



Office of Court Services

Mary Kay Hudson, Executive Director • 317-232-1313 • courts.in.gov

MEMORANDUM

To: Circuit and Superior Judges
Circuit Clerks
From: Jeffrey S. Wiese, Deputy Director
Re: Local Court Rules
Date: January 25, 2023

Trial Rule 81 (F) requires the circuit clerk to post local court rules on the clerk's website and to supply a copy of the local rules to IOCS for posting on the Supreme Court's website. The Supreme Court posts your local rules at: <https://www.in.gov/courts/publications/local-rules/>

Please ensure the local rules posted on your website are a complete and accurate copy of all local court rules and that our office also has a copy. Litigants rely on our offices to supply this necessary information.

If you have questions, please contact:

Jeff Wiese, Deputy Director (jeffrey.wiese@courts.in.gov)

Michelle Goodman, Legal Support and Statistics Division Supervisor
(michelle.goodman@courts.in.gov)

Diane Mains, Legal Support and Statistics Staff Attorney (diane.mains@courts.in.gov)

STATE OF INDIANA – COUNTY OF CLAY
IN THE CLAY CIRCUIT AND SUPERIOR COURTS

**Notice of Proposed New Rule or Amendment(s) to Local Court Rule(s) with Exception to
the Schedule of the Indiana Office of Judicial Administration (IOJA)**

October 5, 2022

In accordance with Trial Rule 81 of the Indiana Court Rules, the Clay County Circuit and Superior Courts, and the Courts, pursuant to Trail Rule 81(D), having found that an emergency exists for adoption of a local rule regarding late payment fees, hereby gives notice to the bar and the public that the Courts propose to:

- A. Amend the Local Rule(s) on Caseloads for the Courts of record of Clay County, effective January 1, 2023. All new text is shown by underlining and deleted text is shown by strikethrough. Supreme Court approval is required for Local Rules concerning Caseloads and may not take effect until approved by the Supreme Court.
- B. Issue a new Local Rule on Jury Selection and Summons for the Courts of Record of Clay County, effective January 1, 2023. All new text is shown by underlining and deleted text is shown by strikethrough.

The time period for the bar and the public to comment shall begin on October 19, 2022 and shall close on December 1, 2022. The proposed amendments to the rule will be adopted, modified or rejected before December 1, 2022, and, if required, the final version of the rule will be submitted to the Indiana Office of Judicial Administration for review and approval no later than December 2, 2022.

Comments by the bar and the public should be made in writing and mailed, or emailed to:

Hon. Robert A. Pell, Judge of the Clay Superior Court, Attn: Public Comment on Local Rules, Clay Superior Court 609 E. National Avenue, Brazil, IN 47834; or email pellr@mail.claycountyin.gov

Hon. Joseph D. Trout, Judge of the Clay Circuit Court, Attn: Public Comment on Local Rules, Clay Circuit Court 609 E. National Avenue, Brazil, IN 47834; or email jtrout@mail.claycountyin.gov

A paper copy of the proposed amended local rule(s) will be made available for viewing in the office of the Clerk of Clay County, Clay County Courthouse, 609 E. National Avenue, Brazil, IN 47834 during normal business hours. Persons with Internet access may view the proposed amended local rule for Caseload Allocation Plan at the following websites:

