

# In The Indiana Supreme Court

IN RE THE MATTER OF )  
NOTICE OF LOCAL RULES )  
AND AMENDMENTS FOR THE ) CASE NUMBER:  
COURTS OF RECORD IN )  
MONROE COUNTY )

## NOTICE OF PROPOSED RULES AND AMENDMENTS AND FINDING GOOD CAUSE TO DEVIATE FROM THE SCHEDULE FOR ADOPTING AND AMENDING LOCAL COURT RULES

The Judges of Monroe County, pursuant to Trial Rule 81 (D), now find good cause exists to deviate from the schedule established by the Division of State Court Administration for the adoption and amendment of local rules.

The Judges of Monroe County give Notice to the public and the bar of proposed new local rules and amendments to existing rules indicated by underlining proposed new language and striking-through proposed deleted language.

Comments may be made to Bonnie Austin, Monroe Circuit Court, 301 North College Avenue, Bloomington, IN 47404, until July 2, 2009

The attached local rules will be effective on July 15, 2009.

Submitted on this 1<sup>st</sup> day of June, 2009 for the Judges of Monroe County.

\_\_\_\_\_/S/\_\_\_\_\_  
Kenneth G. Todd, Presiding Judge  
Judge, Monroe Circuit Court Division III

# Monroe Circuit Court Rules and Procedures Manual



# THE MONROE CIRCUIT COURT

## RULES AND PROCEDURES

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# **THE MONROE CIRCUIT COURT**

## **MISSION STATEMENT**

The mission of the Monroe Circuit Court is to fairly and promptly resolve justifiable issues in a manner consistent with the mandates, directive and guidelines of the laws of the State of Indiana and of the United States of America.

## **PRIORITY OF POLICIES**

1. **COMPLIANCE WITH THE LAW.** The primary consideration in the operation of the Court is faithful adherence to the law.
2. **COMPLIANCE WITH THE CODE OF JUDICIAL ETHICS.** The judges of the Court, and its staff and employees acting within the scope of their employment or in an official capacity, will faithfully adhere to the Code of Judicial Ethics.
3. **SERVICE TO THE PUBLIC.** The Court will constantly strive to be accessible, efficient, and considerate to all members of society; to foster a spirit of cooperation and partnership with governmental and public agencies; and to cultivate understanding, respect and confidence for judicial process by informing the public of this mission and operation.
4. **RESPONSIBLE AND PROGRESSIVE MANAGEMENT.** The Court will maximize available resources and aggressively seek new resources and methods to perform its mission and achieve its stated goals with fiscal responsibility.
5. **COURT PERSONNEL.** Personnel will be provided with the resources, and with a positive, equitable, and secure environment within which to fulfill their partnership of responsibility in the mission of the Court.

## ORDER OF ADOPTION

The judges of the Monroe Circuit Court, pursuant to Indiana Code 33-4-10-6, hereby amend the Rules and Procedures of the Monroe Circuit Court, originally adopted on January 1, 1991, this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

### MONROE COUNTY BOARD OF JUDGES

E. Michael Hoff, Judge  
Monroe Circuit Court, Division I

Marc R. Kellams, Judge  
Monroe Circuit Court, Division II

Kenneth G. Todd, Judge  
Monroe Circuit Court, Division III

Elizabeth N. Mann, Judge  
Monroe Circuit Court, Division IV

Douglas R. Bridges, Judge  
Monroe Circuit Court, Division V

David L. Welch, Judge  
Monroe Circuit Court, Division VI

Viola J. Taliaferro, Judge  
Monroe Circuit Court, Division VII

- A. Board of Judges. The nine (9) judges of the Monroe Circuit Court shall constitute the Board of Judges.
- B. Presiding Judge. The Board of Judges shall select from among themselves a Presiding Judge, whose one year term shall begin January 1st. The presiding judge shall, as delegated by the Board of Judges:
1. Prepare proposed local rules as are required to expedite and facilitate the court business;
  2. Insure efficient operation of the court system and compliance with local rules; Reassigns cases to any judge division as needed;
  3. Maintain and distribute to other judges the bond schedule, caseload allocation schedules, juror excusal policy and other items necessary for the operation of the court system;
  4. Provide general direction and supervision of the court administrative offices; Chair a management team to discuss administrative issues;
  5. Submit the annual budget for the court system to the Board of Judges for approval;
  6. Provide liaison between the Court and government and civic agencies;
  7. Recommend appointments as specified in I.C. 33-4-10-5(1) and by local ordinance for approval by the Board of Judges;
  8. Develop and implement an orientation program for new judges and magistrates;
  9. Preside over the Board of Judges meetings and direct the preparation of the agenda and minutes of the meetings;
  10. Allocate courtrooms and ancillary space for efficient administration of court business;
  11. When absent, designate the past presiding judge, if available, to serve as acting presiding judge; If past presiding judge is unavailable, designate one of the other available judges as acting presiding judge;
  12. Perform other duties as directed by the Board of Judges or as set out in these Rules.

- A. Monthly Meeting. The Board of Judges shall meet at least monthly to make policy decisions, provide educational reports, and review operations of the court system. The Director of Court Services shall be required to attend these meetings and participate in discussions. The Chief Probation Officer and a Court Reporter representative may attend the meetings to make a monthly report.
  
- B. Spring Meeting. Each spring the Board of Judges, the Director of Court Services and the Chief Probation Officer shall attend an extended meeting to discuss:
  - 1. Budget requests for the next annual budget;
  - 2. Evaluation of judicial performance;
  - 3. Matters requiring extended discussion.
  
- C. Fall Meeting. Each fall the Board of Judges and the Director of Court Services shall attend an extended meeting to discuss:
  - 1. Selection of the next presiding judge;
  - 2. Implementation of the next annual budget;
  - 3. Allocation of caseload;
  - 4. The Annual Report;
  - 5. Performance of the Offices of Court Services and Probation Department.
  
- D. Decisions. Decisions on all court system issues and these Rules shall be made by a vote of the majority of the Board of Judges.

**LR53-AR00-0101**  
**PROCEDURE FOR LOCAL RULES**

- 1. The Presiding Judge shall submit proposed rules to the Monroe County Bar for consideration and recommendation.
  
- 2. After adoption by the Board of Judges, the rules shall be published and distributed to:
  - a. The Board of Judges of the Monroe Circuit Court
  - b. Clerk of the Supreme Court and Court of Appeals of Indiana
  - c. Indiana State Court Administrator

- d. Clerk of the Monroe Circuit Court
- e. Members of the Monroe County Bar Association

**LR53-AR00-0102**  
**PRESIDING JUDGE EXPENDITURES**

The Presiding Judge may approve capital expenditures up to \$1500.00 without further consideration by the Board of Judges.

**LR53-AR00-0103**  
**MANAGEMENT TEAM**

The Presiding Judge will chair Management Team meetings with the Director of Court Services and Chief Probation Officer. Members of the Board of Judges shall be advised of time and place of meetings and may attend.

**LR53-AR00-0104**  
**ATTENDANCE AT MEETING**

The Presiding Judge shall be responsible for attending County Council and Council and Commissioners meetings.

**LR53-AR00-0105**  
**BOARD OF JUDGES MEETINGS**

Corrected  
1/1/08

1. The Board of Judges will follow the Robert's Rule of Order during their meetings.
2. Issues will be tabled after first discussion and voted upon at the next meeting. This procedure may be suspended by vote of the Board.
3. The Presiding Judge and Court Administrator will determine the agenda items. Any member of the Board of Judges can place an item on the agenda. The agenda should be distributed to the members no later than two days prior to the meeting.
4. Any policies established by committees of which Judges are members, and which may affect or concern court procedures, should be reported to the Board of Judges.
5. The minutes will reflect an ongoing list of unresolved issues or a method to track projects/issues.
6. Meetings will be held on the first and third Wednesday of each month at 5:00 p.m. and at such other times as the Board may agree.
7. There will be at least two in-service meetings per year.

**LR53-AR00-0106**

**EMERGENCY CLOSING**

1. The Presiding Judge, after consultation with the Board of Judges, if practical, may determine that the Courts are closed due to a temporary emergency (e.g., snow, breakdown in facility utilities.) Any judge, notwithstanding that authority, may require his or her court reporters to work.
2. See *Monroe County Personnel Policy 4.4*; County Commissioners have the authority to close the Justice Building.

**LR53-AR00-107**

**CRIMINAL DUTY JUDGE RESPONSIBILITIES**

1. The Criminal Duty Judge shall be available by pager each Saturday and Sunday at 3:00 PM for the purpose of conducting probable cause hearings for those incarcerated defendants arrested on the prior Thursday and Friday. The prosecuting attorney shall provide an electronic recording of the hearing and shall deliver the tape recording to the Court on the morning of the next business day for the Court to transcribe the recording for entry into the Record of Judgments and Orders pursuant to I.C. 35-33-5-8.
2. The Criminal Duty Judge shall be responsible for initial hearings, probable cause determinations, restraining orders, and other judicial issues requiring immediate action.
3. The Criminal Duty Judge shall request incarcerated felony defendants to appear in court within 24 hours of their arrest, excluding weekends, to inform them of the reason for their hold. Each day the OCS staff will review the arrest list and inform the Criminal Duty Judge of these defendants.

**LR53-AR01-108**

**CASELOAD ALLOCATION**

Updated  
1/1/09

A. Procedure. The Board of Judges shall:

1. Review and assess literature from the Indiana State Bar Association, the American Bar Association, and the National Center for State Courts.
2. Review and consider suggestions made by the Monroe County Bar, the Prosecuting Attorney and the Public Defender.
3. Review and analyze the statistics on current workload and caseflow within the Monroe Circuit Court.
4. Analyze whether the current allocation is providing quality public service. There shall be a presumption in favor of the current allocation in order to preserve public confidence in the system, promote stability for the employees of the court system, and avoid inefficient

use of personnel, time and resources to effectuate change. Caseload allocation shall be determined by judicial seniority.

B. Implementation. The Clerk of Monroe County shall maintain a random filing system, by computer or otherwise, implementing the caseload allocation approved by the Board of Judges. If the caseload allocation is changed by order of the Board of Judges, the presiding judge shall forward the amended allocation to the Clerk of the Supreme Court and Court of Appeals, the State Court Administrator, the Clerk of Monroe Circuit Court, and the President of the Monroe County Bar Association. The current allocation follows:

1. Case Assignment The Clerk shall randomly assign all A, B, C, D felony and misdemeanor cases to Divisions II, III, V, and IX.
  - a. The Clerk shall randomly assign ~~50%~~ of Civil cases to Division I and ~~50%~~ to Division VI. Domestic relations cases shall be assigned randomly to Divisions I, IV, VI and VIII.
  - b. Probate, juvenile delinquencies, juvenile status, juvenile miscellaneous resulting from delinquent acts, juvenile paternity, adoptions, mental health and guardianship cases shall be assigned to Division VII.
  - c. Juvenile CHINS, juvenile miscellaneous filed by the Office of Family and Children, and juvenile terminations shall be assigned to Division VII.
  - d. Small claims cases shall be randomly assigned 50% to Divisions IV and 50% to Division VIII.
  - e. Infraction cases shall be randomly assigned to Divisions II, III, V, and IX.
  - f. Protective order cases shall be assigned to Division I, IV, VI and VIII by random assignment.
  - g. If there exists a previously filed domestic relations case involving the parties to the Protective Order case, the Protective Order case shall be consolidated with the previously filed domestic relations case.
  - h. Reciprocal support cases shall be assigned to Divisions I, IV, VI and VIII.
  - i. A redocketed case bearing a 1992 or earlier cause number shall be randomly assigned to circuit divisions overseeing that case type as specified in the Caseload allocation (Rule 2) by the Clerk designated by case type for redocketed cases and shall remain with that division.
  - j. A redocketed case bearing a 1993 or later cause number shall be assigned to the Court of original jurisdiction if that division in the reallocation of cases is assigned that case type, otherwise, it will be randomly assigned to a division with that jurisdiction.

2. Case Refiled: If a case is dismissed without prejudice on a plaintiff's motion, and the same case is subsequently refiled by a plaintiff, the refiled case shall be assigned to the same Division of the Monroe Circuit Court in which the dismissed case was originally filed providing that division is overseeing that case type. If that division is no longer hearing that case type, then the Clerk will randomly assign that case to a division with jurisdiction. "Same case" shall mean substantially the same cause of action, arising out of the same transaction or occurrence, and between substantially the same parties. If such a refiled case is not initially refiled in the same division of the Monroe Circuit Court, then upon motion of any party or Court, it shall be transferred to the Division of the Monroe Circuit Court in which it was originally filed.
3. Case Recusal: The Court Reporter shall notify the Clerk of the cases in which judges recuse themselves. Credit will be provided to the new division assigned.

C. Case Consolidation. Cases filed which involve multiple-defendants arising out of same occurrence or multiple cases filed against the same defendant shall be consolidated and assigned to the division with the oldest cause number. Criminal cases shall be consolidated with the oldest pending cause number. Pending cases include defendants on Probation and in the Pre-Trial Diversion Program. Protective order cases shall be consolidated with related domestic relations cases.

D. Case Transfer.

1. Any divorce, support or custody case filed or pending in Divisions I, IV, VI and VIII, while there is an active CHINS case pending in Division VII, shall be transferred to Division VII. At the conclusion of the CHINS case, the divorce, support or custody case may be transferred back to the court of original jurisdiction.
2. Nothing in this Rule shall preclude the transfer of an individual case from one division of the Circuit Court to another division to promote efficiency and
3. Provide for timely resolution of cases. The transferring judge shall direct the Clerk to resubmit the case to a random filing system for assignment to another division, unless transfer to a specific division promotes judicial economy. Upon transfer, adjustments will be made in the Office of Court Services and the Clerk's office to maintain an equitable caseload allocation. This transfer procedure shall also be used when a judge disqualifies from a case pursuant to Trial Rule 79(C), Indiana Rules of Trial Procedure.

**LR53-AR79-0109**  
**SPECIAL JUDGES IN CIVIL CASES PURSUANT TO**  
**TRIAL RULE 79(H)**

Updated  
1/1/08

1. The judges of all the trial courts within Administrative District 10, as defined by Administrative Rule 3(A), have agreed to serve as special judges in civil cases when required by Trial Rule 79(H). The trial courts within Administrative District 10 are Owen Circuit Court; Monroe Circuit Court, Division 1 through and including 9;

Lawrence Circuit Court; Lawrence Superior Court 1; Lawrence Superior Court 2; Green Circuit Court; and Greene Superior Court. By agreement of the trial judges within Administrative District 10, senior judges shall not be appointed, pursuant to Trial Rule 79(H), as special judges in civil cases.

2. To provide for a fair distribution of special judge appointments pursuant to Trial Rule 79(H), a Facilitator shall be selected by the judges of the above named courts to assign special judges in civil cases pursuant to Trial Rule 79(H) as needed. The first Facilitator shall be the judge of the Greene Superior Court who shall serve until January 15, 1997, or until such time as a subsequent Facilitator is selected. Facilitators shall be selected at a meeting of the judges of Administrative District 10 during meetings of the Indiana Judicial Conference in December, or upon call of one-third of the judges within the Administrative District.
3. A trial court requiring the appointment of a special judge pursuant to Trial Rule 79(H) shall seek the assignment of a special judge from the Facilitator who shall advise the court where the case is pending of the name of the next judge on the Assignment List of Judges. The Facilitator shall assign judges from the Assignment List of Judges in the following consecutive order: Owen Circuit Court, Lawrence Superior Court, Division 2; Monroe Circuit Court, Division 3; Monroe Circuit Court, Division 7; Lawrence Circuit Court; Monroe Circuit Court, Division 1; Greene Superior Court; Monroe Circuit Court, Division 2; Lawrence Superior Court, Division 1; Monroe Circuit Court, Division 4; Greene Circuit Court; Monroe Circuit Court, Division 5; and Monroe Circuit Court, Division 6. If the Court seeking the appointment of a special judge pursuant to Trial Rule 79(H) is the Facilitator's Court, the Facilitator will appoint the next consecutive judge from the Assignment List, omitting such Facilitator's own name. After receiving the assignment of a special judge from the Facilitator, the Court seeking the assignment shall appoint such judge as special judge pursuant to Trial Rule 79(H).
4. If no judge is eligible to serve as special judge or the particular circumstances of the case warrant selection of a special judge by the Indiana Supreme Court such case shall be certified in the Indiana Supreme Court.

#### **LR53-AR00-0110**

#### **ALLOCATION OF PROTECTIVE ORDER CASES**

If there is a request for waiver of fees on a protective order case the Clerk will accept the filing and will immediately submit the file to judge of the division to which the protective order case was assigned. The file will be flagged as needing special attention.

#### **LR53-AR01-0111**

#### **ALLOCATION OF SMALL CLAIMS/EVICTIONS/ORDINANCE VIOLATIONS/PROCEEDINGS SUPPLEMENTAL/INFRACTIONS**

Updated  
1/1/08

1. Small Claims: Small Claims are filed randomly between two of the court divisions. A maximum of 150 new Small Claims will be filed during a week. The Clerk will set

hearings on the claims by filling the time slots as they appear on a calendar at the rate of 25 cases per hour. These hearings are set on the first available date within 30 - 45 days of the filing date. The Clerk will enter the case electronically and issue the service before sending the file to the Court.

2. Bulk Filings are limited to 25 a day and 50 week.
3. Evictions: Eviction cases are randomly assigned by the Clerk to division four and division eight. The Clerk will enter the case data in JTS, issue a cause number and receipt for the plaintiff, mark the file as an eviction, tag the file with a marker requesting the Court to "Please set for hearing and return to Clerk." The Court sets the time within 15 to 45 days from the filing date. The case file is returned to the Clerk who issues service and completes the data entry in JTS.
4. Ordinance Violation: Ordinance Violation filings are limited to 25 a day and 50 a week. The City attorney will set their own hearing date and times in accordance with the Court docket.
5. Proceedings supplemental: Proceedings Supplemental are filed at the maximum rate of 75 cases per week. The Clerk will set all proceedings supplemental complying with the 21 to 45 day service requirements. The Clerk will execute the order to appear, input data into JTS, issue the service and send the file to the Court. Ordinance Violation Proceedings Supplemental are processed like small claim proceedings supplemental.
6. Infractions: Traffic tickets are filed in the Clerks Office by law enforcement. Traffic violations are assigned randomly to Division II, III, V, and IX. The prosecutor and clerk hold initial hearings each Thursday at 1:00 PM in Clerk's office.
7. At Initial Hearings, defendants either pay the citation, enroll in Infraction Diversion Program or are assigned a bench trial date. Jury trials are assigned to the Division of the initial case filing.

