

LOCAL COURT RULES
FOR
ADAMS CIRCUIT COURT
AND
ADAMS SUPERIOR COURT
OF THE 26TH JUDICIAL CIRCUIT
OF ADAMS COUNTY, INDIANA

January 1, 2023

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PROBATE RULES OF THE ADAMS CIRCUIT COURT

LR01-PR00-01

No estates, guardianships or other probate matters will be filed in this Court unless there is at least one attorney admitted to practice law in the State of Indiana listed as attorney of record. In the event there is an out of state attorney there must be an Indiana lawyer listed as the attorney of record and the Court will look to the Indiana attorney as the responsible attorney in all probate matters.

LR01-PR00-02

Upon the opening of every estate, the attorney of record shall comply with TR 87(E).

The Clerk shall issue copies in conformity with I.C. 29-1-1-12.

LR01-PR00-03

In all supervised estates, the Personal Representative shall file with the Court within two months of his appointment, a verified Inventory prepared in conformity with the requirements of I.C. 29-1-12-1. In the event that the attorney for the Personal Representative is unable to file an inventory within two months, he will so apprise the Court by a statement in writing the reasons for failure to comply with this Rule and I.C. 29-1-12-1.

LR01-PR00-04

No petition for administration without Court supervision will be granted unless the consent requirement of I.C. 29-1-7.5-2(a)(4) is met, along with all other requirements of I.C. 29-1-7.5-2(a).

LR01-PR00-05

In all supervised estates, no petition to sell real property will be granted unless a competent written appraisal setting forth the fair market value thereof is filed with

the Court at the time of filing the petition to sell, unless such appraisal was reflected in the inventory.

LR01-PR00-06

If an estate cannot be closed, the attorney for the Personal Representative must report the condition of the estate to the Court within one year after date of his appointment, and thereafter, every year until the estate is fully administered.

LR01-PR00-07

The Court may, in its own discretion and on its own motion, send notices to attorneys and/or Personal Representatives of the failure to meet any filing requirement established by these rules or any Indiana Statute. The Court shall have the power and authority to issue Show Cause Orders to any attorney or Personal Representative to enforce the prompt compliance with any of these rules, any Indiana Statutes or any Notices sent in furtherance thereof. The Court will not send notice directly to any Personal Representative, however, before first giving notice to his attorney and allowing sufficient time for said attorney to correct the problem and/or respond to such notice.

LR01-PR00-08

The following is a fee guideline which the Court will utilize to determine appropriate attorney fees and Personal Representative's fees in supervised estates and where there is no administration. The guideline is intended to cover usual and ordinary services that are incurred in the administration of the probate proceeding and is to be applied to all chargeables as shown on the final account. If an attorney or Personal Representative is required to do extraordinary work, then additional fees commensurate with the services rendered may be charged according to the circumstances prevailing in each individual matter. Fee petitions requesting extraordinary fees must set forth services rendered with specificity.

(Effective July 1, 2007; amended effective January 1, 2023)

PROBATE DECEDENT'S ESTATES

I. FULL ADMINISTRATION – ATTORNEY'S FEES

Where the attorney represents a Personal Representative in complete administration, the following fee is suggested for all necessary consultations preliminary to the appointment of the Personal Representative, the filing of inventory, adjudication of inheritance tax and federal estate tax, final report and other matters incident to the settlement of the ordinary estate.

FEE BASED ON GROSS VALUE OF PROBATE ASSETS:

6% on the first \$100,000.00

4% of next \$100,000.00

3 ½% of next \$100,000.00

2% of next \$250,000.00

1% over \$550,000.00

Where the attorney's work for the client includes non-probate assets, the Court strongly recommends that the attorney obtain a written fee agreement at the outset stating work expected to be performed and compensation to be paid, and excepting unusual events, not to exceed 4%.

