

ALLEN CIRCUIT AND SUPERIOR COURT FAMILY LAW LOCAL RULES

Effective August 1, 2020

Including Amendments Received Through June 1, 2020

Including Amendments Received Through March 31, 2021

Including Amendments through November 1, 2021

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LR02-TR1-1 Application and Citation of Rules

- A. **Scope.** The Indiana Rules of Trial Procedure and the following local rules shall apply in all Allen Superior and Circuit Court cases involving family law (DR, DC, DN, JP, JD, JC, JS, JQ, JT, RS and AD). Nothing in these rules shall limit the general jurisdiction of any judge.
- B. **Citation.** These local rules shall be cited as the Allen LR02-T.R. ____. The Indiana Rules of Trial Procedure shall be cited initially as Ind. Trial Rule and thereafter as T.R. __.

LR02-TR3-1-2 Appearances: See T.R.s 3.1, 11, and applicable Trial Rule on E-Filing

Adopted effective November 1, 2021.

LR02-TR3.1-3 Withdrawal of Appearance

A. Procedure: See T.R. 3.1(H)

- B. Contents of 10 Day Notice.** The 10 day notice shall advise the client of:
- 1. The present status of the case;
 - 2. Any scheduled hearing dates;
 - 3. Of client’s duty to keep court informed of client’s mailing address, email address, and telephone number;
 - 4. That client will be held to the same standard of conduct as a licensed Indiana attorney; and,
 - 5. That the client should act promptly to secure new counsel.

C. Automatic Withdrawal. There is no longer an automatic withdrawal in a family law case.

LR02-TR4-4 Service of Process

A. Summons, Complaint and Appearance. The party filing the initial pleadings (summons, complaint, appearance, etc.) shall file by way of the Indiana E-filing System and pursuant to Trial Rules regarding service and e-filing.

- (1) By Certified Mail, Private Process, Sheriff (excluding the Allen County Sheriff), Publication and other Methods.** The initiating party must file a Certificate of Issuance of Summons. If the certified mail service of process is utilized, the initiating party must cause the green return receipt card to be returned to the initiating party, not returned to the Clerk.
- (2) By Allen County Sheriff.** Once the signed Summons is returned from the Clerk and the fee for Service of Process by Sheriff has been paid to the Clerk, it is the initiating party’s obligation to deliver the document(s) to the Allen County Sheriff to be served. It is the requesting party’s responsibility to provide the Allen County Sheriff with three copies of any

document(s) to be served along with a proof of payment for this service. Documents may be hand-delivered or mailed to the Allen County Sheriff. See T.R. 4.12.

Once the document(s) are served by the Allen County Sheriff, the Allen County Sheriff shall forward the document(s) to the Clerk for entry into the Chronological Case Summary.

If the Allen County Sheriff service method is utilized, the initiating party is not required to file a Return of Service.

B. Certificate of Issuance of Summons. See applicable Trial Rules on E-Filing. Once service is initiated, a Certificate of Issuance of Summons must be filed. See Appendix A(1).

C. Return of Service. After proof of service is returned to the initiating party, a Return of Service must be filed so that it will appear on the Chronological Case Summary. (See above exception, under A(2)). See Appendix A(2). Note: if e-filing the Return of Service, the file must specify in the comment field the name of the document(s), the party's name who service was attempted on, and an indication whether service was either served or not served.

D. Serving Non-Registered Persons. A person who has not registered or otherwise cannot access the Indiana Electronic Filing System but who is entitled to service of paper or pleading in a matter shall be served in accordance with the applicable Trial Rule regarding service.

Adopted effective November 1, 2021.

LR02-TR4-5 Alternate Service

A. This rule shall apply only to the service of papers regarding matters under the jurisdiction of the Court.

B. In the event e-filing is not required, service shall be accomplished pursuant to the Indiana Rules of Trial Procedure or by deposit in the attorney's courthouse mailboxes provided consent to such service is on file with the Court Executive.

LR02-TR7-6 Scheduling

A. It is the responsibility of the moving party to schedule a hearing on the motion. If the parties agree that no hearing is desired, the parties shall file a Stipulation requesting a ruling without a hearing.

B. If a hearing is scheduled, notice of the hearing shall be given as required by the trial rules on service. Any other pending requests for relief may be heard at the same time as the previously scheduled Motion, if time permits, subject to the notice requirements pursuant to the trial rule on service.