<http://www.courts.IN.gov/rules/local>

/s/ Joseph D. Trout
Joseph D. Trout, Judge
Clay Circuit Court

/s/ Robert A. Pell
Robert A. Pell, Judge
Clay Superior Court

CLAY COUNTY CIRCUIT AND SUPERIOR COURTS LOCAL COURT RULES

TABLE OF CONTENTS

LR11-FL-00-1 - INDIANA PARENTING TIME GUIDELINES

LR11-FL-00-2 - DISSOLUTION PARENTING CLASSES

LR11-CR2.2-2 - CRIMINAL CASE ASSIGNMENT/RE-ASSIGNMENTS

CR 2.2, CR 12 and CR 13

LR11-CR-00-1 - MINIMUM CRIMINAL BAIL SCHEDULE

LR11-JR2-1 - JURY SELECTION AND JURY ADMINISTRATOR

LR11-TR5-1 - SERVICE OF PROCESS

LR11-TR5-2 - PLEADING FILINGS

LR11-AR15-1 - COURT REPORTER SERVICES

LR11-AR16-1 - LATE PAYMENT FEES

LR11-PR - PROBATE RULES

LR11-AR-1 - REPEAL OF LOCAL RULE REGARDING SMALL CLAIMS

LR11-AR-01-02 CASELOAD ALLOCATION

LR11-TR79-01 SELECTION OF A SPECIAL JUDGE TR 79(H)

LR11-FL-00-1**INDIANA PARENTING TIME GUIDELINES**

The Indiana Supreme Court has adopted the Indiana Parenting Time Guidelines as of March 1, 2013 and those guidelines shall be utilized by the Clay Circuit Court and Clay Superior Court in actions for Dissolution of Marriage, in actions for Child Custody, in actions for Paternity, and any post-judgment actions involving any of the three.

(Amended effective July 1, 2014)

LR11-FL-00-2**DISSOLUTION PARENTING CLASSES**

The Clay Circuit and Superior Courts shall not conduct final hearings nor approve waivers of a final hearing in dissolution of marriages in which there are unemancipated children until both parties have filed an affirmation that each of them and all unemancipated children age six or older have successfully attended the Effective Parenting for Divorcing Couples Program conducted by Kirkman and Associates or its pre-court approved equivalent.

The Clay Circuit and Superior Courts shall not conduct any post-dissolution hearings on modification of custody or visitation and affidavits charging contempt of court based upon visitation until the requirements in the first paragraph of this Rule have been satisfied following the filing of the petition or affidavit.

The Clay Circuit Court shall not conduct any paternity hearings regarding custody or visitation until the requirements in the first paragraph of this Rule have been satisfied following the filing of a petition or affidavit.

The Courts reserve the right to waive the requirements of these Rules if clear and convincing evidence demonstrates that the best interests of the child or children would be better served. Each party shall be responsible for the individual costs of the program.

These rules shall apply to all applicable petitions for dissolution of marriage, petitions for modification, affidavits charging contempt and all paternity actions filed on May 15, 1996 and thereafter.

LR11-CR2.2-2 CRIMINAL CASE ASSIGNMENT/CR 2.2, CR 12, AND CR 13

(A) All criminal cases shall be assigned and allocated in the Clay Circuit and Superior courts in accordance with LR11-AR01-2.

(B) A judge of the Circuit or Superior courts, by appropriate order entered in the record of judgments and orders may transfer and reassign a case to any other court of record in the county with jurisdiction to hear the charged offense subject to acceptance by the receiving court.

(C) When the State of Indiana dismisses a case and chooses to re-file that case, the case shall be assigned to the court from which the dismissal was taken.

(D) In the event additional charges are filed against a criminal defendant subsequent to the assignment of the case, all such additional charges shall be assigned to the court of initial assignment.

(E) Once a criminal case is assigned, if it must be reassigned due to a conflict arising from the sitting judge's previous service as the Prosecuting Attorney in Clay County, the Clerk shall reassign the case to Senior Judge James B. Akers. If in these cases he is unable to serve, and in all other cases, it may be re-assigned under Criminal Rule 13 equally and randomly as follows:

- a. Any judge or magistrate of the Vigo circuit and superior courts;
- b. Any judge of the Putnam circuit and superior courts;
- c. The judge of the Owen Circuit Court;
- d. The judge of the Parke Circuit Court;
- e. Any judge of the Greene superior and circuit courts;
- f. Any judge or magistrate of the Sullivan circuit and superior courts

(F) In the event the judge presiding in a felony or misdemeanor case concludes that special circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a Special Judge, the presiding judge may request the Indiana Supreme Court make such appointment.