II. FULL ADMINISTRATION – PERSONAL REPRESENTATIVE'S FEES

The Personal Representative's fees shall be one-half the attorney's fees set out in Paragraph I above.

LR01-CR00-01 WORK RELEASE PROGRAM

Pursuant to I.C. 11-12-5-2, the Adams County Sheriff administers and operates a Work Release Program for eligible criminal defendants who are awaiting trial or who have been sentenced and for inmates adjudicated in contempt. Eligibility for work release shall be in the sole and absolute discretion of the Sheriff. The Sheriff shall not be required to pre-screen eligibility for work release until a Court issues an Order for said screening.

Work Release will not be authorized by a Court unless the applicant has been screened and approved by the Sheriff prior to the hearing seeking work release

authorization. Screening may include, but not be limited to, completion of an application, an interview, drug screen and payment of fees to the Sheriff.

An inmate shall not be released on work release if the Court disapproves of work release.

LR01-CR00-25 PAUPER COUNSEL FEES

Counsel serving the Adams Circuit Court or Adams Superior Court by appointment to represent indigent clients shall be compensated at the rate of \$80.00 per hour for services provided.

(Effective July 1, 2007; amended effective July 1, 2011)

**ASSIGNMENT OF CRIMINAL
CASES, CHANGE OF VENUE AND RELATED MATTERS
INTRODUCTION**

The following rules have been adopted by the Judges of Adams Circuit Court and Adams Superior Court in compliance with Criminal Rules 2.2, 12 and 13.

LR01-CR2.2-01 CASE ASSIGNMENT

(A) For crimes committed on or before June 30, 2014:

(1) All Misdemeanors and Class D Felonies: Unless otherwise provided in these rules, all cases wherein the most serious charge is a Class D Felony or a Misdemeanor shall be assigned to Adams Superior Court.

(2) All Felonies except D Felonies: Unless otherwise provided in these rules, all cases wherein the most serious charge is greater than a Class D Felony shall be assigned to Adams Circuit Court. For example, if any felony greater than a Class D Felony is filed it shall be assigned to Adams Circuit Court along with any additional criminal charges regardless of whether or not those additional criminal charges are Class A Misdemeanors or Class D Felonies.

(B) For crimes committed on or after July 1, 2014:

(1) All Misdemeanors and Level 6 Felonies: Unless otherwise provided in these rules, all cases wherein the most serious charge is a Level 6 Felony or a Misdemeanor shall be assigned to Adams Superior Court.

(2) All Felonies except Level 6 Felonies: Unless otherwise provided in these rules, all cases wherein the most serious charge is greater than a Level 6 Felony shall be assigned to Adams Circuit Court. For example, if any felony greater than a Level 6 Felony is filed it shall be assigned to Adams Circuit Court along with any additional criminal charges regardless of whether or not those additional criminal charges are Class A Misdemeanors or Level 6 Felonies.

(C) Criminal Non-Support: All cases involving allegations of criminal non-support shall be assigned to the Court which had original jurisdiction of any filing of a Petition for Dissolution of Marriage, Dissolution Decree, Paternity Determination, or similar case filed. It is the objective of this provision to eliminate two Courts addressing the same party and related issues. If no prior case has been filed, such cases shall be filed in accordance with the rules previously set forth

(D) Invasion of Privacy: Invasion of privacy cases involving an allegation of a violation of an order (protective, no contact, workplace violence) that was issued by the Adams Circuit Court or the Adams Superior Court shall be filed in the Court that issued the order.

(E) Pending Cases: Where there is a higher-level felony case filed or to be filed and there are one or more Class D Felony, Level 6 Felony or Misdemeanor case(s) in Superior Court, the Superior Court D Felony, Level 6 Felony or misdemeanor case(s) shall be transferred to the Circuit Court following filing of the Class A-B-C Felony or Level 1-2-3-4-5 Felony in Circuit Court.