LR02-TR16-7 Case Management

A. An initial Case Management Conference (CMC) shall be set in every case where at least one-half day of trial is sought. When either party requests a Case Management Conference, the CMC shall typically be scheduled to occur within 30 days of the request. Absent leave of Court, trial dates for those matters of at least one-half day will not be assigned until after the CMC is

held and after mediation has occurred. Trial dates for such cases will be assigned at a Pre-Trial Conference (PTC).

B. At the Case Management Conference, the Court will address and very likely order mediation, discuss family law arbitration, inquire of the matters at issue, discuss discovery, and schedule a Pre-Trial Conference. Absent leave of Court, mediation must occur before the PTC is conducted.

C. Should the case not be resolved at mediation, then at the PTC, the Court will inquire of the matters at issue, schedule primary and/or secondary trial dates, schedule a Final PTC, and establish discovery and other deadlines.

D. Hearings requiring less than one-half day may be set upon request without a CMC. However, if the case involves matters where mediation is required regardless of the length of the hearing, such as one involving any issue concerning parenting time (e.g., parenting time modification, custody modification, contempt regarding parenting time, child support modification where the number of overnights is an issue) mediation must occur prior to the hearing unless prior leave of Court is otherwise obtained. When mediation is required for hearings of less than one-half day, the moving party shall also file a motion for mediation prior to, or with the notice of hearing.

E. Case Management Conferences may be set in any matter and at any procedural phase if helpful to assist the parties and the Court in efficient management of the case. Parties represented by counsel need not personally appear at the CMC or PTC unless otherwise ordered by the Court. The party requesting the CMC shall submit a “Notice of Case Management Conference” (similar to a Notice of Hearing) when requesting the date for the CMC.

Adopted effective November 1, 2021.

LR02-TR26-8 Financial Declaration Form

A. **Requirement.** Prior to a hearing in a family law matter, including dissolution, separation, paternity, post-decree, support proceedings and provisional hearings, the parties shall simultaneously exchange Financial Declaration Forms by the deadlines prescribed in the applicable court rule and/or governing Court order. The Financial Declaration Form shall be submitted to the Court during the hearing. The Financial Declaration Forms shall be in a format approved by the Court. These time limits may be amended by the Court for good cause shown.

- B. **Exceptions.** The Financial Declaration Form need not be exchanged or filed if:
1. The Court approves the parties’ written agreement to waive the exchange;
 2. The parties have executed a written agreement that settles all financial issues;
 3. The proceeding is one in which the service is by publication and there is not response;
 4. The proceeding concerns issues without financial implications; or,
 5. The proceeding concerns support matters enforced by the State.

C. **Admissibility.** Subject to specific evidentiary challenges, the Financial Declaration Form shall be admissible into evidence during the hearing. The submission of the Financial Declaration Form shall not prohibit any other relevant discovery permitted under the Indiana Rules of Trial Procedure.

D. **Financial Declaration – Mandatory Discovery.** The exchange of Financial Declaration

Forms constitutes mandatory discovery, and Trial Rule 37 sanctions are applicable. Additionally, pursuant to Trial Rules 26(E) (2) and (3), the Financial Declaration Form shall be supplemented if additional information becomes available.

LR02-TR26-9 Provisional Orders and Modification of Support

At least three (3) business days before a scheduled hearing regarding provisional orders or modification of child support (except support matters enforced by the State), each party shall deliver to all parties to the case the following materials:

1. Their three (3) most recent pay stubs for all employers;
2. Their most recent W-2s, 1099s, and federal income tax returns with all schedules and attachments;
3. Documentation regarding work related child care expenses;
4. Documentation regarding health insurance premiums;
5. Documentation regarding child support orders for other children;
6. Proposed Child Support Obligation Worksheets;
7. Financial Declaration Form; and
8. Any exhibit or document that each party intends to submit to the Court.

LR02-TR26-10 Exchange of Appraisals: Mandatory Discovery

At least sixty (60) days prior to the final hearing the parties shall exchange copies of all business valuations, real estate appraisals, and personal property appraisals that will be offered into evidence at the final hearing.

LR02-TR33-11 Discovery Requests

A. Interrogatories, Request for Production of Documents, and Request for Admissions shall be tailored to the case in which they are served and numbered consecutively to facilitate response.