#### **LR53-AR79-0112**

#### **SPECIAL JUDGES IN CRIMINAL CASES**

Special Judges in Criminal Cases shall be selected pursuant to Local Rule 2, Section I-A, Special Judges in Civil Cases Pursuant to Trial Rule 79 (H).

#### **LR53-AR01-0113**

#### **MONROE CIRCUIT COURT PLAN FOR ALLOCATION OF JUDICIAL RESOURCES**

- A. Cases shall be assigned in accordance with LR53-AR01-108, Caseload Allocation, and related Procedures of the Monroe Circuit Court.
- B. The Presiding Judge shall:

1. Review and evaluate the caseload allocation data as reported by the Division of State Court Administration.
2. Submit the initial evaluation and report with necessary recommendations to the Board of Judges for review and analysis in accordance with the Monroe Circuit Court local rules.

C. The Board of Judges shall:

1. Review and analyze the report and other available data as enumerated in LR53-AR01-108, Caseload Allocation. Implement any necessary actions to ensure the random and equal caseload allocation as established in the Monroe Circuit Court rules and procedures.

**LR53-AR00-0114**

**FISCAL MANAGEMENT**

A. Board of Judges.

1. Budgets. The Board of Judges shall direct the preparation of one unified budget for all divisions of the Court, the Probation Department and the Office of Court Services to be funded from the county general fund upon approval of the County Council. The Board of Judges shall further direct the preparation of additional budgets for programs funded by user fee income and grants for approval by the County Council.
2. Annual Procedure. Each year the Board of Judges shall establish a schedule for budget preparation, review and submission with the goal of providing for the effective functioning of the court, as follows:
  - a. Each judge, the Chief Probation Officer, and the Director of Court Services shall submit written budget requests to the Financial Coordinator in the Office of Court Services. These requests shall be specific and well-justified in light of the past year's expenditures and the future needs of the offices.
  - b. The Board of Judges shall meet to review the budget requests and may request further discussion from the Chief Probation Officer, the Director of Court Services or any other employee.
  - c. The Board of Judges shall establish budget priorities and guidelines for allocation of individual line items in the budget and shall direct the Director of Court Services to prepare budget proposals for submission to the County Council.

B. Office of Court Services.

1. Budget. The Director of Court Services shall prepare budget proposals established by the Board of Judges for submission to the County Council for approval.
2. Claims. All claims shall be submitted to the Financial Coordinator for review by the

Director of Court Services for compliance with the budgetary policies and guidelines of the Board of Judges. The Director of Court Services shall forward all payroll claims and all purchase, travel, and training claims consistent with the Board's policies and guidelines to the Auditor's Office for payment. Any claim exceeding budgetary guidelines or otherwise inconsistent with the Board's policies must be submitted to the Board for approval.

3. Transfers within budget categories. If the Director of Court Services with the assistance of the Financial Coordinator determines that a transfer is necessary within budget categories, the Presiding Judge should approve transfers within budget prior to submission to the Auditor's Office.
4. Transfers between budget categories. The Presiding Judge should approve transfers between budget categories as necessary. A written proposal shall be submitted to the Board of Judges for approval prior to submission to the County Council.
5. Additional appropriation. If the Director of Court Services with the assistance of the Financial Coordinator determines that an additional appropriation is necessary, a written proposal shall be submitted to the Board of Judges.
6. Mandate. No individual judge shall exercise mandates for the adequate provision of court services, personnel, or other expenditures.
7. Compliance with laws. The Presiding Judge, the Director of Court Services, and the Financial Coordinator shall closely monitor all budget submissions, claims, expenditures and other financial records to assure strict compliance with all laws, rules and regulations.

### **LR53-AR00-0115**

#### **BOARD OF JUDGES CHECKING ACCOUNT**

The Board of Judges will maintain a checking account, administered by the Director of Court Services to be used for flowers, contributions, or cards on behalf of the Board of Judges as follows:

1. For Court System staff, flowers or a contribution will be sent upon the death of a spouse, child or parent.
2. For members of the Monroe County Bar Association, flowers or a contribution will be sent upon the death of a spouse or child, and a sympathy card will be sent upon the death of parents.

### **LR53-AR00-0116**

#### **PERSONNEL**

Updated 05/27/09

- A. General Organization. The Monroe Circuit Court employs personnel, as follows:

1. Court Division:

Commissioner  
Official Court Reporters  
Associate Court Reporters  
Law Clerks

~~1.~~ 2. Probation Department:

Chief Probation Officer  
**Deputy Chief Probation Officers**  
**Probation Supervisors**  
Probation Officers  
Program Staff  
**Field Officers**  
Clerical Staff

~~2.~~ 3. Office of Court Services:

Director of Court Services  
**Deputy Court Administrator**  
Case Management Coordinator  
Financial Coordinator  
Court Programs Coordinator  
Public Service Coordinator  
~~Youth Placement Coordinator~~  
Family Court Coordinator  
Shared Court Reporters  
Bailiffs

B. Court Divisions. The Monroe Circuit Court shall have ~~seven~~ **nine** court divisions. The judge of each court division shall have the sole authority to employ an Official Court Reporter, two Associate Court Reporters, and a Law Clerk to serve at the pleasure of the judge. The Official Court Reporter of a division shall supervise the Associate Court Reporters and Law Clerks, if so directed by the division's presiding judge.

C. Probation Department. The Board of Judges shall have the sole authority to employ Probation Department personnel and to terminate their employment. All employees of the Probation Department serve at the pleasure of the Board of Judges. The Board of Judges shall advertise the position of Chief Probation Officer and interview and screen applicants for that position. The Chief Probation Officer shall advertise any other available probation position and interview and screen applicants as directed by the Board of Judges. ~~The Chief Probation Officer shall provide to the Board of Judges a written summary of qualified applicants, with the Chief Probation Officer's recommendation of one applicant to be hired by the Board of Judges.~~ **The Board of Judges has authorized the Chief Probation Officer to make final hiring decisions regarding Probation Department positions.** As directed by the Board of Judges, the Chief Probation Officer shall supervise employees of the Probation Department and may delegate certain supervisory responsibilities to the staff and other employees.

- D. Office of Court Services. The Board of Judges shall have the sole authority to employ personnel for the Office of Court Services and to terminate their employment. All employees of the Office of Court Services serve at the pleasure of the Board of Judges. The Director of Court Services shall advertise an available position and interview and screen applicants as directed by the Board of Judges. ~~The Director of Court Services shall provide to the Board of Judges a written summary of qualified applicants, with the Director's recommendation of one applicant to be hired by the Board of Judges.~~ **The Board of Judges has authorized the Director of Court Services to make final hiring decisions regarding Office of Court Services positions.** Employees of the Office of Court Services shall be supervised by the Director of Court Services.

### **LR53-AR00-0117** **STAFF INTRODUCTIONS**

The Chief Probation Officer and Director of Court Services shall introduce new staff to the Board of Judges and submit copies of staff resumes to the Board.

### **LR53-AR00-0118** **EVALUATIONS**

Updated 05/27/09

1. Staff of the Probation Department is evaluated ~~in the spring and the fall~~ **on an annual basis.** ~~The spring evaluation is conducted by the Chief Probation Officer and supervisor.~~ **The evaluation includes a job performance development plan for each employee.** ~~A development plan update is discussed at the fall evaluation conducted by the supervisor.~~
2. New probation officers ~~officers~~ **department employees** are on a probationary status for 6 months and are evaluated monthly. ~~New support staff is on a probationary status for 3 months.~~ At the end of the **probationary** period, a formal **job performance** appraisal is conducted to determine employment, ~~salary and,~~ training needs, or other concerns.
3. The staff of the Office of Court Services will be evaluated in the spring of each year by the Director of Court Services.
4. The Chief Probation Officer and the Director of Court Services will be evaluated annually by the Board of Judges.

### **LR53-AR00-0119** **AUDIT OF PROBATION ACCOUNTS**

An internal audit will be completed whenever a collections clerk terminates employment.

### **LR53-AR00-0120** **STAFF HIRING**

Updated 05/27/09

1. **The Board of Judges has authorized the Chief Probation Officer to make final hiring decisions regarding Probation Department positions.**
2. **The Board of Judges has authorized the Director of Court Services to make final hiring decisions regarding Office of Court Services positions.**
3. After the Director of Court Services and Chief Probation Officer interview applicants **and choose the final candidate for a position**, they shall notify the Board of Judges in writing or by electronic mail of a ~~recommended~~ applicant's **hiring**, including a copy of the applicant's resume upon request.
4. ~~The judges shall provide the Director of Court Services and the Chief Probation Officer of their approval status within 2 working days.~~

#### **LR53-AR00-0121** **PERSONNEL RECORDS**

1. The Director of Court Services shall maintain a personnel file on each Court staff member and Judges which would include but not be limited to hire date, pay rate, and emergency information.
2. The Judges, Director of Court Services, and Chief Probation Officer shall maintain staff timesheets for a minimum of three (3) years.

#### **LR53-AR00-0122** **PROBATIONARY STATUS**

New Employees shall be on probationary status for a minimum of 3 months and a maximum of 6 months, the specific duration of which is at the discretion of the department head. The period may be extended at the discretion of the department head. An Employee is not eligible for vacation while on probationary status.

#### **LR53-AR00-0123** **LONGEVITY FORMULA FOR COURT STAFF**

The effective date for longevity is the date an individual began full-time employment with the County. People cannot go back and claim days that would be affected by interrupted service. All records must be verified by the Auditor's Office. Longevity pay is based on the following schedule of complete and uninterrupted years of service.

<u>YEARS</u>	<u>AMOUNT</u>
>1	\$ 0
1	200
2	400
5	600
10	800
15	1,200
20	1,400
25	1,700
30	2,000

**LR53-AR00-0124**  
**AFTER HOURS SIGN-IN**

All employees entering the Justice Building after work hours shall personally sign themselves in.

**LR53-AR00-0125**  
**LAW CLERKS**

Each judge is allocated an average of forty (40) hours of law clerk work per pay period.

**LR53-AR00-0126**  
**TRAVEL POLICY**

The Director of Court Services and Chief Probation Officer may approve training requests not exceeding \$500/person/training. Any request above \$500 must be approved by the Presiding Judge.

**LR53-AR00-0127**  
**ADMINISTRATIVE PROCEDURES**

- A. Management Team. The Director of Court Services, the Chief Probation Officer and the Presiding Judge shall constitute a management team for administrative issues. The team coordinates personnel policy issues and fiscal issues, identifies issues or procedures that may impact outside specific divisions, maintains consistency on administrative issues among the divisions, and addresses other issues and projects within the discretion of the Presiding Judge.
- B. Purpose. The Management Team may advise the Board of Judges on administrative procedures and policy matters. These bodies shall assist in assuring that there is full

communication between the Board of Judges and the employees of the Monroe Circuit Court on issues affecting the court system.

C. Committees. The Board of Judges may appoint a minimum of five (5) employees to serve on each of the following committees:

1. Job Classification Committee: This committee shall make written recommendations to the Board of Judges concerning personnel classifications and compensation, and their budgetary consequences.
2. Personnel Policy Committee: This committee shall make written recommendations to the Board of Judges concerning the existing personnel policy and proposed amendments thereto.
3. Procedures Committee: This committee shall make written recommendations to the Board of Judges concerning system procedures and training programs.
4. Other Committees: Other committees may be established by the Board of Judges.

D. Procedure. Issues concerning policies and procedures of the Monroe Circuit Court may be presented by an employee or a group of employees to the management team. If the employee(s) is not satisfied with the management team resolution, the management team shall direct the matter to the Board of Judges for resolution. The Board of Judges may refer issues to an appropriate committee for a recommendation to resolve issues.

**LR53-AR00-0128**  
**CLERK FILES – ACCESS**

Members of the public and attorneys shall not be permitted to remove court files from the Clerk's Office.

**LR53-AR00-0129**  
**COPYING OF COURT TAPES**

1. The Court Reporter from the originating Court, will index and deliver the tapes to the Office of Court Services. The Office of Court Services staff will duplicate the tapes for the requesting party. The requesting party must provide blank tapes (brand new, high quality). The service is provided at no cost.
2. An attorney or litigant can listen to tapes in the Office of Court Services or Law Library.

A transcriber is available for this purpose.

**LR53-AR00-0130**  
**EQUIPMENT USE**

1. Use of county equipment for non-court related business in which actual expense is incurred by the County is prohibited unless the staff member has prior written judicial approval and any actual expense incurred by the County is reimbursed to the County.
2. With the exception of vehicles, laptop computers, and transcribers, County equipment may not be taken home.

**LR53-AR00-0131**  
**COURT RECORDS**

Original court records shall not be removed from the Justice Building, except by written permission of the judge.

**LR53-AR15-0132**  
**TRANSCRIPTS**

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 in a given case before the court.
2. ***Equipment*** means all physical items owned by the court or other governmental entity used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes and any other device used for recording and storing, and transcribing electronic data.
3. ***Work space*** means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
4. ***Page*** means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
5. ***Recording*** means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
6. ***Regular hours worked*** means those hours which a division of the court is regularly

scheduled to work during any given work week. Depending on the schedule of the court and its flex schedule for court reporters, these hours may vary from division to division of the 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 hours not in excess of forty (40) hours per work week.
8. **Overtime hours** means those hours worked in excess of forty (40) hours per work week.
9. **Work week** means a seven (7) consecutive day week defined by the County's payroll schedule which consistently begins and ends on the same day throughout the year; e.g. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
10. **Court** means the Monroe Circuit Court and Division mean the particular division of the Court for which the court reporter performs services. Court may also mean all of the divisions of the Monroe Circuit Court.
11. **County indigent transcript** means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.
12. **State indigent transcript** means a transcript that is paid for from state funds and is for the use on behalf of a litigant who is declared indigent by a court.
13. **Private transcript** means a transcript, including but not limited to a deposition transcript that is paid for by a private party. A transcript required within 14 days of the request is a category 1 expedited private transcript. A transcript required within 30 days of the request is a category 2 expedited private transcript. A transcript required within 45 days of the request is a category 3 expedited private transcript.
14. **Volume** applies to Appellate Court bound transcripts. Each volume is to be limited to 250 pages. The table of contents is to be a separate volume and the exhibits are to be included in a separate bound volume (or volumes if more than 250 pages).

## B. Section Two. Salaries and Per Page Fees.

1. Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising Judge during any regular work hours, gap hours or overtime hours. The Monroe Circuit Court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. monetary compensation or compensatory time off regular work hours.
2. The maximum per page fee a court reporter may charge for the preparation of a routine county indigent transcript shall be Two Dollars and Fifty Cents (\$2.50). The court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.
3. The maximum per page fee a court reporter may charge for the preparation of a non-appellate state indigent transcript shall be Two Dollars and Fifty Cents (\$2.50).

4. The maximum per page fee a court reporter may charge for the preparation of a non-appellate private transcript shall be Three Dollars and Fifty Cents (\$3.50). The maximum per page fee a court reporter may charge for the preparation of a category 1 expedited private transcript shall be Seven Dollars (\$7.00). The maximum per page fee a court reporter may charge for the preparation of a category 2 expedited private transcript shall be Six Dollars (\$6.00). The maximum per page per page fee a court reporter may charge for the preparation of a category 3 expedited private transcript shall be Five Dollars (\$5.00). Category 1, category 2 and category 3 expedited private transcripts are defined in Section 1, Paragraph M.
5. Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of county indigent, state indigent, or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of the State Court Administration.

C. Section Three. Private Practice.

1. If a court reporter elects to engage in private practice by recording a deposition and/or preparing a deposition transcript, outside of and in addition to his or her official duties for the court, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:
  - 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; and
  - c. The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.
2. If a court reporter elects to engage in private practice though the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

D. Section Four. Appellate Court Transcripts.

1. The maximum per page a court reporter may charge for the preparation of an appellate indigent transcript is Three Dollars (\$3.00).
2. The maximum per page fee a court reporter may charge for the preparation of an appellate private transcript shall be Four Dollars (\$4.00).
3. A minimum fee of \$35.00 per transcript may be charged for small transcripts but not in

addition to the per page fee.

4. The Index and Table of Contents shall be charged at the same per page rate as the body of the transcript.
5. Labor charge may be assessed at the same rate as the Official Court Reporter's hourly salary for time spent binding the transcript and exhibits.
6. In addition, a reasonable market rate for office supplies may be charged for private appellate transcripts as designated in the Schedule of Supplies.

### **LR53-CR00-0133**

#### **DISCLOSURE OF PENDING CASE INFORMATION**

The staff of the Probation Department shall not disclose any information regarding a pending case to the media. The media shall have access to information through court personnel in compliance with both the Indiana Rules of Court: Administrative Rule #9-Confidentiality of Court Records and the Code of Judicial Conduct, CANON 3, B. #10.

### **LR53-AR00-0134**

#### **OFFICE OF COURT SERVICES**

- A. Establishment and Purpose. The Board of Judges has established an Office of Court Services to coordinate jury management, automation, statistics, system analysis, court security, fiscal management, caseload management, and public service for the Monroe Circuit Court.
- B. Director of Court Services. As directed by the Board of Judges, the Director of Court Services shall implement, supervise and evaluate the administrative functions and court staff; prepare and monitor the court's budgets; coordinate training for court personnel; assist in the hiring and discharge of personnel; research, develop and implement efficient programs and procedures; attend and coordinate Board of Judges meetings; and perform other duties as required.
- C. Other Personnel. The Board of Judges, through the Director of Court Services, shall hire administrative and clerical staff and bailiffs as needed to provide services to the Court.
- D. Financial Planning and Budget Management. The Office of Court Services shall be responsible for the preparation, monitoring and analysis of all budgets of the Monroe Circuit Court. All required fiscal reports are prepared for review by the Board of Judges. This office serves as primary liaison with the Auditor's office, and prepares and submits payroll, claims and employee information as required. This office orders supplies and equipment and oversees maintenance and service of equipment.
- E. Jury Management. The Office of Court Services is responsible for the summoning,

impaneling, orientation and payment of jurors needed for the Court.

- F. Statistical Analysis. The Office of Court Services is responsible for compiling, analyzing, and reporting statistical case data in the divisions of the Court.
- G. Court Security. The Office of Court Services provides security for the judges, court staff, attorneys and the public in the courtrooms and court offices.
- H. Caseflow Management. The Office of Court Services is responsible for assessing caseflow in the divisions of the Court and recommending improvements to the Board of Judges.
- I. Court Support Programs. The Office of Court Services coordinates and provides statistical information on court support programs, coordinates referrals and communications to the Mental Health Center, and insures compliance with the American with Disabilities Act.
- J. Public Service. The Office of Court Services provides public service to the citizens of Monroe County by providing case information, public use of courtrooms, and educational tours.