Standard minimum bail set in criminal cases shall be as follows:

FELONY CLASSIFICATION

CASH AMOUNT

For murder or attempted murder, no bail is to be set, except by the Court at the preliminary hearing.

A or Level 1 and 2 felony offenses,	\$50,000
B or Level 3 and 4 felony offenses,	\$25,000
C or Level 5 felony offense,	\$10,000
D or Level 6 felony offense,	\$ 7,000

MISDEMEANOR CLASSIFICATION

CASH AMOUNT

A or C OVWI and BAC Offenses	\$ 7,000
All other A Misdemeanor Offenses	\$ 5,000
B	\$ 3,000
C	\$ 3,000

SEX OFFENSES: There shall be no bond until a hearing within 48 hours of arrest to set conditions. This includes offenses of child molesting, vicarious sexual gratification, sexual misconduct with a minor, and rape.

The Court may fix a higher or lower bail upon the showing of appropriate circumstances. All bail fixed pursuant to this schedule shall be reviewed upon motion of any party. The Court, after a hearing, may consider a security bond or property bond if circumstances merit.

10% CASH BOND

Any person charged with a class D Felony or Level 6 felony offense, or any misdemeanor shall be entitled to release upon posting 10% cash bond in the defendant's name with the Clerk or Sheriff, provided the following factors:

- (2) Have close ties to the community;
- (3) Have not been previously convicted of a felony or misdemeanor-; - within the past five (5) years; and
- (4) Not presently on bond, parole or probation for any other offenses.

NO CONTACT PROVISIONS

Pursuant to IC. 35-33-8-3.2(a)(4), a person who is arrested for any of the following offenses shall be held for 12 hours before any release from custody, unless released sooner pursuant to a court order. The release of the person on bail shall be conditioned upon the person having no direct or indirect contact with the alleged victim(s) of the offense(s). During regular business hours of the court, the Prosecutor, the alleged victim or the prosecutor's victim's advocate may petition the Court for a non contact order or ex parte protective order. If a no contact order is needed outside of the court's regular business hours, the Prosecutor or the primary investigating law enforcement officer may contact a Judge an request the release of the arrested person on bond or an oral authorization for a no-contact order which shall be reduced to a written non- contact order and submitted to the Judge on the next business day of the Court. The person to be released shall be notified of the no-contact conditions of bail with receipt acknowledged by that person.

12-Hour Hold/No-Contact Offenses

IC. 35-42-2-1	Battery	IC. 35-42-2-1.3	Domestic Battery
IC. 35-42-2-1.5	Aggravated Battery	IC. 35-42-2-2	Crim. Recklessness
IC. 35-42-2-3	Provocation	IC. 35-42-2-6	Battery: Body Waste
IC. 35-42-3-2	Kidnapping	IC. 35-42-3-3	Confinement
IC. 35-42-3-4	Custody Interference	IC. 35-42-4-1	Rape
IC. 35-42-4-2	Criminal Deviate conduct	IC. 35-42-4-5	Vicarious sexual gratification
IC. 35-42-4-4	Child exploitation	IC. 35-42-4-3	Child molesting
IC. 35-42-4-6	Child solicitation	IC. 35-42-4-7	Child seduction
IC. 35-42-4-8	Sexual battery	IC. 35-42-4-9	Sexual misconduct
IC. 35-43-2-1.5	Residential entry	IC. 35-43-2-2	Criminal trespass
IC. 35-45-2-1	Intimidation	IC. 35-45-2-2	Harassment
IC. 35-45-10-5	Stalking	IC. 35-45-4-5	Voyeurism
)	Invasion of privacy	IC. 35-46-1-3	Incest

BOND EXCEPTIONS ON CRIMES OF DOMESTIC VIOLENCE AND SEX OFFENSES

This Bond Schedule shall not be used for, nor be applicable for the following offenses:

- (1) Sex offenses where bond and no contact conditions are to be determined at a hearing; and
- (2) Crimes of "domestic violence" with the element of physical force or the threatened use of a deadly weapon where a 12-hour hold shall be applied prior to posting bail.

