

LOCAL RULES OF PRACTICE FOR THE DEKALB CIRCUIT AND SUPERIOR COURTS

Updated effective September 1, 2017)

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Local Rules Relating To Practice in the DeKalb County Courts

(Updated effective July 1, 2014)

LR17-TR 00-1 – Scope of Rules

Except as otherwise provided, these rules govern the procedure and practice in all cases, including criminal, civil, and juvenile, filed or pending in the DeKalb Circuit and Superior Courts.

LR17-TR 3.1-2 Withdrawal of Appearance by Counsel

(A) Except as stated in paragraph C below, all withdrawals of appearance of counsel shall be in writing and upon Order of the Court.

Permission to withdrawal shall be granted only upon the following circumstances:

- (1) The filing of an appearance by new counsel for said client; or
- (2) Upon written motion to withdraw, which motion shall be served on the client at least ten (10) days prior to the date of the filing of the motion.
- (3) Upon other good cause found by the Court.

(B) A motion to withdraw shall include the following:

- (1) The name and address of the Court where the case is filed;
- (2) The last known address of the client and the client's telephone number; and
- (3) Any hearing or trial dates and any pleading, discovery or other pre-trial deadline dates.

(C) Automatic Withdrawal of Appearance. In Domestic Relation cases, Paternity cases, and Criminal cases, an attorney's Appearance in the case shall automatically be deemed to be withdrawn thirty-five (35) days after the conclusion of the pending action, i.e., Final Decree, Modification Order, Rules to Show Cause/Contempt, Sentencing, or similar final adjudication. If a new action, i.e. Modification, Citation/Rule to Show Cause, Revocation, or other post-judgment or post-sentencing action is filed more than thirty five (35) days after the conclusion of a prior action, an attorney must re-enter his or her Appearance to represent a party in the new action. This automatic withdrawal does not apply in matters involving other civil judgments (collection matters).

(Amended effective July 1, 2017)

LR17-TR 5-3 – Tender of Orders

All motions seeking an Order of the Court **or a Notice of Hearing** shall be accompanied by a sufficient number of Orders to be executed by the Court granting

said motion. In addition to the Orders, the party filing the motion shall provide the Clerk/Court with stamped, addressed envelopes to all parties of record.

LR17-TR 53.5-4 – Continuances

- (A) All motions for continuance, unless made on the record during the hearing of the cause or otherwise specifically authorized by the Court, shall be in writing.
- (B) Before filing a written continuance, the moving party shall confer with counsel for all other parties and, where practical, with any parties appearing pro se, to determine any objections and to ascertain dates for rescheduling when all parties are available. Such objections and alternative dates (not less than three) shall be reported in or attached to the motion for continuance.

LR17-TR 5-5 - Court Service upon Attorneys

The attorney boxes located in the offices of the three (3) Courts and in the Clerk's Office are designated as a suitable place for the delivery of pleadings, documents and other papers, by the Clerk of the Court, for any attorney that maintains an office in DeKalb County, Indiana.

LR17-TR 00-6 - Bail Policy and Schedule

- (A) This rule shall apply to all persons charged with felonies or misdemeanors in the DeKalb Circuit Court or the DeKalb Superior Courts.
- (B) All persons charged with a criminal offense in DeKalb County shall be admitted to bail in the amount, if any, fixed by the Court and endorsed upon the warrants of arrest.
- (C) The following bail schedule determines presumptively the reasonable bail that shall be imposed for arrests made without a warrant:
 - (1) A person charged with murder, a Class A Felony or an F1 Felony shall be held without bond until the person can be brought before the Court for hearing.
 - (2) A person charged with a F2 Felony, other than battery, \$20,000.00.
 - (3) A person charged with a Class B or F3 Felony, other than battery, \$10,000.00.

- (4) A person charged with a F4 Felony, other than battery, \$7,500.00.
 - (5) A person charged with a Class C or F5 Felony, other than battery, \$5,000.00.
 - (6) A person charged with a Class D or F6 Felony, other than battery, \$2,000.00.
 - (7) A person charged with a Class A Misdemeanor, other than battery, \$1,000.00.
 - (8) A person charged with a Class B or C Misdemeanor, \$1,000.00.
 - (9) A person arrested on an onsite warrantless arrest, on a charge of battery, at the Class A Misdemeanor level, or higher, or any charge involving methamphetamine at the F6 level or higher, shall be held in the DeKalb County Jail without bond until the person is brought before the Court for initial hearing.
- (D) Upon request, a Judge of the DeKalb Circuit or Superior Courts may set an initial bail that is different than the schedule shown above.