**LR53-AR00-0135**  
**ACCESS TO SECURE HALLWAY**

Access to the Secure Hallway will be provided by the Office of Court Services. Staff will allow entry to the following individuals:

1. Court Staff
2. Members of the Bar and Bench.
3. The public with prior permission of judge's staff.

**LR53-AR00-0136**  
**COPY OF DOCUMENT CHARGES**

The cost for copies of court documents to the public is set by statute and payable in the Clerks Office.

**LR53-AR00-0137**  
**NON-JUDICIAL COURTROOM USE**

The use of courtrooms for rehearsals by attorneys during working hours may be coordinated through the Office of Court Services.

**LR53-AR00-0138**  
**LAW LIBRARY**

The Law Library may be used by the judges, court staff, Bar members, and when space is available, the general public.

**LR53-AR00-0139**  
**POSTING OF NON-COURT RELATED ANNOUNCEMENTS**

Public announcements may not be posted on walls and windows. They may be placed in attorney mailboxes.

**LR53-AR00-0140**  
**BAILIFF DUTIES**

1. The bailiffs shall deliver transport orders and commitment orders to the booking division of the Jail, and warrants and writs to the records division of the Sheriff's Office.
2. All bailiffs shall carry a radio for emergency situations.

3. The bailiffs shall unlock and check the courtrooms that will be in use at the time indicated on the court calendar. At the completion of courtroom proceedings, the bailiffs should lock the courtrooms. If a bailiff is not present, the court reporter should lock the courtroom.

**LR53-AR00-0141**  
**QUARTERLY STATISTICS**

The Office of Court Services staff is responsible for preparing and reporting required cases statistics to the State Court Administrator's office quarterly.

**LR53-AR00-0142**  
**PROBATION DEPARTMENT**

Updated 05/27/09

- A. **Establishment and Purpose.** As required by Indiana law, the Board of Judges has established a Probation Department to serve all divisions of the Monroe Circuit Court. **The Probation Department shall comply with all laws of the State of Indiana and all standards put forth by the Judicial Conference of Indiana** The Probation Department staff conducts interviews and investigations, prepares pre-sentence and juvenile reports, and oversees probationers and juveniles for compliance with court orders. These activities are conducted with the goals of rehabilitating offenders and protecting society. Further, the Probation Department develops and maintains community-based alternative correction programs.
- B. **Chief Probation Officer.** As directed by the Board of Judges, the Chief Probation Officer shall oversee the efficient operation of the department; assist in the hiring and discharge of personnel; ~~evaluate and train department employees;~~ **ensure the proper evaluation and training of department employees;** compile statistics and create required reports; monitor budget expenditures and outline budget requests; maintain written policies and procedures for the department; and perform other duties as required.
- C. **Probation Department Management Team.** The Chief Probation Officer, Assistant Chief Probation ~~Officer~~ **Officers**, and the Division Supervisors shall constitute the Probation Department Management Team. This team shall meet frequently to oversee operation of the Department and to formulate proposed changes to department policy and operation. Each Division Supervisor shall meet regularly with division staff and shall communicate staff concerns to the Probation Management Team.
- D. **Procedures.** The Probation Department shall maintain a written policy, procedure and training manual which sets forth the manner of operation of the Department and the duties of each officer or staff member.
- E. **Caseload ~~Rotation~~ Allocation.** The Chief Probation Officer, with the assistance of the Probation Department Management Team, shall maintain a written caseload ~~rotation~~ **allocation** policy for probation officers. This policy shall reflect a plan for equitable distribution of cases to officers based on workload, staff expertise, and training.

F. **Statistics and Reports.** The Probation Department shall maintain all statistical reports and records required by law and necessary for compliance with grant or program authorities. A written report summarizing the activity and operation of the Probation Department shall be delivered to the Board of Judges by March 31st of each year.

G. **Fees and Costs.** Court-ordered supervision fees ~~and victim restitution sums~~ shall be collected by designated staff pursuant to an established system of financial records management. This system, subject to State Board of Accounts audit, shall delineate special funds accounts, maintenance of daily collections and ledgers, and proper deposit and disbursement of funds. An internal audit will be conducted any time the collection clerk or staff responsible for the collection of fees terminates employment.

**LR53-AR00-0143**

Updated 05/27/09

**HOME DETENTION VIOLATIONS**

**COMMUNITY ALTERNATIVE SUPERVISION PROGRAM (CASP) VIOLATIONS**

1. The ~~Home Detention~~ **CASP case manager (probation officer) officer will continue to supervise a client until the Probation Officer is notified of the violation and a Petition to Revoke is filed. The Probation Officer will pursue a Probable Cause hearing and request a warrant for the defendant's arrest at that time and supervision by the Home Detention officer will cease. will file a Notice of Noncompliance/Petition to Revoke Suspended Sentence for technical and/or new offense violation(s) that occur while participating on CASP and are specific to that program. The officer will provide probable cause information for the issuance of a warrant to the Sentencing Court, Duty Court, or Duty Judge if requested after hours. The CASP officer will continue to supervise the offender until the offender's CASP obligations are terminated or completed.**
2. A probable cause hearing and a request for warrant should be pursued on PTRs that allege serious or multiple home detention **or CASP** violations.

**LR53-AR00-0144**

Updated 05/27/09

**ADMINISTRATIVE PROBATION MODIFICATION MEETINGS**

1. **The Board of Judges has authorized the Probation Department to conduct Administrative Probation Modification (APM) meetings to address minor technical violations of probation. During the APM meeting, a Probation Supervisor and the supervising Probation Officer are authorized to resolve minor technical violations of probation via agreement with the probationer. Upon agreement with probationer, during this APM meeting, a Probation Supervisor may impose minor consequences for said technical violations as follows: up to 50 hours of Community Service (Public Restitution or Road Crew) may be added to the probation conditions; the supervised term of probation may be extended up to the date of discharge from probation; the probationer may be required to submit to a mental health or substance abuse evaluation and participate in treatment as directed; the probationer may be required to participate in the Day Reporting Program up to 60 days and pay all corresponding fees**

**upon agreement, and without the filing of a Petition to Modify or Notice of Non-compliance.** Written judicial approval and an order is necessary only when conditions of probation have been modified. If a specific condition is not modified, a Judge's signature is not required.

2. ~~Defendants~~ **Probationers** do not have a right to an attorney for an Administrative Probation Modification hearing. **meeting and may refuse to participate.**

### **LR53-AR00-0145**

#### **RECOMMENDATION TO THE COURT FOR DISMISSAL**

Probation Officers can file "Recommendation to the Court for Dismissal" but may not file motions.

### **LR530AR00-0146**

Updated 05/27/09

#### **PETITIONS TO REVOKE**

- ~~1. Probation officers will attach a copy of the Job Release or House Arrest contract to the PTR when it is filed.~~
1. Probation Officers may file a PTR when the preponderance of evidence shows a new offense has been committed even if charges are not filed.
2. Petitions to Revoke may be filed if violators fail to complete Public Restitution by deadline.

### **LR53-AR00-0147**

#### **COMMUNITY CORRECTIONS PROGRAM POLICY**

The Monroe County Community Corrections Program will not compete with not-for-profit organizations for remuneration which could be fund-raising events for those agencies.

### **LR53-AR00-0148**

#### **ROAD CREW AND PUBLIC RESTITUTION AGENCY APPROVAL**

1. Any governmental or not-for-profit agency wishing to receive Road Crew services and/or Public Restitution workers from the Monroe Circuit Court Probation Department shall make application for "Approved Provider" status through the Community Corrections Director. The agency shall complete the "Monroe County Community Corrections Agency Agreement for Community Service Workers" form and submit this form to the Community Corrections Director. The agency shall also provide any additional information requested by the Community Corrections Director.
2. Upon receipt of this completed form, the Community Corrections Director will present this application for "Approved Agency" status to the Chief Probation Officer.

3. The Chief Probation Officer, or designee, will inform the applicant agency of the decision regarding approval status.

**LR53-AR00-149**  
**PROBATION FEES**

Updated 05/27/09

The Board of Judges shall set/approve a schedule of fees for the Probation Department. This fee schedule will be updated annually or as needed.

The Probation Department Fee Schedule will be recorded on an Order, to be filed with the Clerk in the General Order book, under "Establishing Fees For The Monroe County Probation Department."

**LR53-AR00-0150**  
**UNSUPERVISED PROBATION**

Updated 05/27/09

1. If a person is placed on unsupervised probation, no responsibility of supervision will be placed on the Probation Department. The sentencing court shall execute an Order of Unsupervised Probation. If a person is placed on unsupervised probation, the court reporter shall forward a copy of the Chronological Case Summary (CCS) entry and Order of Unsupervised Probation to the Probation Department. The name of the probationer will be placed in the case management database by the Probation Department, but no further contact or supervision of the "probationer" will be required. The Probation Department will advise the sentencing court if the unsupervised "probationer" has been arrested on another charge.
2. ~~If the court assigns defendants to unsupervised probation for the entire term of probation, an initial probation fee shall be assessed with no monthly probation user fees.~~ Persons placed on unsupervised probation with no term of supervised probation shall be assessed an administrative fee and an initial Probation user fee as set by the current Probation Department Fee Schedule. **Persons placed on any term of supervised probation with an allowance for unsupervised probation shall be responsible for all fees imposed including monthly fees during any unsupervised period.**
3. ~~Juveniles placed on unsupervised Informal Adjustment shall be assessed a monthly user fee as set by the current Probation Department Fee Schedule.~~

**LR53-AR00-0151**  
**JOB WORK RELEASE PROGRAM**

Updated 05/27/09

1. **The local Work Release Program which operated out of the Monroe County Jail officially terminated on April 3, 2009.**

~~If the Offender has violated the terms and conditions of Job Release and was suspended as a result, in the past three years, he/she will not be eligible for participation in the Program.~~

2. ~~If the offender has been terminated for misconduct/violations from any work release program within the past three years, he/she will not be eligible to participate in the Job Release program.~~ **Defendants to be considered for placement in a work release facility (local or out-of-county) must be referred to the Community Corrections Program for program eligibility determination.**

3. ~~Defendants convicted of violent offenses are presumed not to be eligible for Job Release.~~  
**Defendants must meet eligibility for the local Community Alternative Supervision Program (CASP) before being considered for work release placement (local or out-of-county), including the requirement that delinquent local Community Corrections fees must be paid in full.**
4. Offenders must have an actual 30 days to serve to qualify for the Job **Work** Release Program but exceptional cases will receive consideration.
5. ~~An additional copy of the Commitment form for Job Release defendants will be given to the Job Release Coordinator.~~
6. ~~The Sheriff's staff is to call the responsible Judge or Duty Judge when a prisoner reports to the Sheriff's department without a commitment form having been delivered.~~
7. ~~All job release forms shall include a statement; "I certify that I have no delinquent support payments."~~
8. ~~If there is a legal violation of rules, the Job Release Program Coordinator can suspend the Offender immediately pending investigation.~~
9. ~~If there is an administrative violation, the Offender may remain on job release however, the Probation Officer and court must be notified immediately so proper action can be pursued.~~

**LR53-AR00-0152**

Updated 05/27/09

**ALCOHOL EDUCATION SCHOOL ATTENDANCE**

All persons charged with an alcohol related offense ~~should~~ **may** be required to attend alcohol education classes or to complete substance abuse treatment. Persons referred to Alcohol Education School (AES) by the Pre-trial Diversion Program (PDP) who fail to attend AES should be reported by the Probation Department to PDP and at that time have their case re-instated **as determined by the Monroe County Prosecutor.**

**LR53-AR00-0153**

Added 05/27/09

**COURT ALCOHOL AND DRUG PROGRAM USER FEES**

1. **The Criminal Division of the Monroe Circuit Court has set the following schedule of fees pursuant to the authority granted by IC 12-23-14.**
2. **Court Alcohol and Drug Program Schedule of Fees:**
  - a. **Assessment, Referral, and Monitoring: \$200 for misdemeanor conviction; \$400 for felony conviction.**

- b. Assessment, Referral, and Monitoring for other jurisdictions: \$200 for misdemeanor conviction; \$300 for felony conviction.
  - c. Transfer out fee: \$100.
  - d. Alcohol Education School fee: \$75.
  - e. Prime for Life Course: \$125.
3. All Court Alcohol and Drug Program Fees are payable to Clerk of the Court.

LR53-AR00-0154

Added 05/27/09

DRUG TREATMENT COURT USER FEES

- 1. The Criminal Division of the Monroe Circuit Court has set the following schedule of fees pursuant to the authority granted by IC 12-23-14.5-12.
- 2. Drug Treatment Court User Fee: Assessment, Referral, and Case Management: \$500.
- 3. Drug Treatment Court User Fees are payable to Clerk of the Court.

**LR53-TR00-0200**

**SCOPE OF LOCAL RULES OF TRIAL PROCEDURE**

A. PURPOSE: Local rules of practice and procedure may be promulgated to promote the just and speedy resolution of cases and to provide uniformity and consistency within the Monroe Circuit Court.

B. PROCEDURE: Each year the Board of Judges shall review the local rules and shall consider changes and additions suggested by the Monroe County Bar, the Prosecuting Attorney, and the Public Defender. Further, the Board of Judges shall review and assess local rules adopted by other counties and jurisdictions.

C. ADOPTION: On October 4, 2000, and thereafter as amended, the Local Rules of Practice and Procedure for the Monroe Circuit Court and the Local Probate Rules for the Monroe Circuit Court (Addendum II hereto) are adopted and effective in all divisions of the Monroe Circuit Court. A copy of the Local Rules and the Local Probate Rules shall be forwarded to the Clerk of the Supreme Court and the Court of Appeals, the State Court Administrator, the Prosecuting Attorney, the Clerk, the Public Defender, and the President of the Monroe County Bar Association.

**LR53-TR00-0201**

**SERVICE OF PROCESS**

A. SERVICE BY MAIL: Except for ejectment cases, service of process in civil cases should be made by certified or registered mail, whenever possible.

B. SERVICE BY SHERIFF: When service of process is to be made by the Sheriff, the attorney seeking service shall attach to the face thereof a sheet providing the following information about the person to be served, to the extent available:

1. Name and brief physical description;
2. Address, as complete as possible; i.e., if a county address, not only the rural route and box number but specific driving directions, landmarks, etc. Include apartment number or lot number if applicable;
3. Whether or not a restraining order is attached;
4. Place of employment and work shift;
5. Telephone number;
6. Name of person residing with, if not at own address; and

7. Date of birth and Social Security number.

All papers not meeting the requirements of this subdivision shall be returned unserved by the Sheriff to the filing party.

**LR53-TR00-0202**  
**APPEARANCE AND WITHDRAWAL**

A. WITHDRAWAL OF APPEARANCE: All withdrawals of appearance shall be in writing and only by leave of Court. Petitions to withdraw may be filed no earlier than five days after the attorney has certified written notice to the client of the intention to withdraw, unless there is a simultaneous or prior entry of appearance by the new attorney. The written notice shall state any pending deadlines or hearing dates and a copy of said notice shall be attached to the petition to withdraw.

**LR53-TR05-0203**  
**PREPARATION OF PLEADINGS AND ORDERS**

A. PRODUCTION: All pleadings and proposed orders shall be typewritten on opaque white paper, eight and one-half inches (8-1/2") wide and eleven inches (11") long. If a pleading or proposed order involves two different case numbers, a separate pleading and proposed order shall be filed with the Court for each cause number.

B. PROPOSED ORDERS: Any attorney filing a motion shall, at the time of filing, provide the Court with an original proposed order and sufficient copies for each party and an extra copy for the Court. Proposed orders shall include a full distribution list of attorneys or parties to whom the order should be sent.

C. FILING BY ELECTRONIC FACSIMILE TRANSMISSION: Pleadings may be filed by facsimile. Facsimile filing does not require follow up filing of duplicate original documents.

**LR53-TR00-0204**  
**MOTIONS**

A. ENLARGEMENT OF TIME TO ANSWER: An initial written motion for enlargement of time to file an answer or other responsive pleadings shall be automatically allowed for an additional thirty (30) days from the original due date without order of the Court. Said motion shall state the original date when the response was due and the date to which time is enlarged. For this rule to be applicable, the motion must be filed on or before the original due date.

B. ACCOMPANYING LEGAL MEMORANDUM: A separate legal memorandum shall be filed with any Motion to Dismiss, Motion for Judgment on the Pleadings, Motion for More Definite Statement and Motion to Strike. A party opposing such motion shall file a response memorandum within twenty (20) days of the filing of the motion or the motion shall be subject to summary ruling.

C. TRIAL RULE 12(B) DEFENSES: The requirement of a legal memorandum set for the above shall apply with regard to any defense listed under Trial Rule 12(b).

D. REQUEST FOR ARGUMENT: When oral argument is requested, the request shall be by separate pleading and shall be filed with the pleading to be argued.

**LR53-TR00-0205**  
**INTERROGATORIES**

A. NUMBER OF INTERROGATORIES: The number of interrogatories which may be served pursuant to Rule 33 shall be limited so as to require the answering party to make no more than fifty (50) answers. Waiver of this limitation by order of the Court will be granted in cases in which such limitation would work a manifest injustice or would be impractical because of the complexity of the issues of the case.

B. FORM OF ANSWERS OR OBJECTIONS: Answers or objections to interrogatories shall set forth in full the interrogatory being answered or objected to immediately preceding the answer or objection.

**LR53-TR00-0206**  
**DEPOSITIONS**

A. VIDEO TAPE DEPOSITIONS: A transcript of the video tape testimony shall be tendered to the Court when the deposition is offered into evidence. Any party may view a video taped deposition in the custody of the Court only upon order of the Court.

B. DEPOSITIONS OF EXPERTS: All depositions of experts shall be admissible at trial unless objection to the admissibility be given in writing five (5) days prior to the taking of said deposition or within ten (10) days subsequent to notice of the deposition, whichever deadline occurs first. A copy of the notice shall be tendered to the reporter at the time of taking the deposition for inclusion with the deposition. In the absence of such written notification, the deposition of an expert may be admitted by stipulation. The presence of the expert within the limits of the subpoena area shall not be grounds, in and of itself, for the inadmissibility of the deposition at trial. Notwithstanding the above, either party may subpoena such expert for the trial.

C. COPY OF DEPOSITION: Any party or counsel to an action may obtain a xerox copy of a deposition on file with the Clerk of the Court upon tender of a receipt showing payment to the deposing party of 50% of the cost of said deposition. In addition, the requesting party of counsel shall tender to the Clerk the present statutory rate per page for the copying service

**LR53-TR53-0207**  
**CONTINUANCES**

A. CONTINUANCES DISCOURAGED: Motions for continuance are discouraged and the Court rejects the notion of automatic continuances by purported custom and tradition.

B. WRITTEN MOTION: A motion for continuance, unless made during the hearing of the cause, shall be written, signed and verified. Such motion shall comply in all respects with Trial Rule 53.5 of the Indiana Rules of Trial Procedure.