SHERIFF'S DISCRETION TO REDUCE BAIL

The Sheriff of Clay County has the discretion, under circumstances he deems appropriate, to reduce the amount of bond or release defendant on his own recognizance; but under no circumstances shall a defendant charged with an alcohol-related offense be released before his blood alcohol level is less than .08% pursuant to LC. 35-33-1-6.

(Amended effective July, 2014)

LR11-JR2-1 JURY SELECTION AND JURY ADMINISTRATOR

Clay Circuit Court and Clay Superior Court adopt the two-tier notice and summons procedure in Indiana's Jury Rule 4(b), and pursuant to Indiana Jury Rule 2 appoint the Clerk of the Clay Circuit and Superior Court as Clay County Jury Administrator.

LR11-TR5-1 SERVICE OF PROCESS IN THE CLAY CIRCUIT AND SUPERIOR COURTS

The Clerk of the Clay Circuit and Superior Courts shall issue initial summons in pro se small claims, pro se dissolutions of marriage, and pro se proceedings supplemental to execution exclusively by certified mail, return receipt requested. Further the Clerk shall issue alias summons in such cases to an address different from the initial exclusively by certified mail, return receipt requested. The Clerk shall also issue any alias summons to the initial address to be served by the Clay County Sheriff's Department. Either Judge may direct the Clerk to vary from this order in any particular case.

LR11-TR5-2**PLEADING FILINGS IN THE CLAY CIRCUIT AND SUPERIOR COURTS**

The Clerk of the Clay Circuit and Superior Courts shall receive for filing all pleadings on all court matters, enter same onto the Chronological Case Summary, and distribute to the respective Courts all filed pleadings and Orders in a timely fashion, and scan all pleadings. Either Judge may direct the Clerk to vary from this procedure in any particular case.

LR 11-AR15-1 COURT REPORTER SERVICES

Definitions The following definitions shall apply under this local rule:

- (A) 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.
- (G) Equipment means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and other device used for recording and storing, and transcribing electronic data.
- (B) 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.
- (C) 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.
- (D) Recording means the electronic, mechanical, stenographic or other recording made as required by Indiana rule of Trial Procedure 74.
- (E) Regular hours worked means those hours which the court is regularly scheduled to work during any given workweek. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each workweek.
- (F) 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.
- (G) Overtime hours worked means those hours worked in excess of forty (40) hours per workweek.
- (H) Work week means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, and Friday through Thursday.
- (I) Court means the particular court for which the court reporter performs services. Court may also mean all of the courts in Clay County.

(J) County indigent transcript means a transcript that is paid for from county funds and is of the use on behalf of a litigant who has been declared indigent by a court.

(K) State indigent transcript means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(L) Private transcript means a transcript, including but not limited to a deposition transcript that is paid for by a private party.

(M) Expedited transcript means a transcript which is requested to be prepared within three (3) working days or less.

(B) 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 court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters that 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 county or state indigent transcript shall be four dollars and fifty cents (\$4.50); the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.
- (3) The maximum per page a court reporter may charge for the preparation of a private transcript shall be \$4.50 per page for a private regular transcript. If a court reporter is requested to prepare an expedited transcript, the maximum page fee shall be \$7.00 when the transcript must be prepared within twenty-four (24) hours or less; \$5.50 when the transcript must be prepared within three (3) working days. A minimum transcript fee shall be \$35.00.
- (4) In light of the various additional requirements under the new appeal process, the Court shall provide binders for said transcripts so prepared.
- (5) In the event a court reporter prepares a transcript using county owned equipment, the court reporter shall provide the paper at the court reporter's own expense and provide copies of the transcript using an outside copying service at the court reporter's own expense.
- (6) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent, or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

(C) Private Practice

(1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, 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, workspace 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, workspace and supplies.

(2) If a court reporter elects to engage in private practice through 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.