LR 17-TR 79 (H)-7- Appointment of Special Judge in Civil Proceedings

In the event a special judge selected under Trial Rule 79, Sections (D) (E) or (F) does not accept the case or a judge disqualifies and recuses under Trial Rule 79(C), then the clerk of the court shall appoint on a rotating basis one of the other presiding judges from DeKalb County, and if that judge is unable to serve because of disqualification pursuant to the Code of Judicial Conduct, then the clerk shall appoint on a rotating basis a person from a list of judicial officers eligible under Trial Rule 79 (J).

If the judge selected to serve is disqualified or is excused from service, then clerk of the court shall appoint the next judge on the list. If no judge on the list is eligible to serve as special judge or the particular circumstances in the case so warrant, the then presiding judge in the case shall certify the matter to the Indiana Supreme Court for the appointment of a special judge pursuant to TR79(H)(3).

LR17-CR 2.2 -1- Criminal Case Reassignment and Special Judge Selection

Pursuant to Ind. Criminal Rule 2.2(D) and Ind. Criminal Rule 13(C), in the event a change of judge is granted or a disqualification or recusal is entered, the case shall be reassigned as follows:

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

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

(3) Alternative: In the event a reassignment cannot be accomplished pursuant to the rules set forth above, then the case will be reassigned on a rotating basis from the following Judges: DeKalb Circuit Court Judge, and the Judges of those counties contiguous to DeKalb County, Indiana.

Pursuant to Ind. Criminal Rule 13(D), in the event no Judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of Special Judge. In the event the Judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a Special Judge, this presiding Judge may request the Indiana Supreme Court for such appointment.

LR17-AR 1-1 –CASELOAD ALLOCATION PLAN FOR DEKALB COUNTY COURTS

(A) Cases to be filed exclusively in the DeKalb Circuit Court:

JC*, JD, JS, JP, JM, JT, RS

(B) Cases to be filed exclusively in the DeKalb Superior Court I:

FD, F6, CM, MC**, IF, OV-based on moving traffic violations, and specialized driving privileges filed as MI cases.

** In the event DeKalb Superior Court I is unable to hear a search warrant when requested, the warrant may be requested of and issued by any of the Judges or Courts.

** Probation transfer cases shall be filed in the same manner as criminal cases, ie, Misdemeanor and FD and F6 probation cases shall be filed in Superior Court I. MR, FA, FB, FC, F1, F2, F3, F4 and F5 probation cases shall be filed on a rotating basis between Superior I and Superior II.

- (C) Cases to be filed exclusively in the DeKalb Superior Court II:
SC, EM, ES, TR
- (D) Cases to be filed on a rotating basis between DeKalb Circuit Court and DeKalb Superior Court II:
DN, DC, MH, AD, AH, EU, GU, PO, MI-except specialized driving privilege cases, TP, TS
- (E) Cases to be filed on a rotating basis between DeKalb Superior Court I and DeKalb Superior Court II:
MR, FA, FB & FC, PL, CC, MF, CT, OE, OV-other than moving traffic violations CB***, F1, F2, F3, F4, F5 and XP-except as otherwise required by statute.

*** CB cases involving the appointment of Special, Pro Tem and Senior Judges shall be filed in the Court making the appointment.

Resolutions Spread of Record may be filed in any Court.

When additional criminal charges are filed against a Defendant with a pending MR, FA, FB, FC, F1, F2, F3, F4 or F5 case, the new charges shall be filed in the same Court as the pending case.

*JC - When the Judge of DeKalb Circuit Court has a conflict, the case shall be filed in DeKalb Superior Court II.

When the Judge of DeKalb Superior Court II has a conflict in a criminal case, the case shall be filed in DeKalb Superior Court I. When the Judge of DeKalb Superior Court I has a conflict in a criminal case, the case shall be filed in DeKalb Superior Court II.

In the event of a conflict, and except as otherwise provided by this Plan, the Judge of the Court where originally filed shall transfer the case to either of the other Courts in DeKalb County.

PC - The case to be filed in the court in which the underlying conviction was entered.

After hours search warrants, emergency mental health commitments and verbal CHINS detention orders may be requested of and authorized by any of the judges.

This caseload allocation plan shall be effective until modified. The DeKalb County Judges shall meet as necessary to review the caseload allocation.
(Amended effective July 1, 2017)

LR17-AR 12-2 – Facsimile Transmission Filings

- (A) Except in the event of an emergency (i.e. illness or other unexpected event occurring within two (2) business days of the scheduled hearing) the Courts will not accept for filing documents received by fax. Further, a lawsuit or other original action and any other matter that requires the payment of fees to the Clerk/Court, may NOT be filed by fax.
- (B) In those circumstances where the transmission of pleadings by fax will be permitted, the party filing by fax shall create at the time of the transmission of the fax a machine generated log for the transmission of the fax. The original document and the transmission log shall be maintained by the sending party for the duration of the litigation. Other than the fax copy, no other copies should be submitted to the Clerk/Courts.