C. SCHEDULING CONFLICTS: A motion for continuance based upon a scheduling conflict with another cause shall specify the Court, the case name, the Cause number, the date the hearing or trial was set, and the type of hearing or trial.

D. DUTY TO CONFER: Before requesting a continuance, the moving party shall confer with the other parties to determine any objections and to ascertain dates for rescheduling when all parties are available. Such objections and alternative dates shall be reported in the motion for continuance.

**LR53-TR00-0208**  
**SPECIAL PROCEEDINGS**

A. CHILD SUPPORT GUIDELINE WORKSHEET: In any proceeding involving child support, each party shall submit to the Court a “Guideline Worksheet” which is complete, signed by the party and verified.

B. FINANCIAL DECLARATIONS: In any dissolution of marriage or legal separation proceeding, each party shall complete in full, date, sign and verify a Financial Declarations form as set out herein as Appendix A. The Financial Declarations shall be filed no less than four (4) working days before the contested hearings. Failure to do so may subject the party and/or the attorney to sanctions.

C. FINANCIAL DECLARATIONS - ADMISSIBILITY: Absent objection, the Financial Declarations shall be considered as received in evidence, subject to cross

examination. Direct examination on matters in the Financial Declarations should be confined to corrections or unusual factors needing further explanation.

D. WRITS OF ATTACHMENT: Unless otherwise ordered by the Court, writs of attachment shall expire six (6) months after issuance. Upon expiration, the pending proceeding supplemental shall be dismissed.

**LR53-CR00-0300**

**STATEMENT OF PRINCIPLES**

The Criminal Rules of the Monroe Circuit Court are intended:

- A. To promote a fair and expeditious determination of the charges, whether by plea or trial;
- B. To provide the defendant with sufficient information to make an informed plea;
- C. To permit thorough preparation for trial and minimize surprise at trial;
- D. To avoid unnecessary and repetitious trials by identifying any latent procedural or constitutional issues and affording remedies therefore prior to trial;
- E. To reduce interruptions and complications of trials by identifying collateral issues and determining them prior to trial; and
- F. To effect economies of time, money and judicial and professional talents by minimizing paperwork, repetitious assertions of issues, and the number of separate hearings.

**LR53-CR00-0301**

**DISCLOSURE BY THE PROSECUTING ATTORNEY**

- A. **SCOPE:** The prosecuting attorney shall, except as otherwise provided by these rules, disclose and provide to the defendant the following information:
  - 1. The names, addresses, and telephone numbers of all persons who may be called as witnesses in the case, together with copies of their written or recorded statements and any record of their prior criminal convictions;
  - 2. Copies of any written or recorded statements and a written summary of any oral statements, related to the case, made by the defendant or made by a co-defendant;
  - 3. A copy of the grand jury minutes containing testimony of person from whom testimony was taken in the case;
  - 4. Copies of any reports or statements of expert or skilled witnesses related to the case, including results of physical or mental examinations scientific tests, experiments, or comparisons;
  - 5. The terms of any agreements made with co-defendants or other witnesses to secure their testimony, including any written documentation thereof;

6. Identification of any books, papers, documents, photographs, or other tangible objects which may be offered as evidence in the case or which were obtained from or belong to the defendant;
7. Copies of affidavits for search warrants, search warrants, and returns made on search warrants;
8. Whether any relevant grand jury testimony has not been transcribed;
9. Whether any existing material or information subject to these rules is not then available to the prosecuting attorney for disclosure to the defendant;
10. Whether any material or information related to the case has been provided by an informant;
11. If there has been any electronic surveillance or wiretapping of the defendant's premises or conversations to which the defendant was a party; and
12. If requested by the defendant, of any relationship of specified persons to the prosecuting attorney.

B. EXCULPATORY OR MITIGATING INFORMATION: The prosecuting attorney shall disclose to the defendant any material or information known to the prosecuting attorney which would tend to negate the guilt of the defendant as to the offense charged or which would tend to mitigate any sentence imposed in the event of a conviction.

C. EXAMINATION OF EVIDENCE: The prosecuting attorney shall permit inspection, copying, photographing, and testing of all evidence disclosed under these rules at reasonable times and places and under reasonable terms and conditions to insure against loss of, damage to, or alteration of the character or integrity of the evidence.

D. APPLICATION TO OTHERS: The prosecuting attorney's duties to disclose information and evidence under this rule include material and information in the possession and control of the prosecuting attorney's staff and employees, of any other persons who have participated in the investigation and evaluation of the case, of any other persons who regularly report to the prosecuting attorney, and of any other persons who have reported to the prosecuting attorney with reference to the charge filed.

**LR53-CR00-0302**  
**DISCLOSURE BY THE DEFENDANT**

A. SCOPE: The defendant shall, subject to constitutional limitations and except as otherwise provided by these rules, disclose to the prosecuting attorney:

1. The names, addresses and telephone numbers of all persons who may be called as witnesses in the case, together with copies of their written or recorded statements;
2. Copies of any reports or statements of expert or skilled witnesses related to the case, including results of physical or mental examinations, scientific tests, experiments, or comparisons, intended to be offered as evidence in the case;
3. Identification of any books, papers, documents, photographs, or other tangible objects which may be offered as evidence in the case; and
4. Identification of any affirmative defenses upon which the defendant intends to rely in the case.

B. EXAMINATION OF EVIDENCE: The defendant shall permit inspection, copying, photographing, and testing of all evidence disclosed under these rules at reasonable times and places and under reasonable terms and conditions to insure against loss of, damage to, or alteration of the character or integrity of the evidence.

C. ADDITIONAL DISCLOSURE UPON ORDER OF COURT: The Court may, subject to constitutional limitations, require a defendant or a suspect in an investigation:

1. To appear in a line-up;
2. To speak, and to speak specific words, within the hearing of witnesses to an alleged offense;
3. To pose for photographs not involving the reenactment of alleged events;
4. To provide handwriting specimens;
5. To be fingerprinted;
6. To don specified articles of clothing;
7. To submit to reasonable physical or medical inspections;
8. To submit to the taking of specimens of material from under fingernails and toenails; and
9. To submit to the taking of samples of blood, hair, and other bodily substances and materials;

D. REASONABLE CAUSE AND NOTICE: A suspect not charged with an offense shall be required to appear pursuant to Section (C) only after a determination by

the Court that there is reasonable cause to require the person to appear for the specified purpose. A defendant or suspect ordered to appear for a purpose specified in Section (C) shall be given reasonable advance written notice specifying the purpose of the appearance, the place at which the person must appear, and the date, time, and length of time required for the appearance. Such notice shall be provided to the person and the person's attorney, if any and the attorney shall have the right to the present.

**LR53-CR00-0303**

**GENERAL RULES PERTAINING TO DISCOVERY**

A. REQUIREMENT OF COURT ORDER: No written motion to, or order of, the Court shall be required to obtain discovery pursuant to these rules, except:

1. For additional discovery or disclosure not specifically required by these rules;
2. For an extension of time within which to comply with these rules, specifying the reasons for the extension;
3. For a protective order; or
4. To complete compliance with these rules.

B. TIMING OF DISCLOSURE: The prosecuting attorney shall provide full discovery to the defendant:

1. Within twenty-one (21) days after the initial hearing in a felony case, or
2. Within fifteen (15) days (a) after an attorney's appearance for the defendant, or (b) after a pro se defendant's request, in a misdemeanor case.

The defendant shall provide full discovery to the prosecuting attorney:

1. Within twenty-one (21) days after disclosure by the prosecuting attorney in a felony case, and
2. Within fifteen (15) days after disclosure by the prosecuting attorney in a misdemeanor case.

C. CONTINUING DUTY: The duty of disclosure pursuant to these rules continues until dismissal, acquittal, or conviction and a party shall disclose all information and material subject to these rules or other order of the Court promptly after discovery thereof, notwithstanding any prior compliance with these rules.

D. MANNER OF DISCLOSURE: All disclosures required by these rules shall be made in writing or, if first discovered during hearing or trial, on the record in open court.

E. WORK PRODUCT: Neither party shall be required to disclose work product.

F. EXCISION: Tangible items which are in part subject to these rules and in part beyond the scope of these rules shall be excised and produced to the extent required by these rules, with notice to the other party that portions thereof have been excised.

G. PROTECTIVE ORDERS: Disclosure required by these rules may be denied or subjected to reasonable limitations if the Court, after motion by either party determines that any benefit of the disclosure is outweighed by a substantial risk to any person of physical harm, non-physical injury or damage, undue embarrassment, or other compelling factor.

H. IN CAMERA EXAMINATION: Any tangible item or information which becomes the subject of a motion for protective order may be examined, inspected or otherwise evaluated by the Court in camera. Upon order of the Court granting such relief, in summary of the protected information, shall be sealed and preserved in the record of the case.

I. IMPEDING INVESTIGATION PROHIBITED: Neither party shall, directly or indirectly, advise any person to refuse to discuss the case with the other party, advise any person to refuse to disclose any relevant information or material to the other party, or otherwise impede the other party's investigation of the case, except as may be authorized by constitutional provision, the statutes of this State, or common law privilege.

J. SANCTIONS: Upon failure or refusal of either party to comply with these rules or other discovery orders of the Court, the Court may impose sanctions.

**LR53-CR16-0304**  
**PRETRIAL CONFERENCES**

A. NUMBER; ORDERS AND REPORTS: One or more pretrial conferences may be required at the discretion of the Court. All attorneys of record are required to appear at and participate in all required pretrial conferences. The Court shall make or require an appropriate order or report after a required pretrial conference.

B. PRESENCE OF DEFENDANT: The defendant may be required, by order of the Court, to attend pretrial conferences.

- C. SCOPE: All pretrial conferences shall address with specificity:
1. The names of all persons, including addresses and telephone numbers upon request of the opposing party, intended to be called to testify at pretrial hearings or at trial;
  2. The identification of all tangible items intended to be offered as exhibits at pretrial hearings or at trial;
  3. All stipulations of testimony and fact concerning matters not in material dispute which may aid in expediting pretrial hearings or the trial;
  4. The identification of all motions to dismiss, motions to suppress evidence, questions of law, and procedural issues which can and should be resolved prior to trial to expedite the trial of the case;
  5. The anticipated necessity of further discovery by either party and the reasonable length of time required to complete it; and
  6. The tender of any proposed plea and/or sentencing agreement by the prosecuting attorney and the response of the defendant thereto.

D. WAIVER OF ISSUES: All motions to dismiss, motions to suppress evidence, question of law, and procedural issues known to the parties on the basis of the information then available and not specifically identified for pretrial resolution in the pretrial order are waived.

**LR53-CR00-0305**  
**TRIAL SCHEDULE**

Except as may be required for compliance with Criminal Rule 4 of the Indiana Rules of Criminal Procedure or other just cause determined by the Court, cases will be scheduled and called for trial according to the earliest date of filing. However, all cases scheduled for trial remain on the trial docket, unless continued on order of the Court.

**LR53-CR53-0306**  
**CONTINUANCES**

A. REQUIREMENT OF MOTIONS: All motions for continuance shall be filed with the Court in writing, shall state the precise reason for the continuance requested, and will be granted by the Court only for good cause.

B. CONFLICTING SETTINGS: All motions for continuance based on conflicting case settings shall be filed within fourteen (14) days after notice of the conflict and shall specify:

1. The court in which the conflicting case is pending;
2. The name and cause number of the case;
3. The nature of the conflicting hearing or trial; and
4. The date upon which the other court scheduled the conflicting setting.

C. FURTHER DISCOVERY: Continuances for the purpose of conducting further discovery may be granted for good cause shown. However, no continuances for the purpose of discovery filed more than six (6) months after the initial hearing will be granted by the Court, absent demonstration by the moving party that need for the additional discovery could not have been anticipated, or that the discovery could not have been completed by the exercise of due diligence.

D. UNAVAILABILITY OF WITNESSES: Any motion for continuance based on the unavailability of a witness shall be filed at least seven (7) days before the scheduled trial date. Any such motion filed more than six (6) months after the initial hearing, or any such motion to which an objection is filed, must comply with I.C. 35-36-7-1 or I.C. 35-36-7-2.

**LR53-CR00-0307**  
**APPEARANCE OF DEFENSE COUNSEL**

A. WRITTEN APPEARANCE: An attorney must file a written appearance for the defendant at the earliest possible time after being retained by the defendant or appointed by the Court to represent the defendant.

B. WITHDRAWAL OF APPEARANCE: An attorney's appearance on behalf of a defendant may be vacated or withdrawn only after a hearing in the presence of the defendant. The defendant's presence will not be required upon the attorney's demonstration at the hearing of the inability to locate the defendant.

C. WAIVER OF HEARING: The hearing required in Section (B) is waived if another attorney has entered a written appearance on behalf of the defendant.

D. WITHDRAWAL BASED ON NONPAYMENT OF FEES: An attorney's motion to vacate or withdraw his appearance on behalf of a defendant, based solely upon the defendant's failure to pay the attorney's fee, will not be granted (1) if filed more than

six months after the initial hearing or (2) if filed less than thirty days before a trial date scheduled within the first six months after the initial hearing.

E. DURATION OF APPEARANCE: An attorney's appearance on behalf of a defendant is deemed to be vacated or withdrawn after the time permitted to file a praecipe for the purposes of appealing a disposition on the merits has elapsed and an appeal has not been initiated. If an appeal is initiated, the attorney remains of record for the defendant until the appeal is concluded or the appearance is otherwise vacated pursuant to this rule.

**LR53-CR00-0308**  
**PRE-SENTENCE INVESTIGATIONS**

Court Reporters are to return Pre-Sentence Investigations to the Probation Department at the conclusion of the case.

**LR53-CR00-0309**  
**BONDS**

All bonds shall be delivered by the Monroe County Sheriff's office to the Clerk for posting. The Clerk shall deliver the bonds to the appropriate Court division prior to the time of the Initial Hearing.

**LR53-CR00-0310**  
**BAIL BOND SCHEDULE**

IN THE CIRCUIT COURT  
FOR THE COUNTY OF MONROE AND STATE OF INDIANA

ORDER ESTABLISHING BAIL SCHEDULE

Pursuant to the provisions of I.C. 35-33-8-4, the Circuit Court of Monroe County, Indiana, enters the following order establishing the amount of bail for those persons charged with the commission of criminal offenses by Information, arrest on probable cause or Indictment.

**IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED** by the Court that effective immediately and until further order of the Court, bail shall be as follows for all individuals charged with the commission of criminal offenses in the Monroe Circuit Court:

## **SECTION I. FELONIES**

- A.** For a person charged with murder or attempted murder, a person who is a sexually violent predator under IC 35-38-1-7.5, and who is arrested or charged with the commission of an offense that would classify the person as a sex or violent offender as defined by IC 11-8-8-5, or for a person charged with Child Molesting or Child Solicitation, no bail shall be set except by a judge at a preliminary hearing;
- B.** For a person charged with being a habitual offender; bail shall be \$50,000 surety and \$500 cash, or a habitual substance offender; bail shall be \$25,000 surety and \$500 cash;
- C.** For any Class A felony offense, bail shall be \$50,000 surety and \$500 cash;
- D.** For any Class B felony offense, bail shall be \$20,000 surety and \$500 cash;
- E.** For any Class C felony offense, bail shall be \$5,000 surety and \$500 cash;
- F.** For any Class D felony offense, bail shall be \$2,000 surety and \$500 cash;

## **SECTION II. MISDEMEANORS**

- A.** Any person arrested for a misdemeanor offense other than battery, domestic battery, invasion of privacy, resisting law enforcement, possession of a handgun without a license, operating a vehicle while intoxicated, .08 or .15 BAC, or dealing in marijuana or hashish, shall be released from jail to appear in court on that person's own recognizance, subject to the following conditions:
  - 1. At the time such a person is released on recognizance the person shall be required to furnish a present residential and mailing address, telephone number, social security number and employer's name and address. The identifying data of any full-time or part-time student at Indiana University - Bloomington shall include the student's permanent address and telephone number as well as the student's local address and telephone number.
  - 2. If the person arrested is under twenty-one (21) years of age, the information shall also include parents' names, addresses and telephone numbers.
  - 3. If the person agrees to provide the data required in Section II, A(1), but is unable to provide a social security number, driver's license, photo identification card, or employer information, the person may

be released to the custody of a resident of Monroe County over eighteen (18) years of age who can provide such data on themselves.

4. Upon refusal to provide the information required under this Section, the person shall be held until brought before a judge.

**B.** A person shall not be released on recognizance if the person:

1. has any conviction within the last five (5) years;
2. has failed to appear in any court within the last five (5) years;
3. has pending criminal charges; or
4. is on probation or parole at the time of arrest.

**C.** If the provisions of this Section do not authorize the release of the person on recognizance, bail shall be as follows:

1. For any Class A misdemeanor, bail shall be \$1000 surety and \$500 cash;
2. For any Class B misdemeanor, bail shall be \$500 surety and \$500 cash;
3. For any Class C misdemeanor, bail shall be \$500 surety and \$500 cash.

### **SECTION III. MISCELLANEOUS PROVISIONS**

#### **A. Promise to Appear**

1. Any person, whether released on recognizance or bail for a misdemeanor or felony offense, shall be required to execute a written Promise to Appear in the appropriate court at the designated date and time. The Promise to Appear form shall be immediately forwarded to the appropriate court by the Sheriff.
2. Upon refusal to sign a written Promise to Appear, the person shall be held without bail until before a judge.

#### **B. Intoxication**

No person shall be released by the Sheriff of Monroe County, regardless of the provisions of this Order, unless such person clearly manifests a state of sobriety at the time the provisions of this Order would otherwise permit release.

1. The Sheriff shall hold in custody any person who is under the influence of alcohol or controlled substances until such time it is determined, at the Sheriff's discretion, that the individual may be safely released without danger to self or others.
2. When information is available concerning the blood-alcohol content of an intoxicated person due to the administration of blood tests, breath tests or other chemical tests, no intoxicated person shall be released by the Sheriff except as provided by Indiana Code 35-33-1-6.
3. When no information is available concerning the blood-alcohol content of a person charged with operating while intoxicated, such person shall not be released for a period of twenty-four (24) hours, unless ordered by a judge.
4. When no information is available concerning the blood-alcohol content of a person charged with public intoxication, such person shall not be released for a period of four (4) hours, unless ordered by a judge.

**C. Battery**

A person arrested on a charge involving battery or domestic battery shall not be released until twenty-four (24) hours have elapsed, unless ordered by a judge. The person may then post bail (1) pursuant to other sections of this Bail Order; and, (2) if the person agrees in writing to initiate no contact with the victim. Upon refusal to sign a No Contact Agreement, the person shall be held without bail until brought before a judge.