(Amended effective January 1, 2022)

LR 11-AR16-1 LATE PAYMENT FEE FOR COURT COSTS, FINES AND CIVIL PENALTIES

Pursuant to Indiana Code 33-37-5-22, the Courts of Clay County adopt a late payment fee in the sum of twenty-five (\$25) for the Defendants who have not tendered timely payment of costs, fines or civil penalties.

DEFINITIONS:

Definition of Defendant. For purposes of this local rule, an individual who has committed a crime, violated a statute defining an infraction, violated an ordinance of a municipal corporation or committed a delinquent act, is defined as a "defendant."

Definition of Costs. For the purposes of this local rule, costs include court costs and fees assessed by a Court.

ASSESSMENT OF LATE PAYMENT FEE.

A defendant who is required to pay court costs (including fees), a fine, or a civil penalty and who has not been determined by the Court imposing the costs, fine, or civil penalty to be indigent shall pay, in addition to costs, fine or civil penalty, a late payment fee in the sum of \$25.00 to the Clerk of the Court if the defendant fails to pay the costs, fine or civil penalty in full before the later of the following: (a) the end of the business day on which the Court enters the conviction of Judgement; of (b) the end of the period specified in a payment schedule set for the payment of the court costs, fines and civil penalties adopted for the operation of the Courts of Clay County.

CLERK TO ASSESS AND COLLECT LATE PAYMENT FEE.

When a Defendant meets the criteria described, the Clerk shall assess and collect a late payment fee in the sum of \$25.00, unless the late payment fee is suspended by Court Order. The Clerk may take all appropriate steps to collect late payment fees, including without limitation the retention of legal counsel to effectuate collection proceedings.

COURT MAY SUSPEND LATE PAYMENT FEE.

The Court that imposed the costs, fine or civil penalty may suspend the late payment fee required by this Rule if the Court finds that the Defendant has demonstrated good cause for failure to make a timely payment of the previously assessed costs, the assessment and collection of the Late Payment Fee.

INTERLOCAL AGREEMENTS

Pursuant to IC 33-36-2-5, a County may enter into an interlocal agreement under IC 36-1-7 and pursuant to IC 33-36-3-7(b)(c). A County that enters into an interlocal agreement with a City or Town, the sums collected by the violations clerk shall be accounted for and paid as provided in the interlocal agreement.

The Clay County Clerk is authorized to collect all fees and late payments associated with such violations enforced by the City of Brazil, Indiana and all towns within Clay County, Indiana.

Amended effective January 1, 2023)

LR11-PR PROBATE RULES

LR11-PR-1 NOTICE

- 1.1 Whenever notice by publication and/or written notice by U.S. Mail is required to be given, the attorney shall prepare such notice and shall ensure that such notice is properly published and/or served. In all aspects, the notice shall comply with all statutory requirements. It shall be the attorney's responsibility to ascertain and provide adequate proof thereof regarding whether notice was properly served prior to bringing a matter to the Court.
- 1.2 Copies of Petitions shall be sent with all notices where the hearing involved arises from the matters contained in the Petition.

LR11-PR- 2**FILING OF PLEADINGS**

- 2.1 When pleadings are filed by mail or left with the Court for filing, a self-addressed, stamped envelope shall be included for return of documents to the attorney, unless the attorney is local and has a designated receptacle for such filing in the Circuit Court for use by the Clerk of the Court for this purpose.
- 2.2 All attorneys shall submit a sufficient number of Orders for all proceedings, except when expressly directed otherwise by the Court.
- 2.3 All initial pleadings filed in an Estate shall contain the attorney's name, address, telephone, and Attorney's Registration Number.

LR11-PR-3**BOND**

3.1 In Estates and Guardianships, the fiduciary, prior to the issuance of Letters, shall file a Corporate Surety Bond, in an amount set by the Court, considering the following factors:

- A. That the Testator, under the terms of the Will expresses an intention that Bond be waived.
- B. That the Fiduciary is an heir or legatee of the Estate, or the sole heir or legatee.
- C. Where all heirs or legatees have filed a written request with the Court that the Fiduciary serve without bond.
Whether the Estate is supervised or unsupervised.
- D. No Bond shall be required in any supervised Estate or Guardianship in which a Corporate Banking Fiduciary qualified by law as such, is either the Fiduciary or one of several Co-Fiduciaries.