B. The recipient of Interrogatories may file a Motion for Protective Order (T.R. 26(C)) or a Motion to Strike specific interrogatories after fully complying with T.R. 26(F). Any such Motion shall be scheduled for hearing and does not extend the time for answering unobjectionable Interrogatories.

C. Limit on Interrogatories. In any initial cause of action, a party may serve on any other party no more than a cumulative total of fifty (50) written interrogatories, including subparts, without leave of the Court or written agreement of the parties. For purposes of this rule, each question asked, as well as each subpart, constitutes a separate interrogatory, regardless of whether that part is logically or factually related to another subpart. The following interrogatories shall not be counted against the above-set fifty (50) interrogatory limit: (a) general identifying and background information of a party concerning a party's full name, address, birth date, education history, employment history, criminal history, and past lawsuits or claims; (b) interrogatories identifying expert witnesses, the name and, if known, the address and telephone number of each individual who may be called as a witness (expert or otherwise), and/or who has

discoverable information; (c) interrogatories asking to identify and describe by category and location all documents, electronically stored information, photographs, videos, written or recorded statements and tangible things that may be used to support a party's claims or defenses; and (d) interrogatories asking to identify any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy any judgment.

D. Limits on Request for Production of Documents: In any initial cause of action, a party may not serve more than twenty-five (25) requests for productions of documents, including subparts, on another party.

E. Limit on Requests for Admission. In any initial cause of action, a party may serve on another party no more than a cumulative total of thirty (30) requests for admission without leave of the Court or written agreement of the parties. For purposes of this rule, requests seeking admission of the authenticity of a document shall not be counted against the above-set thirty (30) request limit.

F. Successive Claims for Relief. The discovery limits set forth in this rule shall reset (i) upon the dissolution of the parties' marriage; and (ii) upon the entry of each and every order granting a modification of custody, modification of parenting time, or modification of child support; provided, however, that in the case of any such reset, the limits shall be reduced, and each party shall have the right, without leave of the Court or agreement of the parties, to serve up to a cumulative total of twenty-five (25) interrogatories, fifteen (15) requests for production of documents, and/or fifteen (15) requests for admission.

G. Serving in Excess of the Limit. The Court, for good cause shown, may increase the discovery limits set forth in this rule. Any party desiring to serve more than the applicable limits on interrogatories, requests for production of documents, and/or requests for admission shall, after full compliance with T.R. 26(F), either:

1. File a stipulation of the parties, agreeing to the additional interrogatories, requests for production of documents, and/or admissions; or
2. If an agreement cannot be obtained, file a written motion requesting leave of the Court to serve more than the applicable limit on interrogatories, requests for production of documents, and/or requests for admission. Any such motion shall set forth the additional proposed interrogatories, requests for production of documents, and/or requests for admission, and shall explain their necessity. A party is required to fully comply with T.R. 26(F) prior to filing any such motion.

Adopted effective November 1, 2021.

LR02-TR34-12 Copying Charges for a Non-party

A. A non-party who has received a Request for Production of Documents or Subpoena Duces Tecum shall charge not more than the following:

1. One-dollar (\$1.00) per page for the first ten (10) pages;
2. Fifty cents (\$.50) per page for pages eleven (11) through fifty (50); and,
3. Twenty-five cents (\$.25) per page for pages fifty-one (51) and higher.

B. The provider of the documents may collect a labor fee not to exceed twenty dollars (\$20.00). If the provider collects a labor fee, the provider may not charge for the first ten (10) pages of documents.

C. The provider may charge the actual costs of mailing the records.

D. The provider may collect an additional ten dollars (\$10.00) if the request is for copies to be provided within two (2) working days.

E. A per page copy charge may not be assessed for copies provided electronically, on a disk, on a thumb drive or by similar digital means.

LR02-TR35-13 Custodial Evaluation

A. When a custodial evaluation is ordered by the Court, the Court shall direct the parties to fully cooperate with the custodial evaluator, and contact the custodial evaluator to arrange for the evaluation appointment(s).

B. A custodial evaluator shall be deemed to be appointed pursuant to I.C. 31-17-2-10, unless otherwise ordered by the Court.

LR02-TR37-14 Resolution of Discovery Disputes

A. The informal resolution requirement of T.R. 26(F) shall be strictly enforced. The Court may deny any discovery motion filed pursuant to T.R. 27-37, if the moving party has not complied fully with T.R. 26(F).