**D. Extradition**

Any person extradited to Monroe County shall be held without bail until brought before a judge.

**E. Overweight Trucking Violations**

The bail schedule as set out in this Order shall not apply to overweight trucking violations. Bail for such offenses shall be determined pursuant to the provisions of I.C. 9-20-18-1, et seq.

**F. Combination of Charges**

If a person is charged with the commission of more than one offense arising out of a single incident, whether the offenses are felonies or misdemeanors, bail shall be in one amount for all charges, and shall be in the amount established for the most serious offense charged.

**G. Double Bond**

The specified surety bond for felonies or misdemeanors shall be doubled in the event the person has a pending case, has been convicted of a felony within the last five (5) years, or is a habitual substance offender.

**H. Cash Bond**

After normal business hours the Sheriff shall accept a bond made in cash or by certified check and shall issue a receipt. A cash bond must be posted in the name of the Defendant. Thereafter, as soon as is practicable the Sheriff shall deposit the cash or certified check with the Monroe County Clerk.

**I. 10% Cash Deposit or Full Cash Bond**

The Clerk or Sheriff may not accept a 10% cash deposit or full cash bond in lieu of the bond otherwise required herein except upon express written order of a judge. In the event a 10% cash bond is approved by a Court, the Clerk may retain as a service fee ten percent (10%) of the amount deposited when the bond is released at the conclusion of the case.

**J. Probation/Parole Hold**

A person charged with the commission of a crime while on probation or parole shall be held without bail until brought before a judge.

**K. Release of Bond**

No cash bond may be released by the Monroe County Clerk except upon written order of a judge after judgment has been entered and any fines, fees and costs imposed by the Court have been paid and satisfied.

**L. Amount of Bail on Warrant**

If bail is set at a probable cause hearing, the amount of bail set by the Judge shall be endorsed upon the arrest warrant and shall supersede conflicting provisions of this order.

**LR53-CR00-0311**  
**PUBLIC DEFENDER APPOINTMENT**

Public Defender Appointments continue for 30 days beyond conviction in criminal cases or disposition in Juvenile Delinquency cases.

**LR53-CR00-0312**  
**TRANSPORTING PRISONERS FOR MENTAL HEALTH EVALUATIONS**

1. The Monroe County Sheriff will provide transportation of prisoners to the Bloomington Hospital or Center for Behavioral Health, as appropriate, for competency or sanity evaluations.
2. Emergency evaluations and dispositional reports may be conducted in jail.

**LR53-CR00-0313**  
**LATE PAYMENT FEE**

The Court may impose a late payment fee of twenty-five dollars (\$25) pursuant to IC33-19-6-20.

**LR53-CR00-0314**  
**MENTAL HEALTH EVALUATIONS**

The Office of Court Services staff will coordinate referrals and communications with the Bloomington Hospital or Center for Behavioral Health.

**LR53-FL00-0400**  
**FAMILY LAW RULES**

**SCOPE AND TITLE**

1.1 **Scope.** These Rules shall apply in the Monroe Circuit Court in all domestic relations, juvenile paternity and child support cases in the Monroe Circuit Court, unless otherwise ordered by a judge presiding in a specific case. These Rules are in addition to and are not intended to replace the Local Rules of Practice and Procedure for the Monroe Circuit Court. In the event of a conflict in a family law matter, these Rules shall apply. These Family Law Rules shall be effective on July 1, 2003.

1.2 **Title.** These Rules shall be known as the "Monroe County Family Law Rules", and shall be referred to as LR53-FL00-04\*\*"

**LR53-FL00-0401**  
**ADMINISTRATIVE PROCEDURES**

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

2.2 Parties shall advise the court in the text of any preliminary or contempt petition if the matter requires an immediate or expedited hearing and shall provide an estimate of the time required in the event that more than 15 minutes is necessary. Otherwise, the matter will be scheduled in due course with priority given to it as set forth in the statute.

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

2.4 When submitting a Final Decree and Property Settlement Agreement, the parties shall submit sufficient copies of each for the court to retain an original and one copy of each and provide copies to all parties or counsel of record.

2.5 In all new cases relevant to family law matters, the petitioner shall use the summons forms set forth in Appendix A or B.

**LR53-FL00-0402**

**NOTICE AND SPECIAL DISCLOSURE REQUIREMENTS**

3.1 Notice. In all relevant post-decree family law matters, the moving party shall give notice of the time and place of the hearing or trial by summons, subpoena, Order to Appear, or Notice of Hearing, served by the moving party upon the adverse party at least seven (7) days prior to the hearing or trial, or on such shorter notice as the Court may direct, and file proof of service at or prior to the hearing or trial.

3.2 Special Disclosure Requirements. Prior to any preliminary hearing or within thirty (30) days after service of a petition in a family law matter, whichever shall first occur, each party shall provide the Court with written notice of any other pending legal proceeding involving either party where the other pending legal proceeding concerns an allegation of domestic violence, spousal abuse, child abuse, violation of a protective order or restraining order, or a criminal charge. The written notice shall include the name and location of the Court in which the case is pending, the case number, the names of parties involved, and a brief summary of the nature of the legal proceeding.

**LR53-FL00-0403**

**SUBMISSION OF AGREED MATTERS**

4.1 Written Agreement Required. No agreed matter shall be submitted unless accompanied with a signed agreement and a proposed order or decree. However, if the parties reach a settlement just prior to hearing or trial and there is insufficient time to prepare a typewritten statement, then the Court may accept evidence of that settlement in handwritten form or on the record. If the agreement is entered orally on the record, the parties shall provide the Court a proposed written order setting forth the agreement within ten (10) days.

4.2 Petition or Statement of Grounds for Modification Required. An agreed modification entry shall set forth the grounds for such modification.

**LR53-FL00-0404**

**CHILD SUPPORT**

5.1 Worksheet Required. In all proceedings involving child support each party shall file one or more completed Indiana Child Support Guidelines worksheets with any agreed order, and at any hearing or trial. The completed worksheets shall be provided to the other party at least seven (7) days prior to any hearing or trial. Failure to comply may result in a sanction of \$150 imposed upon the party not complying. Worksheet and child support guideline information is available at [www.in.gov/judiciary/rules/child\\_support](http://www.in.gov/judiciary/rules/child_support).

5.2 Support Settlement Agreements. If an agreed amount of child support deviates from the Guidelines, the agreement shall set out the reasons for the deviation.

5.3 Income Withholding Order Required. In all proceedings involving child support, the Income Withholding Order required by Ind. Code 31-16-15-1 shall be submitted to the Court with any Settlement Agreement or Final Decree.

5.4 Child Support Arrearage Calculation Form. In all proceedings involving a child support arrearage, including contempt hearings, the party alleging the child support arrearage shall file a completed Child Support Arrearage Calculation Form with the court at the hearing. The Form is located at Appendix D to these Rules.

**LR53-FL00-0405**

**HELPING CHILDREN COPE WITH DIVORCE**

The best interest of children of divorcing parents and parents involved in paternity proceedings will be served by requiring parental participation in an education workshop entitled, "Children Cope with Divorce". Participation will:

- (1) improve post-separation parenting; and
- (2) encourage agreements between the parties concerning their child(ren).

These same interests will be served by requiring attendance at the workshop by some parents involved in post-dissolution proceedings.

Both parents in domestic relations and juvenile paternity cases involving children under the age of 18 years shall attend the parenting education workshop. The workshop must be completed prior to final hearing. Parents in cases seeking modification of custody and visitation orders may be ordered to attend the parenting education workshop. Each parent is responsible for the fee, though an allowance for indigent fee waiver may be available. The Petitioner shall register for the workshop within 15 days of filing the petition. A copy of the Standing Order that requires attendance shall be served on the Respondent with the petition. The Respondent shall register for the workshop within fifteen (15) days after receiving the Standing Order. Said registration can be made through:

**CHILDREN COPE WITH DIVORCE**

Call Tuesday through Friday  
9:00 AM to 6:00 PM  
(800) 248-6540 or (317) 722-8201  
Ask for Children Cope With Divorce  
Seminar Registration

Send completed registration cards to:  
  
Children Cope With Divorce, Registrar  
4701 North Keystone Avenue  
Indianapolis, IN 46205

**LR53-FL00-0406**  
**FINANCIAL DECLARATION FORM**

7.1 Required Exchange. In all relevant family law cases, including dissolution of marriage, legal separation, annulment, paternity, post-decree modification and support proceedings, both parties shall, within 60 days after the initial filing, complete and exchange the Financial Declaration Forms attached at Appendix E. If a contested provisional hearing is scheduled before that time, both parties shall exchange financial information relevant to the issues before the Court no less than two (2) working days in advance of the hearing.

7.2 Required Filing. Both parties shall file completed Financial Declaration Forms with the Court no less than seven (7) days before a contested hearing. In the case of a contested provisional hearing, the parties shall file the financial information relevant to the issues before the Court no less than two (2) working days in advance of the hearing.

7.3 Exceptions. The Financial Declaration Forms need not be exchanged if:

1. The parties agree in writing to waive exchange and the parties have executed a written agreement which settles all financial issues;
2. The proceeding is one in which the service is by publication and there is no response; or
3. The proceeding is post-decree and concerns issues without financial implications.

Provided, however, when the proceeding is post-decree and concerns only a child support arrearage or spousal support arrearage, the alleged delinquent party shall complete the entire form. The support recipient shall complete only that part of the form that requires a statement of the basis of the arrearage calculation (with appropriate supporting documentation).

7.4 Admissibility. Unless a party makes a specific objection to the admission of the other party's completed Financial Declaration Form at the hearing, the Form shall be admitted into evidence. Any objection shall be made only to that part of the other party's completed Financial Declaration Form that is deemed objectionable and not to the entire completed Form. A party does not waive the right to challenge the accuracy of the other party's completed Form by failing to object to the admissibility of the completed Form.

7.5 Supporting Documents. For the purpose of providing a full and complete verification of assets, liabilities and values, at the time of the initial exchange, each party shall attach to the Form the supporting information that is reasonably available. This shall include recent bills, wage and tax records, credit card statements, and bank, pension and year-end mortgage statements. "Reasonably available" means material which may be obtained by letter accompanied with an authorization, but does not mean material that must be subpoenaed or is in the possession of the other party. Appraisals of real estate and pensions, or of personal property such as jewelry, antiques or special collections (stamps, coins or guns, for example), are not required. However, once an appraisal is obtained, it must be exchanged. When the Financial

Declarations Form is filed with the court, the supporting documentation need not be attached but shall be available to the court at the final hearing.

7.6 Financial Declaration -- Mandatory Discovery. The exchange of Forms constitutes mandatory discovery. Thus, Ind. Trial Rule 37 sanctions apply. Additionally, pursuant to Ind. Trial Rule 26(E)(2) and (3), the Form must be supplemented if additional material becomes available.

7.7 Withdrawal of Forms. Financial Declaration Forms may be withdrawn by the parties at the conclusion of the case with the agreement of all parties and the approval of the judge presiding in the case.

### **LR53-FL00-0407** **ORDER OF PROTECTION**

8.1 Orders of Protection. In the event a party seeks an Order of Protection, the party must file a petition under Ind. Code 34-26-5 in the pending family law case. The Court shall review the request, and if required, set a hearing.

8.2 Forms. A party may obtain forms for filing a petition for an Order of Protection from the Clerk's Office in the Justice Building. There is no cost or fee for filing a petition for an Order of Protection and the Court may not require a petitioner to provide security.

### **LR53-FL00-0408** **TEMPORARY RESTRAINING ORDERS**

9.1 Trial Rule 65. Subject to the provisions of Ind. Trial Rule 65, and Ind. Code 31-15-4, in an action for dissolution of marriage, paternity, legal separation, or child support, the Court may issue a Temporary Restraining Order, without hearing or security, if the Court finds on the basis of the moving party's affidavit that injury would result to the moving party if an immediate order were not issued.

9.2 Joint Order. The Court may enjoin both parties from:

1. Transferring, encumbering, concealing, selling or in any way disposing of any property, except in the usual course of business or for the necessities of life, without the written consent of the parties or the permission of the Court;
2. Removing any child of the parties then residing in the State of Indiana from the State with the intent to deprive the Court of jurisdiction over such child without the prior written consent of all parties or the permission of the Court.

9.3 Order for Possession of Property. The Court may grant either party the temporary possession of property pending a hearing.

**LR53-FL00-0409**  
**ATTORNEY FEES IN CONTEMPT ACTIONS**

An attorney may submit testimony about attorney fees in contempt actions by affidavit, accompanied by an itemized statement of time and charges. Affidavits concerning attorney fees shall be admitted into evidence unless there is a specific objection by a party.

**LR53-FL00-0410**  
**VISITATION AND USE OF INDIANA PARENTING TIME GUIDELINES**

11.1 Use of Guidelines. Unless the court enters specific orders to the contrary or the parties otherwise adopt a specific parenting plan, the non-custodial parent shall be granted visitation in accordance with the Indiana Parenting Time Guidelines.

11.2 Availability/Receipt of Guidelines. At the time of filing any new case or modification request concerning child custody and/or visitation, each party shall review the Parenting Time Guidelines. Copies of the Guidelines may be obtained from the Clerk or are available on the internet at [www.in.gov/judiciary/rules/parenting](http://www.in.gov/judiciary/rules/parenting).

11.3 Acknowledgment. The parties shall acknowledge in any settlement agreement or agreed order that they have received a copy of the Indiana Parenting Time Guidelines. It shall not be necessary to attach the Guidelines to the agreement or decree. An acknowledgment in a form consistent with the form in Appendix C is sufficient.

11.4 Different Parenting Plan. If the parties adopt a parenting plan that is different from the Guidelines, the plan must be set forth in the settlement agreement or agreed order.

**LR53-FL00-0411**  
**ORDER FOR LAW ENFORCEMENT ASSISTANCE**

An Order directing the Bloomington Police Department, Monroe County Sheriff's Department, or other appropriate law enforcement agency to accompany a party to his or her residence to obtain possession of property should read substantially as follows:

The \_\_\_\_\_ (name of agency) is hereby ordered to assist \_\_\_\_\_ (name) in taking possession of his/her personal property specified above located at \_\_\_\_\_ (address) as soon as possible.

**LR53-FL00-0412**  
**FAMILY LAW PRE-TRIAL CONFERENCES**

At least one pretrial conference shall be held in every contested family law case.

13.1 Initial Pre-Trial Conference. The Court may set the case for an initial pre-trial conference to consider referring the case to mediation or other Alternative Dispute Resolution, to consider appointing a guardian ad litem or professional evaluator, and to schedule further hearings. If all parties are represented by counsel, the parties are not required to attend the initial pre-trial conference unless the Court orders otherwise.

13.2 Final Pre-Trial Conference. All contested cases concerning child custody or child visitation, and all contested dissolution of marriage cases concerning property division, shall be set for a final pre-trial conference prior to the hearing date.

13.3 Filing of Pre-Trial Statements. At least two (2) days prior to the final pre-trial conference, each party shall file Pre-trial Statements which shall include all matters deemed important to the trial of the case, and must include all information set forth in Paragraph 13.4 below.

13.4 Form of Final Pre-Trial Statement. The Final Pre-Trial Statement shall contain the following statements in separate numbered Paragraphs as follows:

- 13.4.1 Jurisdiction. A statement of any contested issues concerning the authority of the Monroe Circuit Court to issue binding orders in the case.
- 13.4.2 Petitions or Motions Filed. A list of all outstanding motions that require a ruling by the Court.
- 13.4.3 Discovery. A statement of any outstanding requests for information that have not been answered by either party, and a listing of any remaining discovery the party intends to conduct before the hearing.
- 13.4.4 Statement of Position. A concise statement of the party's position on contested issues.
- 13.4.5 Stipulations. A statement of any agreements of the parties about factual or legal issues.
- 13.4.6 Contested facts. A short and plain statement of contested issues of fact which remain to be litigated at the hearing.
- 13.4.7 Issues of Law. A short and plain statement of contested legal issues which remain to be litigated at the hearing.
- 13.4.8 Exhibits. A list of exhibits the party intends to offer in evidence at trial.
- 13.4.9 Witnesses. A list of the names and addresses of all witnesses expected to testify at the hearing. Expert witnesses shall be so designated.
- 13.4.10 Amendments to Pleadings. Any amendments the party intends to make to his or her pleadings.
- 13.4.11 Probable Settlement. The party's opinion of the likelihood of settlement or the probable success of a further mediation conference.
- 13.4.12 Time Required for Hearing. The party's final estimate of the time required to conduct the hearing.
- 13.5 Failure to file Pre-Trial Statement. In the event either party should fail to timely file a Pre-Trial Statement as required by this Rule, the Court may

cancel the pre-trial conference or enter appropriate sanctions against the party failing to file such Pre-Trial Statement.

- 13.6 Pre-Trial Order. Following the pre-trial conference, a Pre-Trial Order shall be entered which recites the action taken at the conference, the amendments allowed to the pleadings, and any agreements made by the parties that limit the issues for trial. The Pre-Trial Order shall control the subsequent course of action, unless modified thereafter to prevent manifest injustice.
- 13.7 More than one Pre-Trial Conference. If necessary or advisable, the court may adjourn the pre-trial conference from time to time or may order an additional pre-trial conference.

**LR53-FL00-0413**  
**QUICK TRIAL CALENDAR**

Each Court having family law jurisdiction shall maintain a list of those cases which may be ready for trial with seven (7) days or less notice. The parties, through their counsel, may agree in a joint written request to place their case on the Quick Trial Calendar. If the Court determines that none of the trials set on a certain day are going to be tried on that day, then the Court may refer to its Quick Trial Calendar. The parties in the order of their request for a quick trial will then be notified of the available date, and subject to their schedules, may have their matter heard on the available day.

**LR53-FL00-0414**  
**TERMINATION OF REPRESENTATIVE CAPACITY**

15.1 Upon the entry of a final order in a domestic relations or juvenile paternity case, or the entry of an Order of Modification of Custody, Visitation or Child Support, the appearance of an attorney on behalf of a party shall be considered withdrawn and shall be terminated:

1. Upon the entry of an Order of Withdrawal by the Court;
2. Thirty (30) days after the entry of a Final Judgment, or thirty (30) days after the denial of a timely motion to correct error, unless a Notice of Appeal is timely filed in the Indiana Court of Appeals or Indiana Supreme Court; or
3. The conclusion of any such appeal, unless a new trial is ordered or further hearings are scheduled in the Trial Court.

15.2 After the termination of attorney representation pursuant to 15.1 above any subsequent pleadings filed in the case shall be served upon the other party pursuant to the Indiana Rules of Trial Procedure, and not to the former attorney of record.

15.3 Any copy served upon original counsel following counsel's withdrawal pursuant to 15.1 above shall be deemed to be a matter of information or professional courtesy only, and shall not be considered to be adequate legal notice to the other party of the subsequent pleading or subsequent legal proceeding.