(Amended effective July 1, 2014)

LR01-CR2.2-02 TRANSFER

(A) Circuit to Superior A Judge of Adams Circuit Court, by appropriate order entered in the Record of Judgments and Orders, with the consent of the Judge of Adams Superior Court, may transfer and reassign any criminal case to Superior Court pursuant to the authority of I.C. 33-33-1-4.

(B) Superior to Circuit A Judge of the Adams Superior Court, by appropriate order entered in the Record of Judgments and Orders, with the consent of the Judge

of Adams Circuit Court, may transfer and reassign any criminal case to Circuit Court pursuant to the authority of I.C. 33-33-1-4.

LR01-CR2.2-03 REFILING AND SUBSEQUENT FILINGS

When the State of Indiana dismisses a case and chooses to refile that case, the case shall be assigned to the Court from which the dismissal was taken unless LR01-CR2.2-01 regarding case assignment dictates otherwise. For example, a case may originally be filed as a Class D Felony Battery, later is dismissed, and subsequently is filed as Murder, a Felony. LR01-CR2.2-01 in regard to case assignment shall take precedence and it shall be filed in Circuit Court.

LR01-CR2.2-04 REASSIGNMENT

(A) Circuit Court In the event a change of Judge is granted where it becomes necessary to assign another Judge in any felony or misdemeanor proceeding in Adams Circuit Court, the case shall be reassigned to Adams Superior Court.

(B) Superior Court In the event a change of Judge is granted or it becomes necessary to assign another Judge in any felony or misdemeanor proceeding in Adams Superior Court, the case shall be reassigned to Adams Circuit Court.

(C) Alternative In the event that a reassignment cannot be accomplished pursuant to the rules set forth above, then the case will be reassigned in consecutive order on a rotating basis from a list of full-time judicial officers serving within Administrative District 9 (Huntington, Wabash, Wells), contiguous counties (Allen and Jay) or senior judges pursuant to CR 13.

LR01-CR2.2-05 LATE FEES

(A) Authority. This rule was adopted pursuant to Indiana Code 33-37-5-22.

(B) Scope. This rule applies to all criminal (CF, CM, FA, FB, FC, FD, F1, F2, F3, F4, F5, F6, and MR), Infraction (IF), and Ordinance Violation (OV) cases filed in the Adams Circuit and Superior Courts in which a conviction or judgment is entered after the effective date of this rule.

(C) Late Fee Amount. If all court costs, fines, or civil penalties are not paid by the date ordered, an additional late fee of \$25.00, or the maximum allowed by Indiana Law shall be imposed.

(D) Time for Payment. All fine, fees, costs, and civil penalties ordered shall be paid on a timely basis, as directed by the Court. If not otherwise ordered, payments are due by 4:00 PM on the due date.

(E) Late Fee Suspended. A court may suspend a late payment fee if the court finds that the defendant has demonstrated good cause for failure to make a timely payment in full.

(Approved January 1, 2023)

LR01-FL00-01 FAMILIES IN TRANSITION PROGRAM

Minor children who are the subject matter of domestic relations cases, paternity cases, Children in Need of services cases, and juvenile delinquency cases are frequently caught in the middle of strife between separated parents.

The failure of the parents to deal with their differences without involving their children causes unnecessary trauma for the children, unnecessary consumption of the resources of this Court, and unnecessary demands upon the welfare and probation resources of Adams County.

A program of education for separated parents can serve to alleviate the problems described above.

(a) The parties to every Petition for Dissolution of Marriage or Petition for Legal Separation which involves minor or unemancipated children and all parties to Paternity proceedings shall attend and pay for the *Families in Transition* program administered and presented by Family Centered Services, Inc., or such other organization that the Court may from time to time designate. A certificate of attendance for each party shall be filed with the Court by each party before a final hearing may be held.

(b) Any exception to the above may only be granted by express order of the Court after a showing of good cause for such exception.