B. Upon strict compliance with T.R. 26(F), the Court may take any appropriate action or schedule a hearing.

C. If an attorney sends at least one email and makes at least one telephone call seeking a discovery dispute conference, but opposing counsel does not respond within seven days from the last attempt, it shall be presumed that reasonable efforts have been made and a Motion to Compel may be filed.

LR02-TR42-15 Multiplicity of Dissolution of Marriage Actions

In its discretion, the Court may continue a hearing in any action for dissolution of marriage until all other cases for dissolution of marriage pending between the same parties in any Court have been dismissed.

LR02-TR43-16 Identification and Return of Exhibits

A. After being marked for identification, exhibits that are offered or admitted into evidence shall be placed in custody of the Court Reporter unless otherwise ordered by the Court.

B. After a case is decided and no appeal is taken, or after all appeals are exhausted, an attorney may request in writing the return of the exhibits which are the property of their client. A detailed receipt shall be filed by the Court Reporter evidencing the return of any exhibits. If no request is made within 90 days after the above stated period, the Court Reporter may, with Court approval, dispose of the exhibits.

LR02-TR47-17 Juries

If a jury is required in a family law matter, the local rules for civil practice in Allen County regarding jury practice and management shall govern.

LR02-TR53.5-18 Continuances

A Motion to Continue a hearing, unless made orally at the commencement of a trial, shall be in writing, shall state with particularity the grounds, shall recite whether the other party objects or consents to the motion, and shall be verified, and shall be served upon opposing counsel or pro se party. When opposed, such motion shall be scheduled on the calendar by the moving party for argument. If the verified motion provides that the date of the hearing sought to be continued was not cleared on the calendar of all attorneys of record at the time of scheduling, the motion may be granted without a hearing.

LR02-TR58-19 Duties of Attorneys

A. Counsel shall prepare proposed orders as may be required by the Court, such as orders granting or denying routine motions and agreements.

B. Proposed orders and proposed findings of fact and conclusions of law shall be served upon the opposing party or counsel, consistent with the Trial Rule regarding service.

C. Counsel of record shall be and remain informed of all action and filings made in all matters pending in which they are counsel of record.

D. All proposed Qualified Domestic Relations Orders (QDRO) shall be signed by all parties or their attorneys, and when possible pre-approved by the Plan Administrator. Any dispute regarding a proposed QDRO shall be set for hearing upon request of a party.

LR02-TR58-20 Preparation of Stipulated Orders and Judgments

A. If the parties reach an agreement on any or all issues, the terms of the agreement shall be reduced to writing and signed by all parties or their counsel, including the State if it has intervened and the Guardian Ad Litem if one has been appointed. The signed agreement shall be e-filed with the Court. A separate proposed Order including the relevant portions of the agreement in the imperative form shall also be e-filed. The proposed Order shall include instructions regarding the distribution and delivery of the Order pursuant to Trial Rule 72(D).

B. With all Stipulations, including Mediation Agreements, a Notice of Trial Calendar Status shall be e-filed. **See Appendix B.**

C. In the event a money judgment is to be rendered against any party by agreement such as a child support arrearage, property equalization payment, and/or attorney fees, a Notice of Judgment shall be e-filed. See Appendix C.

LR02-TR65-21 Temporary Restraining Orders

A. **Temporary Restraining Order-Marital Property.** Upon the filing of a verified petition for dissolution of marriage or verified petition for legal separation, the Court will issue the following temporary restraining order with respect to marital property: Petitioner and Respondent are both enjoined from transferring, encumbering, concealing, selling or otherwise disposing of any joint property of the parties or asset of the marriage except in the usual course of business or for the necessities of life, without the written agreement of both parties or the permission of the Court.

B. **Temporary Restraining Order-Relocation of Children.** Upon the filing of a verified petition for dissolution of marriage or verified petition for legal separation, the Court will issue the following temporary restraining order with respect to the relocation of children from the marriage: Petitioner and Respondent are both enjoined from removing any child of the parties then residing in the State of Indiana from the State with the intent to deprive the Court of jurisdiction over such child without the prior written consent of all parties or the permission of the Court.