**LR53-FL00-0415**  
**DELAYED RULING**

If thirty (30) days after submission of the evidence and any proposed findings and orders the Trial Court has not issued its decision, the parties may by joint letter to the trial court request that the ruling be issued as soon as is practicable. If forty-five (45) days have elapsed after submission of the evidence and any proposed findings and orders, and the Trial Court has not issued its decision, the parties may request and the Trial Court shall promptly schedule a post-hearing conference to be attended by the trial judge, counsel for the parties, and any pro se litigants. If sixty (60) days after submission of the evidence and proposed findings and orders the Trial Court has not issued its decision, the parties may by joint letter request, and the Trial Court shall promptly schedule, a post-hearing conference to be attended by the trial judge, counsel for the parties, and the parties. This is intended to supplement Indiana Trial Rule 53.1.

**APPENDIX A**  
**STATE OF INDIANA**  
**MONROE CIRCUIT COURT**

301 North College Avenue, P.O. Box 547  
Bloomington, Indiana 47402  
(812) 349-2601

IN RE THE MARRIAGE OF                      CASE NO. 53C0\_\_ \_\_\_\_\_ DR \_\_\_\_\_

\_\_\_\_\_,  
Petitioner

and

\_\_\_\_\_,  
Respondent

**SUMMONS**  
Dissolution of Marriage or Legal Separation

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Petitioner has filed an action to dissolve your marriage or for legal separation. The issues raised in this action are stated in the petition which is attached to this summons. The petition also states the relief sought by the Petitioner.

You may file a counter petition if you wish to raise any issues not raised in the petition.

If you do not appear in court at the final hearing the issues raised in the petition will be heard and decided by the court in your absence. You will be notified by first-class mail of the date and time of the final hearing and any preliminary hearing(s). You must inform the court in writing if your mailing address on this Summons is not correct, or if you change your mailing address before a final order is entered in this case.

A final hearing may not be conducted earlier than sixty (60) days after the filing of the petition.

Date \_\_\_\_\_

\_\_\_\_\_  
Clerk, Monroe Circuit Court

A copy of the above summons and a copy of the complaint attached thereto were received by me this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_  
Signature of Respondent

PRAECIPE: I designate the following mode of service to be used by the clerk.

\_\_\_\_\_ **By Certified or Registered Mail** with return receipt to above address.

\_\_\_\_\_ **By Sheriff** delivering a copy of summons and complaint personally to Respondent or by leaving a copy of the summons and complaint at his/her dwelling house or usual place of abode.

\_\_\_\_\_ **By Personal Service** delivering a copy of summons and complaint personally to Respondent.

\_\_\_\_\_ **By Serving an Agent** as provided by rule, statute or valid agreement.

Signed: \_\_\_\_\_ Attorney/Petitioner

Printed: \_\_\_\_\_ Attorney # \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

**RETURN OF SUMMONS**

This summons came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_ and I served the same on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

1. By delivering a copy of summons and complaint personally to \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 2000.
2. By leaving a copy of summons and complaint personally with \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 2000.
3. By mailing by first class a copy of summons and complaint on this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_. To \_\_\_\_\_ Respondent's last known address.
4. Respondent cannot be found in my bailiwick and summons was not served.

And I now return this writ this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_, Sheriff

\_\_\_\_\_, Deputy

**APPENDIX B**

**STATE OF INDIANA  
MONROE CIRCUIT COURT**  
301 North College Avenue, P.O. Box 547  
Bloomington, Indiana 47402  
(812) 349-2601

IN THE MATTER OF  
THE PATERNITY OF:

CASE NO. 53C0\_\_ \_\_\_\_\_ JP \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_,Petitioner

**SUMMONS**  
Paternity Action

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Petitioner has filed a petition to establish paternity. The issues raised in this action for paternity are stated in the petition which is attached to this summons. The petition also states the relief the Petitioner seeks.

You may file a counter petition if you wish to raise any issue not raised in the petition.

If you do not appear in court for scheduled hearings the issues raised in the petition will be heard and decided by the court in your absence. You will be notified by first-class mail of the date and time of any hearings. You must inform the court in writing if your mailing address on this Summons is not correct, or if you change your mailing address before a final order is entered in this case.

Date \_\_\_\_\_

\_\_\_\_\_  
Clerk, Monroe Circuit Court

A copy of the above summons and a copy of the complaint attached thereto were received by me this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

\_\_\_\_\_  
Signature of Respondent

PRAECIPE: I designate the following mode of service to be used by the clerk.

\_\_\_\_\_ **By Certified or Registered Mail** with return receipt to above address.

\_\_\_\_\_ **By Sheriff** delivering a copy of summons and complaint personally to Respondent or by leaving a copy of the summons and complaint at his/her dwelling house or usual place of abode.

\_\_\_\_\_ **By Personal Service** delivering a copy of summons and complaint personally to Respondent.

\_\_\_\_\_ **By Serving an Agent** as provided by rule, statute or valid agreement.

Signed: \_\_\_\_\_ Attorney/Petitioner  
Printed: \_\_\_\_\_ Attorney # \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

#### RETURN OF SUMMONS

This summons came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_ and I served the same on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

5. By delivering a copy of summons and complaint personally to \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 2000.
6. By leaving a copy of summons and complaint personally with \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 2000.
7. By mailing by first class a copy of summons and complaint on this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_. To \_\_\_\_\_ Respondent's last known address.
8. Respondent cannot be found in my bailiwick and summons was not served.

And I now return this writ this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_, Sheriff  
\_\_\_\_\_, Deputy

**APPENDIX C**

Suggested acknowledgment for use under LR53-FL00-0410

[Caption]

**ACKNOWLEDGMENT OF RECEIPT OF  
INDIANA PARENTING TIME GUIDELINES**

The Petitioner and the Respondent acknowledge that they have received a copy of the Indiana Parenting Time Guidelines consisting of 28 typewritten pages as adopted by the Indiana Supreme Court on December 22, 2000, with an effective date of March 31, 2001.

Acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 200\_

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Attorney for Petitioner

\_\_\_\_\_  
Attorney for Respondent

**ACKNOWLEDGMENT OF USE**

The parties further acknowledge that they have made reference to these Parenting Time Guidelines in the entry submitted in this cause and that these Guidelines will be used by the parties for the purpose of visitation and in the resolution of any disputes on visitation issues until further order of the Court.

Acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 200\_

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Attorney for Petitioner

\_\_\_\_\_  
Attorney for Respondent

**APPENDIX D**

STATE OF INDIANA        )  
                                  )SS:                    IN THE MONROE CIRCUIT COURT  
COUNTY OF MONROE    )                    CAUSE NO. 53C0\_\_\_\_\_

IN RE THE MARRIAGE/PATERNITY  
SUPPORT OF

\_\_\_\_\_  
AND  
\_\_\_\_\_

**CHILD SUPPORT ARREARAGE CALCULATION**

Weekly child support amount	_____
Date of child support order	_____
Prior findings of arrearage and Date of finding	_____ _____
Support owed [number of weeks X weekly amount]	_____
LESS	
Support paid through the Clerk's Office	_____
Support paid directly	_____
TOTAL ARREARAGE	_____
DATE	_____

I affirm under the penalties for perjury that the foregoing information is true and accurate to the best of my knowledge and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

**APPENDIX E**

**MONROE CIRCUIT COURT FAMILY LAW RULES  
FINANCIAL DECLARATION FORM**

ALL PARTIES, INCLUDING PARTIES NOT REPRESENTED BY COUNSEL, ARE REQUIRED TO COMPLY WITH THE FAMILY LAW RULES AND TO COMPLETE AND EXCHANGE THIS FORM.

**THIS DECLARATION IS MANDATORY DISCOVERY AND MUST BE COMPLETED AND PROVIDED TO THE OTHER PARTY WITHIN THE TIME PRESCRIBED BY MONROE COUNTY FAMILY LAW RULE ~~7.1~~ LR53-FL00-0406.**

FAILURE BY A PARTY TO COMPLETE, EXCHANGE AND FILE THIS FORM AS REQUIRED MAY RESULT IN THE IMPOSITION OF COSTS, ATTORNEY FEES AND OTHER SANCTIONS DETERMINED BY THE COURT.

**FINANCIAL DECLARATION FORM**  
**STATE OF INDIANA: MONROE CIRCUIT COURT**

Case No. 53C0 \_ - \_ - \_ - \_

IN RE THE MARRIAGE OF:

\_\_\_\_\_

Petitioner

and

\_\_\_\_\_

Respondent

FINANCIAL DECLARATION OF:

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

\*Husband / Father: \_\_\_\_\_

\*Wife / Mother: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Occupation: \_\_\_\_\_

Occupation: \_\_\_\_\_

Employer: \_\_\_\_\_

Employer: \_\_\_\_\_

Employer Address: \_\_\_\_\_

Employer Address: \_\_\_\_\_

Birth Date: \_\_\_\_\_

Birth Date: \_\_\_\_\_

\*In paternity actions, the term "husband" includes the putative father and the term "wife" includes the mother.

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

Date of Physical Separation: \_\_\_\_\_

Date of Filing: \_\_\_\_\_

Names and dates of birth of all children of this relationship, whether by birth or adoption:

Name	Social Security No.	Date of Birth	Age

**IN ALL CASES INVOLVING CHILD SUPPORT:** Prepare and attach an Indiana Child Support Guideline Worksheet (with documentation verifying your income); or, supplement with such Worksheet within ten (10) days of the exchange of this Form.

**PART I. INCOME AND EXPENSES STATEMENT**

**STATEMENT OF INCOME, EXPENSES, ASSETS AND LIABILITIES**

Attach copies of State and Federal Income Tax Returns for the last three taxable years and wage statements from your employer for last eight weeks.

<b>A. GROSS WEEKLY INCOME</b>	<b>HUSBAND</b>	<b>WIFE</b>
Note: If paid monthly, determine weekly income by dividing monthly income by 4.3		
Salary and wages, including commissions, bonuses, allowances and overtime, payable _____ (pay period)	_____	_____
Pensions and Retirement	_____	_____
Social Security	_____	_____
Disability and unemployment insurance	_____	_____
Public Assistance (welfare/AFDC payments, etc.)	_____	_____
Food Stamps	_____	_____
Dividends and interest	_____	_____
Rents received	_____	_____
All other sources (Specify)	_____	_____
	_____	_____
	_____	_____

<b>B. ITEMIZED WEEKLY DEDUCTIONS</b>	<b>HUSBAND</b>	<b>WIFE</b>
from gross income:	_____	_____
State and Federal Income taxes	_____	_____
Number of exemptions taken		
Husband: _____ Wife: _____		
Social Security	_____	_____
Medical Insurance	_____	_____
(list all persons covered):		
_____		
Coverage:		
Medical ( )		
Dental ( )		
Eye Care ( )		
Psychiatric ( )		
Union or other dues	_____	_____
Retirement or pension fund		
Mandatory ( )		

Optional ( )  
 Child Support Withheld from Pay (Not including this case) \_\_\_\_\_  
 Judgment Garnishments (itemize on separate sheet including case number) \_\_\_\_\_  
 Credit Union Debts \_\_\_\_\_  
 Savings:  
 Thrift Plans ( ) \_\_\_\_\_  
 Credit Union Savings ( ) \_\_\_\_\_  
 Bonds ( ) \_\_\_\_\_  
 Other (specify) ( ) \_\_\_\_\_

C. Child support received for any child(ren) not born to this marriage \$ \_\_\_\_\_ \$ \_\_\_\_\_

**D. SELECTED MONTHLY LIVING EXPENSES:** (Specify which party is the custodial parent and list names and relations of each member of the household whose expenses are included.)

Rent or mortgage payments (residence) \_\_\_\_\_  
 Real property taxes (residence) if not included in mortgage payment \_\_\_\_\_  
 Insurance (residence) if not included in mortgage payment \_\_\_\_\_  
 Utilities (including water, sewer, electricity, gas, heat, cable and garbage) \_\_\_\_\_  
 Telephone (including cell phone expenses) \_\_\_\_\_  
 Child support not withheld from pay (not including this case) \_\_\_\_\_  
 Medical (not covered by insurance) \_\_\_\_\_  
 Dental (not covered by insurance) \_\_\_\_\_  
 Insurance (life, health, accident, liability, disability excluding payroll deducted and automobile) \_\_\_\_\_  
 School (including, if applicable, colleges, universities, or trade schools) \_\_\_\_\_  
 Child care and pre-school \_\_\_\_\_  
 Transportation (other than automobile) \_\_\_\_\_  
 Auto Payments \_\_\_\_\_  
 Auto insurance (if not in auto payment) \_\_\_\_\_  
 Other (Specify) \_\_\_\_\_

*Note: Indicate which of the foregoing expenses are delinquent and the amount thereof.*

**E. DEBTS AND OBLIGATIONS:**

**ATTACH A COPY OF THE MOST RECENT STATEMENT FOR EACH DEBT.**

CREDITOR'S NAME	DATE PAYABLE	BALANCE	MONTHLY PAYMENT
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
<b>TOTAL:</b>		_____	_____

(Attach additional sheets as needed).

**PART II. NET WORTH**

List all property owned either individually or jointly. Indicate who holds or how title held: (H) Husband, (W) Wife, or (J) Jointly. WHERE SPACE IS NOT SUFFICIENT FOR COMPLETE INFORMATION OR LISTING, PLEASE ATTACH SEPARATE PAGE.

	Ownership H/W/J	Value	Balance(s) Owed (Identify Creditors)
<b>A. HOUSEHOLD FURNISHINGS</b> (Value of furniture, appliances, and equipment, as a whole; that is, you need not itemize)	_____	_____	_____
<b>B. MOTOR VEHICLES</b> (Year and Make) Indicate Regular Driver	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
<b>C. SECURITIES</b> (Stocks, bonds, etc.)			
<u>Company</u>	<u>Ownership</u>	<u>Value</u>	<u>No. of Shares</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**D. CASH AND DEPOSIT ACCOUNTS** (including banks, savings and loan associations; credit unions; thrift plans; mutual funds; certificates of deposit; savings and checking accounts; IRAs and annuities)

<u>Institution</u>	<u>Ownership</u>	<u>Value</u>	<u>Account No.</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**E. LIFE INSURANCE**

Company/Policy No.	Ownership	Beneficiary	Face Amount	Type: Term, Whole Life, Group	Cash Value/ Loan Amount
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

**F. RETIREMENT PLANS**

Name of Plan/Company	Ownership Vested yes/no	Monthly Benefit at Earliest Retirement Date	Present Value if known
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

*Attach documents from each plan verifying information. If not yet received, attach a copy of your written request to the plan(s) for information.*

**G. REAL ESTATE** (attach separate sheet with the following information for each parcel).

Address _____	Type of Property _____
_____	Date of Acquisition _____
Original Cost \$ _____	Current Market Value \$ _____
Cost of Additions/Remodeling \$ _____	Mtg. Balance \$ _____
Total costs \$ _____	Other liens \$ _____
_____	Equity \$ _____
Monthly payment \$ _____	Basis for Valuation (attach appraisal if obtained.)

To whom paid \_\_\_\_\_

Insurance (if not included in payment) \_\_\_\_\_

\$ \_\_\_\_\_

Taxes (if not included in payment) \$ \_\_\_\_\_

Special Assessments \_\_\_\_\_

Individual contributions to the real estate (for example, inheritance, pre-marital assets, personal loans)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**H. BUSINESS OR PROFESSIONAL INTERESTS**

(Indicate name, share, type of business, and value less indebtedness)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I. OTHER ASSETS** (that is, specify coin, stamp or gun collections, or other items of unusual value). Use additional sheets as needed.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**J. ATTACH ALL AVAILABLE DOCUMENTATION TO VERIFY VALUES.**

**PART III. ARREARAGE COMPUTATION**

If you claim a child support arrearage, the Child Support Arrearage Calculation Worksheet form shall be completed.

**PART IV. VERIFICATION**

I declare, under the penalty of perjury, that the foregoing, including any valuations and attachments, is true and correct and that I have made a complete and absolute disclosure of all of my assets and liabilities. Furthermore, I understand that if, in the future, it is proven to this Court that I have intentionally failed to disclose any asset or liability, I may lose the asset and may be required to pay the liability. Finally, I acknowledge that sanctions may be imposed against me, including reasonable attorneys' fees and expenses incurred in the investigation, preparation and prosecution of any claim or action that proves my failure to disclose assets or liabilities.

Date: \_\_\_\_\_  
\_\_\_\_\_  
(Party's Signature)

**PART V. ATTORNEY'S CERTIFICATION**

I have reviewed with my client the foregoing information, including any valuations and attachments, and sign this certificate consistent with my obligation under Trial Rule 11 of the Indiana Rules of Procedure.

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

\_\_\_\_\_  
Attorney Name and Indiana Attorney Number

**LR53-JR00-0500**  
**JURY MANAGEMENT**

1. The Judge or Court Reporter in each division will inform the Jury Coordinator of the status of scheduled jury trials.
2. The Jury Coordinator will use the jury message line on a daily basis to indicate to jurors the status of trials. Jurors are instructed to call the jury message line after 7 PM during their scheduled weeks of service.
3. If a jury is canceled after work hours (including a weekend or holiday), the judge or court reporter will call the Office of Court Services staff at home in order to change the jury message line.
4. The Office of Court Services staff will prepare Jury Service Certificates of Commendation for the jurors seated during their three month term of service. The Judges will sign the certificates for the jurors seated for their trials.
5. Meals for jurors will be provided on the last day of trial immediately prior to or during deliberations.
6. Miscellaneous civil files will be opened for individuals who fail to comply with jury service.
7. The Office of Court Services staff will provide the Judge with the names and addresses of those individuals who fail to comply. A 15 minute rule to show cause hearing will be set. The Office of Court Services staff will prepare the rule to show cause order and file it in the Clerk's Office with a judge's cause number which will be recorded in the Miscellaneous Civil Book. The caseload will not be affected.

**LR53-FC00-0600**  
**DEFINITIONS**

- A. **Family Court:** “Family Court” is the court or courts before which cases involving a family or household are linked together for purposes of case coordination. The individual cases maintain their separate integrity and separate docket number, but may be given a common family court designation. The individual cases may all be transferred to one judge, or may remain in the separate courts in which they were originally filed.
- B. **Family Court Proceeding:** A “Family Court Proceeding” is comprised of the individual cases of the family or household which have been assigned to Family Court.

**LR53-FC000-0601**  
**EXERCISE OF JURISDICTION**

The Family Court may exercise jurisdiction over any case involving the family at the same time it exercises jurisdiction over a juvenile case (Child in Need of Services, Delinquency, Status, and Paternity) involving the family.

