavit affirming that he or she is a full-time employee and that they have not been suspended or disbarred from the practice of law in Indiana.
- 1.8. The filings noted above shall be filed in Shelby County Superior Court II prior to any action being undertaken by the party. If an action is already filed, it will not proceed, and may be dismissed or defaulted if proper filings are not submitted.
  - a. Miscellaneous entries shall be made for each filing in the Clerk's Office. Superior Court II staff shall provide minutes to the Clerk for those entries. b. A master list of filings shall be maintained by Superior Court II and provided to the Clerk.
  - c. Basic forms will be available from Superior Court II and the Clerk's Office. Copies are attached as part of this rule.
- 1.9 Cases are subject to dismissal for failure to comply with Indiana Trial Rule 41.
- 1.10 Pursuant to rule 2(b) (4) (a) of the Indiana rules for small claims if a claim involves a written contract, which would include a written lease, it must be attached to the notice. One copy for all defendants and one copy for the court must be provided to the clerk. The clerk has been instructed not to accept filing of a small claim that does not comply with this rule.

*Adopted effective October 8, 2004. Amended and renumbered as Rule 1, September 30, 2005, effective October 11, 2005. Amended Jan 1, 2012.*

### **LR73-SC00 RULE 2 SEQUENTIAL NUMBERING OF PROCEEDINGS SUPPLEMENTAL AND GARNISHMENT PETITIONS**

All Proceedings Supplemental and Garnishment pleadings shall be numbered sequentially in the title. Eg. 1<sup>st</sup> Proceeding Supplemental, 2<sup>nd</sup> Proceeding Supplemental; 1<sup>st</sup> Verified Motion to Establish Garnishment, 2<sup>nd</sup> Verified Motion to Establish Garnishment, etc.

# JUDICIAL DISTRICT 17 ADMINISTRATIVE RULES & PLAN

## **DR17-AR03-00001**                      **COORDINATION OF WITH COUNTY LOCAL RULES.**

- A. Purpose. The purpose of these rules is to coordinate motions practice in cases which may involve judicial officers from throughout the Administrative District.
- B. Scope. These rules shall govern the processes described therein and shall supersede any local rules inconsistent therewith.

## **DR17-TR79-00002**                      **APPOINTMENT OF A SPECIAL JUDGE IN CIVIL CASES.**

- A. Eligibility for Special Judge Service.
  - 1. Agreement to Serve. Pursuant to Trial Rule 79(H), the full-time Judicial Officers of Administrative District 17 shall be deemed in agreement to serve as a Special Judge only for those case type(s) which compose that Judicial Officer's typical caseload, as determined by the Local County Caseload Allocation Plan.
  - 2. Prior Service Excluded. The appointment as Special Judge shall apply unless the appointed Judicial Officer has previously served as Judge or Special Judge in the case, is disqualified by interest or relationship, or is excused from service as a Special Judge by the Indiana Supreme Court.
- B. Appointment of a Special Judge. In the event of the need for the regular, sitting Judicial Officer to recuse herself / himself from a normally assigned case, or should the appointment of a Special Judge through agreement by the Parties fail, Special Judge appointment shall be made by the Johnson County Court Administrator.
  - 1. Priority Given to Local County Appointments. Special Judge appointments shall be made within the Local County, on a rotating basis, so long as a Judicial Officer within the County who has jurisdiction for the type of case remains eligible for Special Judge service. Following the appointment of the Special Judge, the Special Judge may request that the case be transferred to the court of the Special Judge.
  - 2. District (Outside County) Appointments. In the event that no Local Judicial Officer is available, a Special Judge shall be appointed, on a rotating basis, from the available Judicial Officers within the Administrative District who have jurisdiction for the type of case.
- C. Acceptance of Appointment.
  - 1. Acceptance Mandatory. Pursuant to Trial Rule 79(H), a person appointed to serve as Special Judge under these rules must accept jurisdiction in the case, unless the appointed Special Judge is disqualified pursuant to the Code of Judicial Conduct, ineligible for service under these rules, or excused from service by the Indiana Supreme Court.
  - 2. Documentation. An oath or additional evidence of acceptance of jurisdiction is not required.
- D. Supreme Court Certification. In the event that no Judicial Officer in the Administrative District is eligible to serve as a Special Judge, or the regular, sitting Judicial Officer in the court in which the case is pending sets out particular circumstances why appointment under these rules should not be made, then the regular, sitting Judicial Officer shall certify the same to the Indiana Supreme Court for appointment of a Special Judge.
- E. Discontinuation of Special Judge Service. The provisions of T.R. 79(I) apply if a Special Judge ceases to serve following assumption of jurisdiction.
- F. Method for Assignment and Related Records. The Administrative District Executive Committee shall approve:
  - 1. The methodology by which the rotation of Judicial Officers for selection as Special Judge is made; and,
  - 2. The maintenance of any records related thereto.

**DR17-CR12-00003 APPOINTMENT OF A SPECIAL JUDGE IN CRIMINAL CASES.**

Each county within the Administrative District shall amend its local rules, pursuant to Criminal Rule 2.2 and 13, to allow for appointment of Special Judges utilizing the following elements.