C. **Preparation of Temporary Restraining Order.** At the time of the filing of a verified petition for dissolution of marriage or verified petition for legal separation, Petitioner or Petitioner's counsel shall submit to the Court a proposed temporary restraining order for issuance by the Court. The proposed order shall be in a format that has been approved by the Court.

D. **Request for Hearing.** Any party may file a motion for modification or termination of a temporary restraining order issued by the Court pursuant to this Rule. A motion for modification or termination of a temporary restraining order may be given an expedited hearing by the Court.

LR02-TR65-22 Motions Alleging Emergencies

A. Trial Rule 65(B)(1) and (2), and current case law, including *In Re: Anonymous*, 729 N.E.2d 566 (Ind. 2000), shall govern all motions alleging an emergency where Court action is sought without notice. Strict construction and application of Trial Rule 65(B) shall be required.

B. Emergency relief may also be sought upon notice. The Court will review such motions and may set them upon summary hearing or other expedited calendar.

LR02-TR65-23 Orders For Protection

A. A Petition For An Order For Protection And Request For A Hearing shall be filed in the Allen Superior Court Small Claims Division.

B. Pursuant to I.C.34-26-5-6 (4), if a person who petitions for an ex parte order for protection also has a pending case involving:

1. the Respondent; or
2. a child of the Petitioner and Respondent;

the Court that has been petitioned for relief may immediately consider the ex parte petition and then transfer the Protective Order case to the Court in which the other case is pending.

C. The Protective Order cause of action shall be maintained with the pending JP, DR, DN, DC, JQ, JC, JT, JS, JM, RS or JD cause of action. However, the cases are not consolidated.

D. All pleadings, hearings, and orders pertaining to a Protective Order shall be in the Protective Order cause of action. An attorney who also represents a party in a related Family Law case must file a separate written appearance in the Protective Order case.

LR02-TR73-24 Hearings

A. Hearings will be limited to the time scheduled on the calendar, and it shall be the responsibility of the moving party to ensure adequate time is reserved for the completion of the hearing. Should the parties be unable to complete the hearing within the scheduled time, the hearing will be continued and reset on the calendar, unless otherwise directed by the Court. In the event a party files subsequent motions after the matter is set for hearing, said motions will be heard at that hearing only upon agreement of the parties or by order of the Court.

B. Not all family relations hearings are electronically recorded. It is the parties' responsibility to request an electronic recording if they desire the same. Absent such a request, the recording might not be made.

C. At a hearing for provisional orders, a party may elect to present evidence in a summary manner or by direct testimony. If evidence is presented in a summary manner, then the party presenting the evidence shall be sworn under oath and verify the representations made by counsel. The rules of evidence with respect to hearsay shall apply unless waived by the parties. If an attorney makes a representation by an individual who is not a party during a summary presentation of evidence, that individual must be present to verify the statement.

D. Protective Order hearings shall not be heard in summary manner absent leave of Court. However, Protective Order hearings must be concluded in the time allotted. The Court may set parameters to ensure the timely conclusion of the hearing.

E. Subject to approval by the Court, the parties by agreement may present evidence at any hearing in a summary manner consistent with the procedures used for a provisional orders hearing.

F. At any provisional order hearing each party shall be allotted one half of the total hearing time, including cross examination, with the initiating party having the right to reserve a portion of their allotted time for rebuttal.

LR02-TR76-25 Special Judge

A. **Appointment by Clerk.** If a special judge is not appointed pursuant to T.R. 79(D), the Clerk of the Court shall select a special judge (on a rotating basis) from a list consisting of judicial officers eligible under T.R. 79(J).

B. Certification to the Supreme Court. In cases in which no judge is eligible to serve as a special judge or the particular circumstances of a case warrant selection of a special judge by the Indiana Supreme Court, the appropriate Allen County Judge may certify the case to the Indiana Supreme Court for appointment of a special judge.

LR02-FL00-26 Attorney Fees

A. All requests for attorney fees shall be presented to the Court by way of affidavit or oral testimony, as the Court allows. The affidavit shall be admitted into evidence subject to cross-examination. In addition, the affidavit shall have attached to it a billing statement which includes an itemization of services, the total fee for the services, payments received for the services, and the account balance.

B. In assessing preliminary attorney fee awards, the Court may determine the award by comparing the gross incomes of the respective parties and such other financial and non-financial matters as the Court deems appropriate.