**LR53-FC000-0602**  
**CONCURRENT HEARINGS**

The Family Court may, in the court’s discretion, set hearings on related cases to be heard concurrently, take evidence on the related cases at these hearings, and rule on the admissibility of evidence for each cause separately as needed to adequately preserve the record for appeal. This rule applies only when the cases are pending before the same judicial officer.

**LR53-FC000-0603**  
**DESIGNATION OF FAMILY COURT CASE AND CHANGE OF JUDGE**

- A. Once notice is sent to the parties that a case has been selected for Family Court, no motion for change of venue from the judge may be granted except to the extent permitted by Indiana Trial Rule 76.
- B. Within ten days (10) days after notice is sent that a case has been selected for Family Court, a party may object for cause to the Family Court designation.
- C. A motion for change of venue from the judge in any matters arising in the Family Court proceeding or any future cases joined in the Family Court proceeding after the initial selection of cases, shall be granted only for cause.

- D. If a special judge is appointed, all current and future cases in the Family Court proceeding may be assigned to the special judge.

**LR53-FC000-0604**

**JUDICIAL NOTICE AND ACCESS TO RECORDS**

- A. Notice of Case Assignment. Within a reasonable time after a case is assigned to Family Court, the court shall provide to all parties in the Family Court proceeding a list of all cases that have been assigned to that Family Court proceeding.
- B. Judicial Notice. Any court having jurisdiction over a case assigned to Family Court may take judicial notice of any relevant orders or Chronological Case Summary (CCS) entry issued by any Indiana Circuit, Superior, County, or Probate Court.
1. If a court takes judicial notice of:
    - (a) a court order, the court shall provide a copy of that court order; or
    - (b) a CCS or CCS entry(s), the court shall provide a copy of the entire CCS.
  2. The court shall provide copies of the order or CCS to the parties to the case at or before the time judicial notice is taken.
- C. Access to Records. Parties to a Family Court proceeding shall have access to all cases within the Family Court proceeding, with the exception of confidential cases or records to which they are not a party. Parties may seek access to the confidential cases or records in another case within the Family Court proceeding in which they are not a party, by written petition based on relevancy and need. Confidential records shall retain their confidential status and the Family Court shall direct that confidential records not be included in the public record of the proceedings.

**LR53-SC00-0700**

**SCOPE**

- A. **SCOPE:** These rules shall govern the procedure and practice of the Small Claims Division, Monroe Circuit Court.
- B. **CITATION:** These rules may be cited as LR53-SC00-07 \*\*-

**LR53-SC00-0701**

**COMMUNICATIONS WITH THE COURT**

- A. **WRITTEN COMMUNICATIONS:** Any matter communicated to the court, outside of the courtroom, must be in writing and signed by the communicating party.
- B. **CASE IDENTIFICATION AND DUTY TO SERVE:** The communication shall contain the cause number of the case. The person filing the communication shall certify in writing that he or she has sent a copy of the communication to all parties.

**LR53-SC00-0702**

**SCHEDULING**

- A. **INITIAL HEARING:** Upon the filing of a complaint, an initial hearing shall be scheduled by the Clerk of the Court. Parties are not expected to be fully prepared for trial at the initial hearing, but must be prepared to present a prima facie case through direct testimony or affidavit in the event an opposing party fails to appear, in accordance with Indiana Small Claims Rule 10(b). The failure to appear at an initial hearing shall result in a judgment being entered, upon the presentation of a prima facie case by the claimant present. If the plaintiff fails to appear at the time and place specified for the trial, or for any continuance thereof, the Court may dismiss the action without prejudice.
- B. **CONTESTED HEARING:** If both parties appear at the initial hearing, the judge shall encourage the parties to resolve their dispute. If the parties are unable to achieve a resolution, they shall inform the judge of the need to schedule a trial and indicate the amount of time needed to present their respective cases.
- C. **WAIVER OF INITIAL HEARING:** If the parties know prior to the initial hearing that the matter will be contested, a motion may be filed to vacate the initial hearing and schedule a contested hearing. The motion shall estimate the time needed to present the petitioner's case-in-chief and the time needed to present the case in opposition if that can be reasonably ascertained.

**LR53-SC00-0703**  
**CONTINUANCES**

- A. **WRITTEN MOTION REQUIRED:** Continuances may be granted only upon good cause shown in a written motion signed by the moving party. A copy of motion must be mailed or delivered to the opposing party by the party requesting the continuance.
- B. **ADVANCED NOTICE:** A continuance will not be granted within seventy-two (72) hours of the trial unless the opposing party agrees to the continuance or the judge determines a continuance is necessary

**LR53-SC00-0704**  
**DISCOVERY**

- A. **PRIOR INFORMAL DISCOVERY REQUIRED:** The parties must pursue informal discovery prior to petitioning the court for an order compelling discovery.
- B. **RELEVANT FORMAL DISCOVERY:** Upon a showing that informal discovery has failed and that the discovery requested is relevant and not unduly burdensome, the court may grant an order compelling discovery.

**LR53-SC00-0705**  
**DISMISSAL OF ACTIONS**

- A. **MOTION REQUIRED:** A claim, counterclaim or cross-claim may be dismissed by filing a written pleading at any time before judgment.
- B. **DISMISSALS:** If a counterclaim or cross-claim has been filed, the dismissal of the original claim will not result in the cancellation of the hearing unless the counterclaim or cross-claim has been dismissed.

**LR53-SC00-0706**  
**PROCEEDINGS SUPPLEMENTAL**

- A. **TIMING:** A prevailing party may file a motion for proceedings supplemental after entry of the judgment in the Clerk's Record of Judgments and Orders. The judgment creditor must be present to enforce a monetary judgment.
- B. **CHANGE OF CIRCUMSTANCES:** After a determination by the Court that there is no income or property which may be applied to the judgment, the case will be redocketed for proceeding supplemental only if the judgment creditor can

show that income or property has been discovered which may be applied to the judgment

**LR53-SC00-0707**  
**BANKRUPTCY STAY**

Any party seeking a stay of the proceedings as a result of a bankruptcy proceeding shall petition the Court, attaching to the petition a copy of the Bankruptcy Cover Petition and the Schedule of Creditors.

**LR53-PR00-0801**  
**NOTICE**

**A. PREPARATION**

Whenever notice by publication or written notice by United States mail is required to be given, the attorney shall prepare such notice and shall ensure that notice is properly published or served by United States mail, return receipt requested. The notice shall comply with all statutory requirements in all respects. It shall be the attorney's responsibility to ascertain and provide adequate proof that notice was properly served prior to bringing any matter before the Court.

**B. COPIES**

Copies of petitions shall be sent with all notices where any hearing being brought before the Court arises from matters contained in the petition.

**C. NOTICE TO CREDITORS**

Notice of the opening of an estate shall be sent by United States mail to all creditors who are readily ascertainable by the attorney.

**LR53-PR00-0802**  
**FILING OF PLEADINGS**

**A. MAIL COPIES**

When pleadings are filed by mail, or left with the Court for filing by attorneys who do not have distribution boxes in the Office of Court Services, a stamped self-addressed envelope shall be included for return of the documents to the attorney.

**B. FILING WITH PROBATE ADMINISTRATOR**

Routine pleadings, such as Inventories, Inheritance Tax Schedules, petitions to sell real or personal property, petitions for partial distribution, or final reports, are to be filed with the Probate Administrator of the Monroe Circuit Court.

**C. PREPARATION OF ORDERS**

The attorneys shall prepare appropriate orders for review by the Court, except when expressly directed otherwise by the Court.

#### D. VERIFICATION

Every pleading, including inventories, petitions, and accountings, filed in any estate or guardianship shall be signed and verified by the fiduciary. If there is more than one fiduciary, all shall sign such pleading, petition, inventory, or accounting. The name and address of the attorney representing the fiduciary shall appear on all documents filed with the Court.

#### E. INITIAL PETITION

The initial petition opening the estate or guardianship shall contain the name, address, social security number and date of birth of the fiduciary, or fiduciaries, of a person. If a corporate fiduciary, the name and address of the fiduciary shall appear on the initial petition.

### **LR53-PR00-0803**

#### **BOND**

##### A. CORPORATE SURETY BOND

In every estate or guardianship, the fiduciary, prior to the issuance of letters, shall file a corporate surety bond in an amount not less than the value of the personal property to be administered, plus the probable value of annual rents and profits of all property of the estate in such amount as shall be set by the Court, except as hereafter provided:

1. Where, under the terms of a will, the testator expresses an intention that the bond be waived, the Court shall set a bond in an amount adequate to protect creditors, tax authorities, and devisees. This bond must be a minimum of Fifteen Thousand Dollars (\$15,000.00) or the total amount of cash, checking and/or money market account assets, whichever is greater. If the above amounts are not immediately attainable, the estate may be opened with a Fifteen Thousand Dollar (\$15,000.00) bond which must be increased to the larger amount when that amount is determined (within 30 days of probating the will). If using the latter procedure, the petition to probate must so state.
2. Where the fiduciary is an heir or legatee of the estate, the Court may reduce the bond by the amount of the fiduciary's share of the estate.
3. Where the heirs or legatees have filed a written request that the fiduciary serve without bond, the bond may be set in an amount adequate to protect the rights of the creditors and tax authorities only.
4. In an unsupervised estate, bond may be set at the discretion of the Court, and, unless otherwise ordered, shall be in the amount of Fifteen Thousand Dollars (\$15,000.00).
5. No bond shall be required in any supervised estate or guardianship in which a corporate fiduciary, qualified by law to serve as such, is either the fiduciary or one of the co-fiduciaries.

## B. TRANSFER IN LIEU OF BOND

In lieu of a bond as required by Local Probate Rule 3(A), a fiduciary may restrict transfer of all or part of the estate or guardianship liquid assets by placing those assets in a federally insured financial institution with the following restriction placed on the face of the account or document: **NO PRINCIPAL OR INTEREST SHALL BE WITHDRAWN WITHOUT WRITTEN ORDER OF A JUDGE OF THE CIRCUIT COURT OF MONROE COUNTY, INDIANA.**

## C. INCLUSION OF VALUE AND INCOME

All petitions to open an estate or guardianship shall set forth the probable value of the personal property, separating the cash, checking and money market assets, and the estimated annual rents or profits to be derived from the property in the estate or guardianship, if any.

## D. INCLUSION OF AGENCY IDENTIFICATION

The name, address, and telephone number of the insurance agency providing the corporate surety shall be typed or printed on all corporate bonds in any estate or guardianship.

## E. PERSONAL BOND

No personal bond shall be filed for any fiduciary unless the attorney opening the estate obtains prior approval of the court allowing the filing of such bond. Any request to allow the filing of a personal surety bond shall be by written petition to the Court, verified by the personal surety, and setting forth the fair market value of the net personal assets of the individual seeking to file the personal surety bond.

## **LR53-PR00-0804** **INVENTORY**

### A. FILING DEADLINES

An inventory shall be filed by the fiduciary in all supervised estates and guardianships as follows: Within sixty (60) days for supervised estates; within thirty (30) days for temporary guardianships; and within ninety (90) days for permanent guardianships. All times shall commence on the date of appointment of the fiduciary.

### B. PARTIAL INVENTORY

In the event a partial inventory is filed, all subsequent inventories shall contain a recapitulation of the prior inventory or inventories.

**LR53-PR00-0805**  
**REAL ESTATE**

**A. FILING OF APPRAISAL**

In all supervised estates and guardianships in which real estate is to be sold, a written professional appraisal shall be filed with the Court at the time of filing of the petition for sale, unless such appraisal was filed with the Inventory. The written appraisal shall include, as a minimum, the following information:

1. A brief description of the real property interest being appraised, including the full legal description.
2. Purpose and objective of the appraisal.
3. Date on which fair market value was determined.
4. Data and reasoning supporting the fair market value.
5. The fair market value determined by the appraiser.
6. Statement of assumptions and special or limiting conditions.
7. Certification of disinterest in the real estate or the proposed sale.
8. Signature, address, and telephone number of the person certifying the appraisal.

**B. TIME OF APPRAISAL**

All appraisals required by Local Probate Rule 5(A) shall be made within one year of the date of the filing of the petition for sale of the real estate.

**C. DEEDS**

All deeds submitted to the Court for approval in estate or guardianship proceedings shall be signed by the fiduciary in front of a notary public prior to its submission. All such deeds shall be submitted with the report of sale of the real estate, or at the time of the hearing on the final account. Copies of such deeds shall be submitted with the report of sale, or at the time of hearing on the final account. Copies of such deeds will be filed by the Court as a part of the estate or guardianship records.

#### D. RECORDING OF FINAL DECREE

Whenever a final decree reflects vesting of real estate in heirs or beneficiaries, the decree shall be recorded with the Recorder of the county where the real estate is located, and evidence of such recording shall be provided to the Court with the supplemental report.

### **LR53-PR00-0806** **SALE OF ASSETS**

#### A. APPRAISAL OF PERSONAL PROPERTY

In all supervised estates and guardianships, no petition for sale of personal property shall be granted unless a written appraisal, prepared by a person competent to appraise such property and setting forth the fair market value of the property to be sold is filed with the court, either at the time of filing of the petition to sell or at the time the inventory is filed. This rule shall not apply if the property is sold at a public auction by written approval of the court.

#### B. TIME OF APPRAISAL

All appraisals required by Local Rule 6(a) shall be made within one year preceding the date of the petition to sell.

#### C. SALE OF OTHER ASSETS

No written appraisal shall be required for the sale of assets which are traded in a market and the value of which is readily ascertainable. Such assets include, but are not limited to, stocks, bonds, mutual funds, commodities, and precious metals.

### **LR53-PR00-0807** **CLAIMS**

#### A. EXAMINATION OF CLAIM DOCKET

Five months and fifteen days after the date of the first published notice to creditors, the fiduciary or the fiduciary's attorney, shall examine the Claim Docket and shall allow or disallow each claim filed against the estate.

#### B. CLAIM DISALLOWED

If a claim is disallowed, the attorney for the estate shall cause said claim to be transferred to the civil docket of the Monroe Circuit Court immediately so that said claim can be allowed or disallowed by the Court as soon as possible.

**LR53-PR00-0808**  
**ACCOUNTINGS**

**A. INTERMEDIATE ACCOUNTING**

Whenever an estate cannot be closed within one year, an intermediate account shall be filed with the Court within thirty days after the expiration of one year and each succeeding year thereafter. Such accounting shall comply with the provisions of Indiana Code Sections 29-1-16-4 and 29-1-16-6, and

1. Shall state facts showing to the Court that reasons the estate cannot be closed and providing the Court with an estimated date of closing.
2. Shall propose partial distribution of the estate to the extent that partial distribution can be made without prejudice to distributees, claimants, and taxing authorities.

**B. ACCOUNTING CERTIFICATION**

All guardianship accountings shall contain a certification of an officer of any financial institution in which guardianship assets are held verifying the account balance. (See attached Appendix A.)

**C. ACCOUNTING OF BENEFITS**

All social security or Medicare benefits received by a guardian on behalf of an incapacitated person shall be included and accounted for in the guardianship accountings unless Court approval has been previously granted allowing said funds to be paid directly to a residential or health care facility.

**D. VOUCHERS AND CANCELLED CHECKS**

In all supervised estate and guardianship accountings, vouchers or cancelled checks for the expenditures claimed shall be filed with the accounting. No affidavits in lieu of vouchers or cancelled checks will be accepted from individual fiduciaries without prior written petition to the Court and approval by Court. Such approval will be granted only in those cases where the Court determines exigent circumstances exist which require a waiver of the requirement of the fiduciary to file vouchers or cancelled checks. An affidavit in lieu of vouchers or cancelled checks may be accepted from a state or federally chartered financial institution serving as a fiduciary, provided the financial institution retains the vouchers or cancelled checks on file or by electronic recording device, and is able to, and will, make such available to interested parties upon Court order. The Court may make such available to interested parties upon Court order. The Court may require such financial institution to provide a certification from its Internal Audit Department verifying the accuracy of the accounting.

#### E. EXPENDITURE NOTATION

In all supervised estate and guardianship accountings, a notation shall be placed by each reported expenditure indicating the reason for or nature of the expenditure unless the name of the payee indicates the nature of the expenditure.

EXAMPLE: Bogata Drugs - toiletries for incapacitated person  
Dr. Tom Jones  
Sam Smith - repair roof of home at 162 Maple Street,  
Anytown, Indiana  
Tendercare Nursing Home

#### F. ITEMIZED STATEMENT OF ASSETS

All accountings to the Court shall contain an itemized statement of all assets on hand.

#### G. FILING OF RECEIPTS AND CHECKS

Receipts or cancelled checks for all final distributions shall be filed either in the final report or a supplemental report before discharge of the fiduciary will be granted by the Court.

#### H. FORMALITY

All accountings shall follow the prescribed statutory format. Informal, handwritten, or transactional accountings will not be accepted by the Court.

#### I. PAYMENT OF COSTS AND CLAIMS

All Court costs shall be paid and all claims satisfied and released before the hearing on the final account, and a Clerk's Certification (see attached form) shall be filed with the Court before the final account will be approved.

#### J. TAX CLOSING LETTERS

The Federal Estate Tax Closing letter and the Indiana Inheritance Tax Closing letter showing payment of all Federal estate and Indiana inheritance tax liability in the estate shall be attached to the final report at the time of filing.

**LR53-PR00-0809**  
**FEES OF ATTORNEYS AND FIDUCIARY**

**A. ORDER APPROVING FEES**

No fees for attorneys or fiduciaries shall be paid out of any supervised estate or guardianship without prior written order of the Court. Appropriate proposed orders should be submitted to the Court at the time a petition to approve fees is filed. All proposed orders for approval of fees for attorneys or fiduciaries shall provide that such fees are not to be paid until the interim account or the final account has been approved by the Court.

**B. GUARDIANSHIPS**

A guardian or a guardian's attorney may petition for fees at the time of filing of the initial inventory in the guardianship. No further petition for fees shall be filed until a biennial, annual or final accounting has been filed.

**C. UNSUPERVISED ADMINISTRATION**

No attorney or fiduciary fees will be determined or approved for payment in any unsupervised administration of a decedent's estate.

**D. CONTRACT FOR LEGAL SERVICES**

If a contract for legal services has been entered into prior to or subsequent to the opening of an estate or guardianship, the Court reserves the right to approve or disapprove the fee contract to insure consistency with the Court's fee guidelines in estate and guardianship proceedings.

**E. FEE GUIDELINES**

All petitions for fees for the estate attorney or the fiduciary shall conform to the fee guideline established and adopted by the Court. (See Appendices D, E, and F.) Any fee request based upon the performance of extraordinary services shall specifically set forth in detail the nature of the extraordinary services performed, as well as the amount of fee specifically requested for such extraordinary services, and the manner of calculation.