(c) The Court may order parties to other cases to attend *Families in Transition* and upon such occasions the parties shall comply with the above terms as well as any order entered in their particular case.

(d) Costs associated with the Families in Transition Program are the responsibility of the parties and shall be paid to Family Centered Services.

(e) The Court shall have full contempt powers to enforce compliance with its orders for attendance including incarceration.

(Effective September 14, 1994; amended January 1, 2023)

LR01-AR00-01 COURTHOUSE SECURITY

(A) The Adams Circuit Court and the Adams Superior Court have a duty to maintain the orderly administration of justice for the benefit of all persons who use the Adams County Courthouse and the Adams Superior Court building and the premises contiguous thereto, including, but not limited to, the general public, litigants and persons employed within the Adams Courthouse and Adams Superior Court building; and

(B) The possession of firearms and other deadly weapons (including but not limited to knives with blades in excess of four inches in length) in the Adams County Courthouse, and Adams Superior Court building by any person, excepting the authorized security personnel of the Sheriff of Adams County and other law enforcement personnel authorized by the Sheriff of Adams County, and authorized court officers, is contrary to maintaining the orderly administration of justice; and

(C) The possession of firearms and other deadly weapons serves no reasonable public interest in the orderly administration of justice and is contrary to the recommendations of the Court Security Committee and the Court Security Survey and Assessment conducted by the Department of Justice, U.S. Marshals Office, Ft. Wayne Division, Ft. Wayne, IN dated June 1, 2000; and

(D) The unauthorized possession of firearms and deadly weapon impedes the duty of the Sheriff of Adams County to provide for the safety and security of Adams County property and persons lawfully upon said property; and

(E) The initial step in a long-range plan to provide for the safety and security of the general public, litigants and persons employed within the Adams County Courthouse, and Adams County Superior Court building, the Courts of Adams County have determined that it is of paramount importance and now necessary to ban all firearms, deadly weapons or any item deemed unfit for the courtroom by the court security officer from the Adams County Courthouse and Adams Superior Court Building.

(F) No person excepting the Sheriff of Adams County, his deputies and authorized security personnel, other law enforcement personnel, and authorized court officers, shall possess firearms, deadly weapons or any item deemed unfit for the courtroom by the court security officer in the Adams County Courthouse and the Adams Superior Court Building.

(G) The Sheriff of Adams County is authorized to conduct noninvasive searches of persons entering the Adams County Courthouse and Adams County Superior Court building and the premises contiguous thereto.

(H) The Sheriff is authorized to arrest and bring before the court all persons failing or refusing to abide by this local court rule to answer and show cause why the Court should not hold said person(s) in contempt.

(Effective December 29, 2000; amended January 1, 2023)

LR01-AR15-01 COURT REPORTER SERVICES

Pursuant to Administrative Rule 15, the Court adopts the following plan governing all Court Reporter services:

Definitions: The Court adopts the definitions indicated in Administrative Rule 15, which are set forth below:

(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.

(B) *Equipment* means all physical items owned by the court or other government entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer

hardware, software programs, disks, tapes and any other device used for recording and storing, and transcribing electronic data.

(C) *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.

(D) *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.

(E) *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

(F) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court and county to county, but remain the same for each work week.

(G) *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.

(H) *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.

(I) *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.

(J) *Court* means the particular court for which the court reporter performs services. Depending upon the county, *Court* may also mean a group of courts, i.e. "X county Courts".

(K) *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. The county indigent transcript will also include any requests from the Local Prosecutor's Office.

(L) *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.

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

LR01-AR15-02 *Annual Salary:*

Each Court Reporter shall be paid an annual salary for the time spent working under the control, direction and direct supervision of the Court during any regular work hours or overtime hours. Said salary shall be set by the Court each year and incorporated in the county salary ordinance.