3.2 In lieu of a Bond as required by rule 3.1, 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 THE CIRCUIT COURT
OF CLAY COUNTY, INDIANA.**

All Petitions to open an Estate or Guardianship shall set forth the probable value of the personal property, plus the estimated annual rents and profits to be derived from the property in an Estate or Guardianship, if such information is readily available to the Petitioner, Personal Representative or the attorney for the Estate.

LR11-PR-4 INVENTORY

An Inventory shall be filed by the Fiduciary in all Estates and Guardianships as follows: Estates (supervised and unsupervised), within sixty (60) days; Guardianships within ninety (90) days of permanent Guardians and within thirty (30) days for temporary Guardians. All times relate to the date of appointment of the Fiduciary.

LR11-PR-5 REAL ESTATE

- 5.1 In all Supervised Estates and Guardianships in which real estate is to be sold, the personal representative shall have filed an Inventory and Appraisal listing the fair market value of the real estate to be sold.
- 5.2 All Deeds submitted to the Court for approval in either Estate or Guardianship proceedings shall be signed by the Fiduciary and the signature notarized prior to its submission. All such Deeds shall be submitted with the Report of Sale of Real Estate.

In all Unsupervised Estates in which real estate is distributed to heirs/devisees, the Deed shall be recorded with the County Recorder by the personal representative prior to delivery to the Grantee(s), and at the Estate's expense.

LR11-PR-6**ACCOUNTINGS**

6.1 All Accountings to the Court shall contain an itemized statement of assets on hand.

6.2 All Accountings to the Court shall follow the prescribed statutory format. Informal, handwritten statements and/or Accountings will not be accepted. Transactional Accountings are acceptable, provided the Fiduciary is a State or Federally chartered Financial Institution, and that such Institution can provide details regarding said Accountings, if required by the Court.

6.3 All Court Costs shall be paid on or before any hearing date on any Accounting.

6.4 In lieu of filing vouchers with the Final Account, a statement shall be made in the Final Account, or by separate Affidavit, that the vouchers are in the possession of the personal representative, and are available for examination by interested parties.

LR11-PR-7**FEES OF ATTORNEYS AND FIDUCIARIES**

7.1 The Court, in approving attorney fees for estates and guardianships, will determine whether the attorney fees are just a reasonable in accordance with Indiana statutory and case law. Among the factors the Court may consider are:

- A. The time and labor required; the novelty, complexity, or difficulty of the questions involved; the skill required to perform the services properly, and shall include a determination as to how much of the Attorney's time was devoted to legal matters and how much of it was devoted to ministerial functions.
- B. The nature and extent of the responsibilities assumed by the Attorney, and the results obtained, shall include the considerations of the identity of the personal representative and the character of the Probate and non-Probate transferred assets.
- C. The sufficiency of assets properly available to pay for legal services, and shall consider whether the Attorney's duties are expanded by the existence of non-Probate assets because of their inclusion for Tax purposes, both Federal and State.

D. The timeliness with which the necessary services are performed consistent with statutory requirements, the Court's Rules of Procedure and the Rules of Professional Conduct applicable thereto.

In considering all of these factors, all Attorneys are urged to discuss their fee and that of the Personal Representative at the time they are retained, in all Probate matters.

7.2 The Court reserves the right to approve or disapprove any fee contracts.

LR11-PR-8 UNSUPERVISED ESTATES

8.1 Whenever deemed practical, Unsupervised Administration shall be used.

LR11-PR-9 GUARDIANSHIPS

9.1 If guardianship is predicated upon incapacity, other than minority, or if the alleged incapacitated person will not be produced in Court, a Guardian Ad Litem shall be appointed, unless (1) said person will be represented by counsel, or (2) represented by another person acting under a properly executed Power of Attorney, which Power was given before the onset of the incapacity.