- A. Eligibility for Special Judge Service.
  - 1. Available to Serve. Pursuant to Criminal Rule 13(C), the Judicial Officers of Administrative District 17 shall be deemed in agreement to serve as a Special Judge only for those case type(s) which compose that judicial officer's typical caseload, as determined by the local Caseload Allocation Plan.
  - 2. Prior Service Excluded. The appointment as Special Judge shall apply unless the appointed Judicial Officer has previously served as Judge or Special Judge in the case, is disqualified by interest or relationship, or is excused from service as a Special Judge by the Indiana Supreme Court.
- B. Appointment within the Administrative District. In order to improve the coordination within the Administrative District, and pursuant to Criminal Rule 13(C), appointments of a Special Judge in criminal cases shall be made among the Judicial Officers of the Administrative District.
- C. Appointment of a Special Judge. In the event of the need for the regular, sitting Judicial Officer to recuse herself / himself from a normally assigned case, Special Judge appointment shall be made by the Johnson County Court Administrator.
  - 1. Priority Given to Local County Appointments. Pursuant to Criminal Rule 2.2, appointments of a Special Judge shall be made in the same manner as set forth within the Local Rules of the Local County, so long as a Judicial Officer with criminal jurisdiction remains available within the Local County for appointment. Following the appointment of the Special Judge, the Special Judge may request that the case be transferred to the court of the Special Judge.
  - 2. District (Outside County) Appointments. In the event that no Local Judicial Officer is available, a Special Judge shall be appointed, on a rotating basis, from the available Judicial Officers within the Administrative District.
- D. Acceptance of Appointment.
  - 1. Acceptance Mandatory. Pursuant to Criminal Rule 13(C), a person appointed to serve as Special Judge under these rules must accept jurisdiction in the case, unless the appointed Special Judge is disqualified pursuant to the Code of Judicial Conduct, ineligible for service under these rules, or excused from service by the Indiana Supreme Court.
  - 2. Documentation. An oath or additional evidence of acceptance of jurisdiction is not required.
- E. Supreme Court Certification. In the event that no Judicial Officer in the Administrative District is eligible to serve as a Special Judge, or the regular, sitting Judicial Officer in the court in which the case is pending sets out particular circumstances why appointment under these rules should not be made, then the regular, sitting Judicial Officer shall certify the same to the Indiana Supreme Court for appointment of a Special Judge.
- F. Discontinuation of Special Judge Service. The provisions of C.R. 13(F) if a Special Judge ceases to serve following assumption of jurisdiction.
- G. Method for Assignment and Related Records. The Administrative District Executive Committee shall approve:
  - 1. The methodology by which the rotation of Judicial Officers for selection as Special Judge is made; and,
  - 2. The maintenance of any records related thereto.

**DR17-AR15-00004 TRANSCRIPT RATE.**

Each county within the Administrative District shall amend its local rules, pursuant to Administrative Rule 15 to provide for a consistent rate of \$5.00 per each page of a transcript prepared.

**DR17-AR03-00005 ADMINISTRATIVE DISTRICT WORK.**

- A. History of Administrative District Work.
1. Administrative District 17 was created by modification to Administrative Rule 3, effective January 1, 2011.
  2. Prior to the creation of Administrative District 17, there was little recent history of Hancock, Johnson, and Shelby Counties working together as an Administrative District.
  3. The services and programs operating in each County of the Administrative District vary greatly, due, at least in part, to the disparity in population among the counties.
- B. Future of Administrative District Work.
1. The Judiciary of each County in the Administrative District is interested in the benefits of district-level coordination and potential benefits derived therefrom.
  2. The local rules of each County are being reviewed to determine where local procedures could be made more efficient and productive.
  3. The local rules of each County will be amended, pursuant to direction from the Indiana Judicial Conference, in order to improve coordination, across county lines, with the Administrative District.

**DR17-AR03-00006 ADMINISTRATIVE DISTRICT LEADERSHIP.**

- A. Executive Committee. The Administrative District Executive Committee shall serve as the governing authority of the Administrative District.
- B. Selection of Executive Committee.
1. Local County Representatives. Each County shall select a Judicial Officer to represent that County on the Administrative District Executive Committee.
  2. Term of Service.
    - a. Each County Representative shall serve on the Executive Committee for a term of three (3) years and for a maximum of no more than two (2) complete terms, without a break in service.
    - b. Each County Representative's term of service shall begin on January 1 and shall continue until her / his successor has been selected.
  3. Initial Term of Service. In order to ensure that terms of service on the Executive Committee are staggered, the initial terms of service are hereby established as follows:
    - a. Hancock County. The Hancock County Representative shall serve an initial term of one (1) year, which initial term shall terminate on or about December 31, 2013. At the discretion of the Executive Committee, the term of service for the Hancock County Representative need not include the initial term of service.
    - b. Johnson County. The Johnson County Representative shall serve an initial term of two (2) years, which initial term shall terminate on or about December 31, 2014. At the discretion of the Executive Committee, the term of service for the Johnson County Representative need not include the initial term of service.
    - c. Shelby County. The Shelby County Representative shall serve an initial term of three (3) years, which initial term shall terminate on or about December 31, 2015.
- C. Chair of the Executive Committee.
1. No later than February 1 of each year, the Members of the Executive Committee shall select one (1) of their number to serve as the Chair.
  2. The Chair shall serve a term of one (1) year, which may be renewed.
  3. Chair of the Executive Committee shall schedule and preside over the meetings of the Executive Committee.
  4. The Chair of the Executive Committee shall serve as the Representative to the Indiana Judicial Conference Board of Directors. This provision shall initially take effect at the conclusion of the Annual Meeting of the Indiana Judicial Conference / Board of Directors meeting on or about September 20, 2013 and shall continue thereafter in compliance with I.C. 33-38-9-4.
- D. Meetings of the Executive Committee.
1. The Executive Committee shall meet at least two (2) times each year.
  2. The meetings shall occur no later than April 30 and October 30 of each year.
  3. Attendance at meetings via electronic or telephonic means is acceptable.

**DR17-AR03-00007      EFFECTIVE DATE.**

Subject to the approval of the Indiana Supreme Court, these Administrative District Rules become effective January 1, 2013.

*Adopted December 2012; Approved by the Indiana Supreme Court, 5/13/13; Effective 5/1/13.*