LR01-AR15-03 *Indigent transcripts:*

Considering the past experience of the Courts, it is anticipated that most indigent transcripts will be required to be prepared at a time other than regular work hours. For any such transcripts prepared by the Court Reporter at a time other than regular work hours, said Court Reporter shall be paid a per page fee of \$5.50 per page. For these services, the Court Reporter shall submit a claim directly to the county for any county indigent transcript and shall submit a claim to the state for any state indigent transcripts. If any indigent transcript is prepared during regular work hours, the Court Reporter shall be paid the regular salary and no per page fee shall be submitted or allowed.

If Court Reporter is requested to prepare an expedited transcript, the maximum per page fee shall be \$8.50 per page where the transcript must be prepared within 24 hours or less and \$8.00 per page where the transcript must be prepared within 7 days. A minimum fee of \$50.00 will be charged for transcripts less than 10 pages in length. The time spent binding the transcript, exhibit and index volumes will be at an hourly rate of what the employee earns at an hourly rate. The Court Reporter may charge up to \$1.00 per page for a copy of a transcript or an exhibit.

LR01-AR15-04 *Private transcripts:*

Considering the past experience of the Courts, it is anticipated that most private transcripts will be required to be prepared at a time other than regular work hours, just as is done with indigent transcripts mentioned above. Therefore, for any such private transcripts prepared by the Court Reporter at a time other than regular work hours, said Court Reporter shall be paid a per page fee of \$5.50 per page. The

Courts do not anticipate that said private transcripts will be prepared during work hours, but if this does occur, the Court Reporter shall be paid regular salary and the per page fee of \$5.50 shall be paid to the county.

If Court Reporter is requested to prepare an expedited transcript, the maximum per page fee shall be \$8.50 per page where the transcript must be prepared within 24 hours or less and \$8.00 per page where the transcript must be prepared within 7 days. A minimum fee of \$50.00 will be charged for transcripts less than 10 pages in length. The time spent binding the transcript, exhibit and index volumes will be at an hourly rate of what the employee earns at an hourly rate. The Court may charge up to \$1.00 per page for a copy of a transcript or an exhibit.

LR01-AR15-05 *Court Reporter reports:*

Each Court Reporter shall submit a report, at least on an annual basis to the Indiana Supreme Court Division of State Administration, on forms prescribed by the Division, all transcript fees (either county indigent, state indigent or private) received by the Court Reporter.

LR01-AR15-06 *Gap and overtime hours:*

The Court Reporters in the Adams County Courts work 40 hours per week and, therefore, there is no "gap time". Over-time hours shall be paid at one and one-half (1½) times the equivalent of the hourly rate or as prescribed by county government rules, ordinances, or by state statute. Over-time also may be compensated by compensatory time and said compensatory time shall be utilized within 180 days of the approval of said time. (The Court recognizes that the county might require use of compensatory time in the week following its accrual, but such a requirement cannot be utilized by the Court. For example, a week-long jury trial might require extensive over-time, but the jury trial might also delay many hearings and trials to the following week when the presence of the Court Reporter is absolutely necessary and, therefore, compensatory time, to be effective, must be utilized at a later date). Any overtime that is satisfied by compensatory time shall be one and a half times the hours worked overtime, for example, four hours overtime would be compensated by six hours of time off regular work hours.

LR01-AR15-07 *Use of equipment:*

The Courts recognize that relatively few transcripts are prepared by a Court Reporter during the course of a year. The Courts also recognize that depositions for private individuals other than Court related transcripts are not prepared by the Court Reporters. Therefore, it is not feasible for the Court Reporters to purchase machines, other equipment, paper, etc. for the preparation of transcripts, depositions and other matters. These transcripts are prepared by the Court Reporter solely in the official capacity as Court Reporter. Therefore, the “per page” charge which is set forth above anticipates that the Court Reporter is entitled to utilize the equipment and materials of the Court and that the compensation is, therefore, solely for the Court Reporter’s labor.