If the incapacity is predicated solely upon minority, and any of the provisions of IC. 29-3-2-3(b) will not be met, a Guardian Ad Litem shall be appointed.

LR11-PR-10 APPLICABILITY

If at any time a statutory provision or Rule of the Indiana Supreme Court is adopted, which conflicts with these Local Rules, the Local Rules shall be deemed to have been superseded as to any such portion in conflict with said other statutory provisions or Supreme Court Rules.

LR11-AR-1 REPEAL OF LOCAL RULE INVOLVING SMALL CLAIMS INVOLVING FIRST FINANCIAL CORPORATION

The Clay County Local Rule Regarding Small Claims Involving First Financial Corporation and Its Subsidiaries effective July 19, 1995 under Cause No.11C01-9507-MI-219 and 11D01-9507-MI-197 is hereby repealed.

LR11-AR01-2 CASELOAD ALLOCATION

(A) **Criminal cases** shall be filed pursuant to LR11-CR2.2-2 and as follows:

- (1) **Murder and A, B, and C, and Level 1,2,3, and Level 4 felony cases:** The Clerk shall equally assign and allocate between the Clay Circuit Court and the Clay Superior Court criminal cases identified as murder (MR); and all felonies filed as A(FA), B(FB) and C(FC), as well as designations for Level 1,2,3 and 4 Felonies; except that no Felony cases involving Operating under the influence of alcohol and/or drugs and driving above the legal limit shall be filed in the Clay Circuit Court.
- (2) **D felony cases and Level 5 and 6 Felony offenses:** The Clerk shall equally assign and allocate between the Clay Circuit Court and the Clay Superior Court all criminal cases identified as D Felonies (FD) as well as Level 5 and Level 6 felony offenses; except that no Felony cases involving Operating under the influence of alcohol and/or drugs and driving above the legal limit shall be filed in the Clay Circuit Court.
- (3) **Post-Conviction Relief Cases:** The Clerk shall assign and allocate any post-conviction relief cases to the original court of criminal jurisdiction for which the post-conviction relief is based; however, the Clerk shall assign a civil cause number to the Post-Conviction Relief cases.
- (4) **A, B and C Misdemeanor cases:** All misdemeanor cases shall be assigned to the Clay Superior Court if the highest-level charge filed is a misdemeanor.
- (5) **Miscellaneous Criminal Cases:** The Clerk shall equally assign and allocate between the Clay Circuit Court and Clay Superior Court all criminal cases identified as miscellaneous criminal (MC).

(B) **Traffic and Ordinance Violation cases:** The Clerk shall assign all cases designated traffic (IF) and ordinance violation (OV) to the Clay Superior Court.

(C) **Juvenile Cases:** The Clerk shall assign all cases designated juvenile cases identified as JC, JD, JM, JS, JP and JT to the Clay Circuit Court.

(D) **Estate/Guardianship/Trusts/Adoption:** The Clerk shall assign all cases designated as estate (ES, EU, and EM), guardianship (GU), trusts (TR) and adoption (AD and AH) to the Clay Circuit Court.

(E) **Other Civil cases shall be filed as follows:**

(1) The Clerk shall equally assign and allocate between the Clay Circuit Court and the Clay Superior Court other civil cases identified as mortgage foreclosure (MF), civil collection (CC), dissolution of marriage/separation (DR): miscellaneous civil (MI), court business (CB); and mental health (MH).

(2) The Clerk shall assign all plenary (PL) cases to the Clay Superior Court arising out of counterclaims initially filed in the small claims division of the Clay Superior Court.

(3) The Clerk shall assign and allocate civil cases identified as civil tort (CT) as follows:
(a) Two thirds to Clay Circuit Court;
(b) One third to the Clay Superior Court

(4) The Clerk shall assign all cases identified as reciprocal support (RS) to the Clay Circuit Court.

(5) The Clerk shall assign all cases identified as small claims (SC) to the Clay Superior Court.