LR17 AR 7-3 – Removal of Exhibits

After a case is decided and no appeals are taken, or after all appeals are completed, the Court Reporter for a Court may give notice in writing to the party introducing the exhibit providing a time within which the exhibit shall be removed from the custody of the Court Reporter. If the party notified does not recover the exhibit within the time stated, the Court Reporter may dispose of the same in any reasonable manner deemed appropriate by the Court Reporter.

LR17-AR 15-4 – Court Reporter Services

Court Reporter services shall be governed by the following rules:

- (A) **Definitions** The following definitions shall apply under this rule:
 - (1) **A COURT REPORTER** is a person who is specifically designated by a Court to perform the official court reporting services for the Court including preparing a transcript of the record.
 - (2) **EQUIPMENT** means all physical items owned by the Court or other governmental entity and used by a Court Reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
 - (3) **WORK SPACE** means that portion of the Court's facilities dedicated to each Court Reporter, including but not limited to actual space in the courtroom and any designated office space.
 - (4) **PAGE** means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 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 the Court is regularly scheduled to work during any given work week. Depending on the particular Court, these hours may vary from Court to Court within the county but remain the same for each work week.
- (7) **GAP HOURS WORKED** means those hours worked in excess of the regular hours worked but hours not in excess of forty (40) hours per week.
- (8) **OVERTIME HOURS WORKED** means those hours worked in excess of forty (40) hours per work week.
- (9) **WORKWEEK** 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.
- (10) **COURT** means the particular Court for which the Court Reporter performs services. Court may also mean all of the Courts in DeKalb County.
- (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 has been 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.

(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 working hours, gap hours or overtime hours. The supervising 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 county indigent transcript shall be \$5.00; 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 state indigent transcript shall be \$5.00.
- (4) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$5.00.

- (5) If a Court Reporter is requested to prepare an expedited transcript, the maximum fee per page shall be \$6.00 where the transcript must be prepared within five (5) working days.
- (6) 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, Office of Judicial Administration. The reporting shall be made on forms prescribed by the Office of Judicial Administration.
- (C) **Private Practice**
A Court Reporter shall not be allowed to use court equipment, work space, or supplies nor regular employment hours, gap hours, or overtime hours to engage in the private practice of recording a deposition and/or preparing a deposition transcript.

(Amended effective July 1, 2017)

LR17-AR 00-5 - Judges Assisting Other Judges

Pursuant to the authority conferred upon Judges to make Local Rules and pursuant to Indiana Code 33-29-1-10 and for the purpose of each of the Judges being able to assist the other:

- (A) The Judge of the DeKalb Circuit Court may, with the consent of the Judge of Superior Court I, sit as a Judge of DeKalb Superior Court I in any matter as if the Circuit Court Judge were an elected Judge of DeKalb Superior Court I.
- (B) The Judge of the DeKalb Circuit Court may, with the consent of the Judge of the DeKalb Superior Court II, sit as a Judge of DeKalb Superior Court II in any matter as if the Circuit Court Judge were an elected Judge of DeKalb Superior Court II.
- (C) The Judge of the DeKalb Superior Court I may, with the consent of the Judge of the DeKalb Circuit Court, sit as the Judge of the DeKalb Circuit Court in any matter as if the Judge of DeKalb Superior I were the elected Judge of the DeKalb Circuit Court.
- (D) The Judge of the DeKalb Superior Court II may, with the consent of the Judge of the DeKalb Circuit Court, sit as the Judge of the DeKalb Circuit Court in any matter as if the Judge of DeKalb Superior Court II were the elected Judge of the DeKalb Circuit Court.
- (E) The Judge of the DeKalb Superior Court I may, with the consent of the Judge of the DeKalb Superior Court II, sit as Judge of the DeKalb Superior Court II in any matter as if the Judge of DeKalb Superior I were the elected Judge of the DeKalb Superior Court II.
- (F) The Judge of the DeKalb Superior Court II may, with the consent of the Judge of the DeKalb Superior Court I, sit as Judge of the DeKalb Superior Court I in any matter as if the Judge of DeKalb Superior Court II were the elected Judge of the DeKalb Superior Court I.