(Approved January 23, 2009; amended effective January 1, 2023)

LR01-AR01-1 ADAMS COUNTY CASELOAD ALLOCATION PLAN

(A) CRIMINAL, INFRACTION AND ORDINANCE VIOLATION CASES

Criminal Cases shall be filed pursuant to LR01-CR2.2-01 et seq. All infraction and ordinance violation cases shall be assigned to the Adams Superior Court.

(B) PROBATE AND RELATED CASES

All Estate, Guardianship, Adoption and Trust cases shall be assigned to the Adams Circuit Court.

(C) JUVENILE CASES

All juvenile cases, including paternity cases, shall be assigned to the Adams Circuit Court.

(D) SMALL CLAIMS AND EV CASES

All small claims and EV cases shall be filed in the Adams Superior Court.

(E) PROTECTIVE ORDER CASES

Protective orders cases may be filed in either court; however, if a domestic relations case, paternity case or CHINS case is pending or has been determined involving the same parties, then the protective order case shall be filed in that court or reassigned if filed in the other court.

(F) CIVIL CASE TYPES PL, MF, CC, CT, DC, DN, RS, MH, MI

Cases other than those mentioned in the preceding paragraphs may be filed in either the Adams Circuit Court or the Adams Superior Court, at the discretion of the filing party. Domestic relations cases may be filed in either court, however, if a protective order case, CHINS case, CHINS termination case or Paternity is pending or has been determined involving the same parties then the domestic relations case shall be filed in that court or reassigned if filed in the other court. Emergency detention for mental health cases may be filed in either court; however, temporary and regular commitments shall be filed in Circuit Court.

However, nothing in this rule shall prohibit a judge of said Court from transferring a case from that Court to the other as allowed by statute, or rule of trial procedure, or to ensure an even distribution of judicial workload between the courts of record in the county.

On or before May 1 of each year the Judge of the Adams Circuit Court and the Judge of the Adams Superior Court shall meet to review the Weighted Caseload Measures statistics as calculated by the Division of State Court Administration for the preceding calendar year. The utilization of the two Courts shall be compared and if the utilization variance is within 0.25 of one another, it shall be presumed that no action is necessary to reduce the disparity. If the utilization variance between the courts is more than 0.40 in a calendar year or more than 0.25 for two consecutive years, it will be presumed that the disparity must be reduced, unless the judges agree otherwise after discussing and evaluating the various relevant factors.

(G) REFILED CASES

Except when a change of venue is necessary, whenever a case is dismissed by action of the originating party, the case, if re-filed, must be assigned to the same court that received the original case.

(Approved effective July 1, 2014 and amended effective January 1, 2023)

LR01-TR-79-01 SPECIAL JUDGE APPOINTMENT /TRIAL RULE 79(H)

Pursuant to TR 79(D) – Within seven (7) days of the notation on the Chronological Case Summary (CCS) of an Order granting a change of judge or an order of disqualification, the parties may agree to the appointment of an eligible special judge. An eligible special judge is a judge, a full-time judicial officer, or a senior judge assigned to the Court.

The agreement of the parties must be in writing and filed in the Court where the case is pending.

If the selection of a special judge is not agreed upon, then the remaining full-time judge in the County shall be named as special judge. If that judge cannot serve, then the case will be reassigned in consecutive order on a rotating basis from a list of full-time judicial officers serving within Administrative District 9 (Huntington, Wabash, Wells), Jay County or senior judges pursuant to TR 79(H).

(Amended effective January 1, 2013)

LR01-JR4-1 JURY RULE

Pursuant to Indiana Jury Rule 4, both Courts of Adams County adopt a two-tier notice and summons methodology whereby within seven days after drawing of names from the jury pool the Jury Administrator shall mail to each person whose name is drawn a jury qualification form and notice of the period during which any service may be performed and at a later time the Jury Administrator shall summon prospective jurors at least one week before actual service all in keeping with Indiana Jury Rule 4.

(Effective May 25, 2005)