(6) All adult protective orders (PO) shall be assigned to the Clay Superior Court.

(7) This rule does not preclude the following findings in the Clay Circuit Court. Petitions for protective orders (PO) cause numbers when litigation between the same parties is pending in the Clay

Circuit Court. All Felonies (MR, F1, F2, F3, F4, and F5) cause numbers when the same Defendant has a more serious criminal charge pending in either of the Clay Circuit Court or Clay Superior Court than in that event a new charge shall be filed in the Court with pending more serious charges.

- (8) As in the past the, Clay County Judges shall continue to cooperate with one another to insure the effective and efficient administration of justice by assisting one another with hearings, should they be available to do so.

(Amended effective January 1, 2022)

LR11-TR79-01 Selection of a Special Judge Pursuant to TR 79(H)

- (A) The Presiding Judge in Administrative District 19 shall administer reassignment of cases pursuant to T.R. 79(H). The Presiding Judge shall be selected from the sitting Judges and Magistrates in District 19. The initial Presiding Judge's term shall commence April 1, 2013, and terminate December 31, 2013. All subsequent terms shall be for a calendar year. Should the Presiding Judge leave the bench during the term, a successor Judge shall be selected to fulfill the balance of that term as well as the entirety of the next term. A Judge may not refuse to serve as Presiding Judge.
- (B) During his or her term of service, the Presiding Judge shall maintain a record of the cause number of each case certified for reassignment and appointment of a special judge, the Judge who certified the case, and the Judge to whom the case was reassigned. The Presiding Judge shall submit a written semi-annual report to all District 19 Judges and Magistrates no more than ten (10) days following the end of the first and third quarters of each calendar year. The Presiding Judge may assign administrative duties to local court support staff to assist in fulfilling these responsibilities. The Presiding Judge shall transfer the records maintained during his or her term of service to the succeeding Presiding Judge.
- (C) Pursuant to Trial Rule 79 (H), the District Judges and Magistrates shall certify to the Presiding Judge cases for reassignment and special judge appointment. The certification shall include a prepared order of appointment,

as exhibited in Appendix A. When the Presiding Judge receives a certification requiring reassignment, the Presiding Judge shall appoint a Judge or Magistrate in the following manner:

(1) At the beginning of each calendar year, the Presiding Judge shall create a list of all judicial officers in District 19. The District will follow the principle that each Judge or Magistrate will receive a new case for each case from which he or she has been removed- a one- off, one-on formula. Upon receiving a certification, the Presiding Judge shall assign the case to the first eligible Judge or Magistrate on the list.

(2) Sullivan County Judges shall not be eligible for assignment to cases from Putnam County. Putnam County Judges shall not be eligible for assignment to cases from Sullivan County.

The order of appointment shall be filed in the court where the case originated. The order of appointment shall constitute acceptance, and neither oath nor additional evidence of acceptance is required.

(D) A Senior Judge may elect to participate in District 19 special judge selection by submitting a written petition to the Presiding Judge no later than January 15 of any calendar year indicating that the Senior Judge wishes to participate during the year.

(E) When a Judge or Magistrate vacates the bench and is certified as a Senior Judge that Judge shall retain jurisdiction of all previously existing Special Judge Cases as provided by Administrative Rule 5. In the event the Judge or Magistrate vacates the bench and is not certified as a Senior Judge or is unavailable as indicated under Trial Rule 79 (L), then the successor Judge shall assume jurisdiction over all previous Special Judge Cases of the vacating Judge or Magistrate. The county's judicial personnel shall first attempt to absorb conflicts of interest of the Successor Judge within the county without undue hardship.

(F) If no Judge or Magistrate is eligible to serve as a Special Judge, or if the Presiding Judge determines the selection of a Special Judge by the Indiana Supreme Court is warranted under the particular circumstances of a case, the Presiding Judge shall certify the case to the Indiana Supreme Court for appointment of a Special Judge.

(Amended effective January 1, 2022)