**F. REDUCTION OF FEES FOR DELAY**

Unjustified delays in performance of duties by the fiduciary or the attorney may result in a reduction of fees awarded by the Court.

**LR53-PR00-0810**  
**UNSUPERVISED ADMINISTRATION**

A. STATUTORY REQUIREMENTS

A petition for administration without court supervision may be granted if the requirements of Indiana Code 29-1-7.5-2(a)(4) are met, and there is compliance of all other requirements of Indiana Code 29-1-7.5-2(a).

B. INVENTORY

The personal representative is not required to file a copy of the inventory, a supplement, or an amendment to the inventory with the Court.

C. COSTS AND CLAIMS PAID

All Court costs shall be paid and all claims satisfied and released on or before the date of the filing of the closing affidavit, and a Clerk's certification thereof (see Appendix C) shall be filed with the Court at the time such closing affidavit is filed with the Court evidencing payment of court costs and all claims have been filed.

D. CLOSING AFFIDAVIT

Each closing affidavit shall be in compliance with Local Probate Rule 8(J).

E. SALE OF ASSETS

The sale of personal property or real estate in unsupervised estate administration may be accomplished without approval of the Court.

**LR53-PR00-0811**  
**GUARDIANSHIPS**

A. PRESENCE OF INCAPACITATED PERSON

In all guardianship proceedings seeking to declare an adult incapacitated for any reason, the incapacitated person shall be present at the hearing or there shall be sufficient evidence presented showing that the alleged incapacitated person is unable to appear.

B. APPOINTMENT OF GUARDIAN AD LITEM OR ATTORNEY

The Court may in its discretion determine that the alleged incapacitated person should have a guardian ad litem or attorney appointed to represent his or her interests, and the hearing for appointment of a guardian for the alleged incapacitated person may be continued by the Court for that purpose.

### C. PHYSICIAN'S REPORT

In all guardianship proceedings seeking to declare an adult incapacitated, a physician's report by the doctor treating the alleged incapacitated person, or such additional evidence as the Court may require, shall be presented to the Court at the time the petition is filed or on the date of the hearing. No determination will be made without a supporting medical report or testimony at hearing. (See Appendix B.)

### D. CURRENT REPORTS

Current reports filed by a guardian of the person shall state the present residence of the incapacitated person and a statement of the incapacitated person's current condition and general welfare. If the incapacitated person is an adult, a report of a treating physician shall be filed with the current report verifying that the incapacity of the person remains unchanged since the date the guardianship was established or the date of the last current report.

### E. BIENNIAL REPORTS AND BOND PREMIUM PAYMENT

The guardian of the incapacitated person shall file current reports biennially or at such other times as ordered by the Court. If a guardian's bond is required, the guardian of the incapacitated person shall submit to the Court proof of payment of current premiums due on said bond. Failure to comply with this section may result in removal of the guardian.

### F. PETITION FOR GUARDIANSHIP OF A MINOR

In every petition for the appointment of a guardian of the person of a minor child, the following information shall be contained in the petition:

1. The present address of the child.
2. The places where the child has resided during the past two years, and the names and present addresses of the persons with whom the child has lived during that period. If such information is not available, the petition should state the reason for such unavailability.
3. Whether, to petitioner's knowledge, any other litigation is pending in this state or in any other state concerning the custody of the child.
4. Whether, to petitioner's knowledge, any person not a party to

the guardianship proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child.

#### G. HEARINGS

Hearing shall be scheduled by the Court on any petition seeking guardianship over an adult alleged to be an incapacitated person. Hearings shall be held on any petition seeking a guardianship over a child unless the guardianship is being established for school purposes only. If the guardianship is being established for school purposes only, the Court may waive the necessity of hearing.

#### H. RULES OF THE VETERAN'S ADMINISTRATION

Nothing contained in these rules shall amend or supersede the Probate Rules and Regulations promulgated by the Veteran's Administration of the United States, and every guardian appointed by the Court or the attorney for such guardian shall comply with those Rules and Regulations, if applicable.

#### **LR53-PR00-0812**

#### **EMERGENCY DETENTION PROCEDURE**

1. In order to hospitalize a person on an emergency detention order, staff of the health care facility shall:
  - a. Complete the necessary commitment forms with the signatures of the petitioner and the physician.
  - b. During working hours call Circuit Judge, Division VII, to obtain verbal authorization. Fax a judicial endorsement form to the Judge for signature.
  - c. After working hours, call the duty judge to obtain verbal authorization. On the signature line of the judicial endorsement for write: *per verbal order, date and time.*
  - d. The next business day, fax a judicial endorsement form to the court reporter, Division VII, for judge's signature. The completed form shall be faxed back to the health care facility.
2. The court reporter, Division VII, shall file the original signed judicial endorsement form in the RJO and a copy of the form in the case file.

**APPENDIX A**

CERTIFICATION BY FINANCIAL INSTITUTION

TO: \_\_\_\_\_

FROM: \_\_\_\_\_  
(Guardian's Name)

RE: Guardianship of \_\_\_\_\_

In order to comply with the rule of the Monroe Circuit Probate Court, I am required to file a Certification of Account Balances. Please certify the balances and names on the accounts I have listed below.

DATED: \_\_\_\_\_  
\_\_\_\_\_ (Guardian's Signature)

For Bank Use Only:

I certify that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the last day of the period covered by this accounting, there was on deposit in this institution to the credit of the Guardian, the following balance:

Name on Account	Account Number	Balance	Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Name and Address of Institution:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Certifying Officer: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**APPENDIX B**

STATE OF INDIANA    )  
                                  )  
COUNTY OF MONROE )

IN THE MONROE CIRCUIT COURT  
  
CAUSE NO. \_\_\_\_\_

IN THE MATTER OF THE  
GUARDIANSHIP OF

\_\_\_\_\_

PHYSICIAN'S REPORT

\_\_\_\_\_, a physician licensed to practice medicine in all its branches in the State of Indiana, submits the following report on \_\_\_\_\_, alleged incapacitated person, based on an examination of said person on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

1. Describe the nature and type of the incapacitated person's disability:

\_\_\_\_\_

2. Describe the incapacitated person's mental and physical condition; and, when it is appropriate, describe educational condition, adaptive behavior and social skills:

\_\_\_\_\_

3. State whether, in your opinion, the incapacitated person is totally or only partially incapable of making personal and financial decisions; and, if the latter, the kinds of decisions which the incapacitated person can and cannot make. Include the reason or reasons for this opinion. \_\_\_\_\_

\_\_\_\_\_

4. What in your opinion is the most appropriate living arrangement for the incapacitated person; and, if applicable, describe the most appropriate treatment or rehabilitation plan. Include the reason or reasons for your opinion. \_\_\_\_\_

\_\_\_\_\_

5. Can the incapacitated person appear in court without injury to his/her health? \_\_\_\_\_. If the answer is no, explain the medical reasons for your answer.

\_\_\_\_\_

I affirm, under the penalties for perjury, that the foregoing representations are true.

Signature: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

---

This report must be signed by a physician. If the description of the incapacitated person's mental, physical and education condition, adaptive behavior or social skills is based on evaluations by the professionals, all professionals preparing evaluations must sign the report. Evaluations on which the report is based must have been performed within three (3) months of the date of the filing of the petition.

Names and signatures of other persons who performed evaluations upon which this report is based:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

**APPENDIX C**

STATE OF INDIANA     )  
                                  )  
COUNTY OF MONROE    )     IN THE MONROE CIRCUIT COURT  
                                  )            CAUSE NO. \_\_\_\_\_

IN THE MATTER OF  
THE ESTATE OF

CLERK'S CERTIFICATE AS TO COSTS/CLAIMS

\_\_\_\_\_ This is to certify that all costs have been paid in this proceeding through

\_\_\_\_\_  
(Date)

In addition, all claims filed in this proceeding have been satisfied and shown  
released. \_\_\_\_\_

Yes/No

If no, list the claims that remain pending: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Clerk, \_\_\_\_\_ County

## APPENDIX D

### PROBATE FEE SCHEDULE

The Monroe Circuit Court has prepared the following guidelines for estate fees in an effort to achieve the following objectives:

- (1) To establish uniformity in determining a fair and reasonable fee for supervised estates in Monroe County, Indiana.
- (2) To provide a guideline to assist all judges of the Circuit Court of Monroe County in determining fair and reasonable fees.
- (3) To furnish a guideline to attorneys so that attorneys can forecast to their clients the fees that may be incurred at the onset of administration of an estate.
- (4) To assist the legal profession in arriving at a fair and reasonable fee for estate work.

This schedule is not a minimum fee schedule but a maximum fee schedule. The Court recognizes that every attorney and personal representative has a right and an obligation to request a fee which is fair and reasonable for the estate work performed, taking into account that provision of the Rules of Professional Conduct which is applicable to all attorneys admitted to the practice of law in the State of Indiana. However, any request for fees should not exceed the guidelines set forth in the following schedule. Fees should always bear a reasonable relationship to the services rendered. In an uncomplicated estate, a reasonable fee may be less than the maximum fees listed in the following schedule.

The existence of these guidelines does not mean that all fees allowed by the Court will adhere to the guidelines. Other factors or criteria should be considered by the attorney and his or her client in determining the reasonableness of a fee. These same factors will be considered by the Court in making a final determination of an appropriate fee. Criteria to be considered include the following:

- (1) The time required; the novelty, complexity or difficulty of the legal questions; and the skill required to perform necessary services properly. The Court may consider how much of the attorney's time was devoted to legal matters and how much time was devoted to ministerial functions during supervision and representation of the personal representative.
- (2) The identity of the personal representative and character of the probate or non-probate assets which are administered or transferred while the estate is being administered.

(3) The sufficiency of the probate assets available to pay for legal services or personal representative fees, and whether the duties of the attorney or personal representative are broadened by the existence of non-probate assets which must be considered and included for federal and state estate tax purposes.

(4) Timeliness in performing necessary estate services under statutory requirements, these rules, and Rules of Professional Conduct.

## APPENDIX E

### ATTORNEY FEE SCHEDULE

#### I. ADMINISTRATION OF THE GROSS ESTATE

A. GROSS ESTATE SERVICES include, but will not necessarily be limited to, opening the estate and qualifying the personal representative; preparing and filing the inventory; collecting assets; paying claims; preparing and filing non-extraordinary petitions (including but not limited to petitions for fee approval, petitions to sell real or personal property, petitions to deliver personal property to beneficiaries, petitions to abandon real or personal property, petitions for appointment of appraisers); preparing and filing of the Inheritance Tax Schedule and obtaining Court approval; paying inheritance taxes; preparing and filing the final report; obtaining order approving the final report; distributing assets to beneficiaries; obtaining discharge of the personal representative; preparing and filing the supplemental report after distribution; and preparing and serving all necessary notices on interested parties, including readily ascertainable creditors of the estate, during the estate proceeding.

B. GROSS ESTATE VALUE means the fair market value of all assets of any kind in the name of the decedent and a part of the decedent's probate estate at the time of the decedent's death.

C. MAXIMUM FEES FOR ADMINISTERING THE GROSS ESTATE may be approved by the Court as follows:

Up to \$100,000.00 of the Gross Estate Value—SIX PERCENT of that value.

Next \$200,000.00 of the Gross Estate Value—FOUR PERCENT.

Next \$700,000.00 of the Gross Estate Value—THREE PERCENT.

Excess of the Gross Estate Value over \$1,000,000.00—ONE PERCENT.

#### II. PAYMENT FOR EXTRAORDINARY SERVICES NOT A PART OF THE GROSS ESTATE SERVICES

A. In addition to the fees allowed for administration of the Gross Estate as defined in paragraph I, the Court may award additional fees for extraordinary services provided by the attorney in the administration of the estate. EXTRAORDINARY SERVICES include, but are not necessarily limited to, preparation and filing of a Federal Estate Tax Return, and payment of federal estate tax; defending a will; construing a will; defending contested claims; adjusting tax matters; petitions for instructions; determination of heirship; or the generation of additional income for the estate during administration.

B. Attorney fees generated in providing extraordinary service, if approved by the Court, will be compensated at an hourly rate. The hourly rate requested by the attorney should conform to the prevailing hourly rate for legal services provided in Monroe County, Indiana, at the time the extraordinary services were provided. The Court reserves the right to review and adjust the hourly rate request after considering the expertise of the attorney making the request and the nature of the extraordinary services performed.

### III. NON-PROBATE ASSETS

Non-probate assets are those assets for which the attorney representing the personal representative may assume responsibility in assisting the transferee of those assets in distribution. Non-Probate Assets include, but are not necessarily limited to: assets jointly owned which are transferred outside the estate administration; life insurance proceeds; annuities; retirement benefits payable to a named beneficiary other than the estate; and assets held in trust which are reportable on the Federal transfer tax return or would be reportable if such return were required. The Court recommends that fee charges for assisting beneficiaries or transferees in the transfer of Non-Probate Assets conform to the hourly rate provision established by the Court in paragraph II.B. Unless the will admitted to probate provides otherwise, fees generated by the attorney in administration of Non-Probate Assets should be charged to the beneficiary or transferee, and not to the estate.

### IV. PETITIONS AND HEARINGS ON FEE REQUESTS

All requests for approval of estate or guardianship fees should be submitted to the Court in writing, and an appropriate proposed order should be submitted to the Court with the petition.

If the fee requested for administration of the Gross Estate conforms to the guideline in paragraph I.C., the Court may waive a hearing on the petition.

If the petition for approval of fees includes a request for payment for extraordinary services, the Court will schedule a hearing on the petition, UNLESS all interested parties execute a waiver and consent stating that they have been advised that the fee request exceeds the Court's guidelines for administering the Gross Estate and that the excess fee is for extraordinary services. A proposed waiver and consent form is attached to this fee schedule, and the waiver and consent should be in the same or similar form as Appendix G. If a waiver and consent form is filed with the petition for extraordinary fees, the Court, at its discretion, may waive the requirement for hearing on the petition.

Fee petitions requesting fee payment for extraordinary services shall set forth the extraordinary services provided by the attorney with specificity.

### V. WRONGFUL DEATH CLAIM ADMINISTRATION

If a wrongful death claim is settled prior to trial, the fee should not exceed 33 1/3 percent of the settlement amount.

If a wrongful death action proceeds to trial by Court or by jury, the attorney fee should not exceed 40 percent of the court or jury award.

If a wrongful death action is appealed after trial, the attorney fee should not exceed 50 percent of the court or jury award.

The foregoing fee schedule for wrongful death actions does not preclude the attorney from recovering suit costs the attorney has incurred in preparation for trial or in pre-trial discovery proceedings.

#### VI. PROBATE OF WILL ONLY OR SPREADING WILL OF RECORD

The fee charged for probating a will without administration or spreading a will of record should not exceed a reasonable amount based on the current hourly rate unless the attorney claims that he or she is entitled to payment for extraordinary services rendered. No petition for fee approval will be required and no hearing necessary if the attorney fee charged does not exceed a reasonable amount. If payment for extraordinary services is requested, a written petition should be filed with the Court specifying with particularity the nature of the extraordinary services performed. The Court, at its discretion, may set a hearing on a claim for payment for extraordinary services in such case.

#### VII. GUARDIANSHIP FEES

Fees generated in guardianship proceedings should be charged at customary and prevailing hourly rates for opening the guardianship; selling real or personal property; assisting the Guardian in filing the inventory and necessary accounting; and providing professional advice.

Petitions for approval of attorney of Guardian's fees should be filed in writing in all cases, and an appropriate proposed order submitted with the petition. The Court, at its discretion, may require a hearing on the fee request of the attorney or the Guardian.

#### VIII. FEES FOR COMPROMISING, SETTLEMENT, OR TRIAL OF MINOR'S CLAIM

Fee requests for compromising, settlement, or trial of minor's claims should not exceed the fee limitations imposed by the Court for representing client in wrongful death actions; however, reimbursement for suit costs and pre-trial discovery may be requested in addition to those fees.

## APPENDIX F

### PERSONAL REPRESENTATIVE FEES

#### I. PROFESSIONAL PERSONAL REPRESENTATIVES

Fees awarded to Professional Personal Representatives who are qualified to act as such should conform to the fee limitations established for attorneys representing the estate or guardianship; however, such fee may exceed the fee which is approved and awarded to the attorney if the fee awarded to the attorney is less than that proposed by the fee guidelines, and the additional fee requested by the Professional Personal Representative is justified.

If the fee requested by a Professional Personal Representative is within the fee guidelines, the Court, in its discretion may not require a hearing.

All fee requests by a Professional Personal Representative should be by written petition to the Court, with a proposed order for the court.

#### II. NON-PROFESSIONAL PERSONAL REPRESENTATIVE

Fees approved and awarded to a Non-Professional Personal Representative shall not exceed one-half of the fee approved and awarded to the attorney representing the Non-Professional Representative.

#### III. ATTORNEY SERVING AS PERSONAL REPRESENTATIVE

If an attorney for the estate serves as the personal representative of the estate, an additional fee may be approved and awarded in an amount not to exceed one-half of the attorney fee awarded and approved provided that the additional services provided by the attorney acting as personal representative are services normally provided by a personal representative; and that the assets of the estate warrant the allowance of the additional fee.

#### IV. PETITION FOR PERSONAL REPRESENTATIVE FEES

All requests for payment of personal representative fees should be by written petition to the Court with an appropriate proposed order for the Court's consideration. If the request for personal representative's fees falls within these guidelines, the Court, in its discretion, may not require a hearing on the petition for fees.

**APPENDIX G**

STATE OF INDIANA    )  
                                  )  
COUNTY OF MONROE )

IN THE MONROE CIRCUIT COURT  
  
CAUSE NO. \_\_\_\_\_

IN THE MATTER OF THE ESTATE OF  
  
\_\_\_\_\_, Deceased.

**WAIVER OF JUDICIAL REVIEW OF LEGAL FEES**

\_\_\_\_\_The undersigned, an interested party in the estate of \_\_\_\_\_, deceased, does now waive any judicial review of the attorney fees assessed in the administration of the above-identified estate, and in support thereof would allege:

1. Counsel for the personal representative has requested attorney fees in the amount of \_\_\_\_\_ for services rendered during the administration of the estate.
  
2. The undersigned acknowledges the Court supervising the administration of the estate would require a hearing before approving attorney fees in the circumstances pertaining in this estate.
  
3. Counsel for the personal representative has rendered extraordinary and unusual services on behalf of the personal representative including \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
  
4. The undersigned believes the requested fee to be just and reasonable compensation for services rendered by counsel.

WHEREFORE, the undersigned now consents to the allowance of the requested fee, waives any right to judicial review of the requested fee, and requests the Court to approve the requested attorney fee.

\_\_\_\_\_  
Heir/Devisee/Creditor

\_\_\_\_\_  
Date