LR17-AR 00-6 - Transfer of Cases

Notwithstanding the caseload allocation plan adopted by the Judges in any given calendar year and pursuant to Indiana Code 33-29-1-9:

- (A) The Judge of the DeKalb Circuit Court may, with the consent of the Judge of DeKalb Superior Court I, transfer any action or proceeding from the DeKalb Circuit Court to DeKalb Superior Court I.
- (B) The Judge of the DeKalb Circuit Court may, with the consent of the Judge of DeKalb Superior Court II, transfer any action or proceeding from the DeKalb Circuit Court to DeKalb Superior Court II.
- (C) The Judge of the DeKalb Superior Court I may, with the consent of the Judge of DeKalb Superior Court II, transfer any action or proceeding from the DeKalb Superior Court I to DeKalb Superior Court II.
- (D) The Judge of the DeKalb Superior Court II may, with the consent of the Judge of DeKalb Superior Court I, transfer any action or proceeding from the DeKalb Superior Court II to DeKalb Superior Court I.
- (E) The Judge of the DeKalb Superior Court I may, with the consent of the Judge of DeKalb Circuit Court, transfer any action or proceeding from the DeKalb Superior Court I to DeKalb Circuit Court.
- (F) The Judge of the DeKalb Superior Court II may, with the consent of the Judge of DeKalb Circuit Court, transfer any action or proceeding from the DeKalb Superior Court II to DeKalb Circuit Court.

LR17-FL 00-1- Children and Custody Proceedings

In all Dissolution of Marriage cases involving unemancipated children, in which an Order of child custody or child parenting time is sought, or in which an Order of modification is sought, both parents shall complete the Court approved program entitled www.UpToParents.org and/or such other program as is Ordered by the Court.

In all paternity cases in which an Order for child custody or child parenting time is sought, or in which a modification is sought, both parents shall complete the Court approved program entitled www.UpToParent.org and/or such other program as is Ordered by the Court.

The attorney representing a party to such a proceeding shall inform the client of this requirement.

A party required to complete a Court Ordered program shall do so within thirty (30) days of the date the proceeding is initiated or prior to the evidentiary hearing on said proceeding, whichever is earlier.

Proof of completion of a required program must be filed with the appropriate Court within ten (10) days of completion.

Failure by a party to complete this requirement may constitute cause for denial of the relief requested. A parent shall not delay the proceeding by failing to complete these requirements.

(Amended effective September 1, 2017)

LR17-FL 00-2 – Hallway, Summary/Expedited Hearings

- (A) Due to the demand on Court calendar time, requests for Orders Pendente Lite or for enforcement or modification of existing Orders and Decrees may be first scheduled for a **hallway hearing** or an expedited or summary hearing. Expedited/Summary hearings will allow parties access to the Court relatively quickly and with less expense. While summary/expedited hearings are not appropriate for all cases, it is believed such hearings will reduce the time some cases have to wait to be heard.
- (B) If a hallway hearing does not result in all issues being resolved, the Court may set such unresolved issues for an expedited/summary hearing.
- (C) Each party shall bring to the hallway or summary/expedited hearing evidence sufficient to establish their average weekly gross income and any deduction therefrom including any medical/health insurance benefits attributable to the children of the parties.
- (D) At a summary/expedited hearing, the evidence shall be presented in summary fashion by the attorneys, or the parties if not represented by counsel, who shall summarize the evidence in narrative statement. The Court may then question the parties or attorneys and may require the presentation of brief testimony. Documentary evidence may also be received by the Court. Formal rules of evidence or procedure shall not apply, except that the Court shall endeavor to insure the traditional concepts of trustworthiness of evidence and fundamental fairness are observed.
- (E) The Court may, on its own motion, either before or after the expedited hearing, decline to determine any issues on the evidence presented at such hearing and shall thereafter schedule such issues for evidentiary hearing.

LR17-FL00-3 – Dissolution of Marriage Pre-Trial Disclosure

- (A) On or before the date and time set for hearing on a Motion for Provisional Orders,
each of the parties shall complete as applicable, file with the Court **AND** provide
the other party:
 - (a) The Provisional Hearing Disclosure as set forth in Appendix 1; and
 - (b) The Child Support Obligation Worksheet as set forth in Appendix 2.

- (B) Not later than forty (40) days before the date and time set for Final Hearing, Petitioner shall fully complete as applicable, the Final Hearing Disclosure as set forth in Appendix 3, and serve the other party. Thereafter, the following rules apply:
- (1) A copy of said form, when served upon the opposing party, if represented by counsel, shall be deemed to be a Request for Admissions by the opposing party that the information contained on said form is true;
 - (2) The opposing party shall respond to such Request for Admissions by completing such party's respective portion of the disclosure form and filing same with the Court within thirty (30) days from date of service. **The responding party shall make his or her disclosures on a copy of the SAME FORM served by the opposing party so that the copy filed with the Court by the responding party contains both parties' disclosures on the same form;**
 - (3) In the event that the party being served with said Disclosure does not, within thirty (30) days from the date of service, file his or her respective portion of the disclosure form, if represented by counsel, the information contained in the Disclosure then on file shall be deemed to be admitted as fact by all parties.
- (C) The parties and their attorneys shall meet prior to the Final Hearing date and in good faith attempt to agree upon resolution of as many of the issues as reasonably possible so that these matters may be stipulated to the Court and also to attempt to agree upon the admissibility of documents.
- (D) Unless the Court enters specific orders to the contrary, any order of the Court providing for custody of children shall be deemed to provide, by operation of this rule, for the implementation of parenting time with said child(ren) by the noncustodial parent in accordance with the Indiana Parenting Time Guidelines.
- (E) If not previously filed, on or before the date of the Final Hearing on any Petition for Dissolution of Marriage, Petitioner to Establish Paternity or Petition to Modify Child Support, the parties shall submit to the Court a completed copy of the Child Support Obligation Worksheet set forth at Appendix 2. All numbers shall be rounded to the nearest whole dollar.
- (F) Within thirty (30) days after counsel for Respondent enters an appearance, both counsel shall voluntarily exchange the following information for their clients:
- (1) Federal and state income tax returns, with all supporting schedules, for the preceding three (3) years;

- (2) Pay stubs for the preceding four (4) weeks;
 - (3) Bank statements showing balances in all accounts as of the date the Petition was filed;
 - (4) Pension valuations showing those benefits which were vested as of the date of marriage, and, which were vested as of the date of filing the Petition;
 - (5) Copies of all deeds, mortgages, and land contracts;
 - (6) Copies of all real estate and personal property appraisals done within the preceding five (5) years;
 - (7) Copies of all financial statements provided to any financial institution within the preceding five (5) years;
 - (8) A list of all marital debts showing the name of the creditor, whether the debt is joint or individual, monthly payments, and payoff as of date of filing the Petition; and
 - (9) All other relevant information in the party's possession pertaining to custody, support, parenting time, marital assets or marital debts.
- (G) It is the Court's strong preference that all custody and parenting time issues be referred to mediation. This policy shall be implemented as follows:
- (1) New Divorces and Paternity Proceedings.
 - (i) Unless the Court determines otherwise, the Court shall enter a mediation order in every case except if both counsel advise the Court that the parties are negotiating in good faith and a Settlement Agreement appears eminent, or, it is made to appear to the Court that a party has been the subject of domestic violence and mediation would be counter-productive.
 - (ii) Alternative Dispute Resolution Rule 2 shall govern the conduct of the parties and the mediation process.
 - (iii) Recognizing that driving long distances can itself present unique problems to successful mediation, the Court will endeavor to make available rooms in the Courthouse within which to conduct the mediation sessions if requested.
 - (iv) Once a case is referred to mediation, at the Court's discretion, it shall not be set for contested final hearing until, in addition to all other requirements of these Local Domestic Relation Rules being met, the Court receives a written report from the mediator. The report shall advise the Court what, if any, issues have been successfully resolved through mediation. All issues which have been resolved shall be set forth in writing by the mediator, signed by the parties and their counsel, and, shall serve as stipulation of the parties at any contested Final Hearing.
 - (v) As officers of the Court, the attorneys shall explain to their clients the benefits of mediation, all projected costs, including attorney fees, to be anticipated in preparing for and concluding a contested Final Hearing, and, that the agreement which they make concerning the issues in their

case could be more satisfactory to them than one fashioned by the Court following a contested final hearing.

(2) Post-Dissolution.

- (i) Unless the Court determines otherwise, all post-dissolution petitions or counter petitions which seek a modification of child custody shall immediately be referred to mediation.
- (ii) Paragraphs G(1)(ii, iii, iv, and v) set forth above shall each be applicable to post-dissolution mediation.

- (H) No dissolution of marriage settlement agreement, paternity agreement, or post dissolution or paternity agreement involving minor children will be approved by the Court unless accompanied by a child support obligation worksheet and an income withholding order, fully completed, and ready for immediate activation, unless it is made clear to the Court that it would not be in the best interest of the child(ren), or is otherwise not required by law.

(Amended effective September 1, 2017)

LR17-JR4-1- Jury Administrators and Jury Pool

- A. The Clerk of the DeKalb Courts shall serve as the jury administrator.
- B. A two tier notice and summons, consistent with Jury Rule 4(b), shall be used by the jury administrator.