C. An award of additional preliminary attorney fees, expert witness fees, and similar expenses may be granted upon proof of extensive discovery, significant negotiations, preparation of more than the usual number of documents, the preparation for or the conduct of contested preliminary matters or final hearings, the complexity of the case or other factors necessitating such an award.

D. The Court may enter an order making funds available for payment of preliminary attorney fees, while reserving for trial whether such an order represents either an award against a party or advancement in favor of the requesting party.

E. In contempt matters where attorney fees are requested, counsel shall provide the Court with appropriate evidence of time, services and value rendered as part of the fee request. Said evidence may be made by affidavit.

F. In order for an Attorney Fee Lien to attach, a judgment must have already been entered. Once a judgment has been entered, the attorney must file a Notice of Intent to File Attorney Fee Lien or similar document pursuant to I.C. 33-43-4-2.

Adopted effective November 1, 2021.

LR02-FL00-27 Appointment and Duties of Guardian Ad Litem in DR, DC and JP Cases

A. **Definition of Guardian Ad Litem.** An individual appointed by the Court pursuant to I.C. 31-15-6-1; I.C. 31-17-6-1 or by Order of the Court. See also I.C. 31-9-2-50.

B. **Appointment.** When the Court is required by statute, or when the Court, in its discretion, finds that it is appropriate to do so, the Court Shall appoint a guardian ad litem. The guardian ad litem shall be a party to the proceeding.

C. **Duties.** The guardian ad litem's duties shall include:

1. Performance of all duties required by law, which include to represent and protect the best interests of the child(ren); and

2. When possible, submit a written report of the guardian ad litem's findings and recommendations to the Court prior to the matter being heard by the Court. The attorneys and pro se litigants shall receive a copy of the report in accordance with the applicable Trial Rules regarding service.

D. **Fees** All guardian ad litem fees must be submitted to the Court for approval. The Court may order the parties to pay a retainer to the guardian ad litem to be held in trust pending approval of guardian ad litem fees. The amount of the retainer and allocation of payment between the parties shall be determined by the Court based upon all relevant factors. The Court may order an additional retainer or fees to be paid by the parties to the guardian ad litem during the pendency of the case, and the Court may reallocate the parties' share of the total guardian ad litem fees at the conclusion of the case or other appropriate time.

E. **Term of Service** The guardian ad litem shall serve until discharged by Court order. The guardian ad litem may at anytime petition for removal from service. The parties may also petition for removal of the guardian ad litem. It shall be within the Court's discretion whether just cause exists for such removal.

LR02-FL00-28 Adoption of Family Court Rules

Adoption of Family Court Rules of the Indiana Supreme Court are adopted as a whole by the Allen Superior Court and the Allen Circuit Court and shall be applicable to all cases designated as a Family Court Proceeding in the Family Court.

LR02-FL00-29 Family Court Definitions

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

B. **Family Court Proceeding.** A "Family Court Proceeding" is comprised of the individual cases of the family or household which have been assigned to Family Court.

LR02-FL00-30 Exercise of Jurisdiction

With the consent of the judge presiding over each affected case, the Family Court may exercise jurisdiction over any case involving the family at the same time it exercises jurisdiction over a juvenile case (Child In Need of Services, Delinquency, Status and Paternity) involving the family.

LR02-FL00-31 Concurrent Hearings

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

LR02-FL00-32 Designation of Family Court and Change of Judge for Cause

A. Within ten (10) days after notice is sent that a case has been selected for Family Court, a party may object for cause to the Family Court designation.

B. A motion for change of venue from the judge in any matters arising in the Family Court Proceeding or any future cases joined in the Family Court Proceeding after the initial selection of cases, shall be granted only for cause and in accordance with the applicable Indiana Rules of Trial Procedure and related Local Rule.

C. If a special judge is appointed, all current and future cases in the Family Court Proceeding shall be assigned to the special judge.

LR02-FL00-33 Judicial Notice and Access to Records

A. **Notice of Case Assignment.** Within a reasonable time after a case is assigned to Family Court the Court shall provide to all parties in the Family Court Proceeding a list of all cases that have been assigned to the Family Court proceeding.

B. **Judicial Notice.** Any Court having jurisdiction over a case assigned to Family Court, may take judicial notice of any relevant orders or Chronological Case Summary (CCS) entry issued by any Indiana Circuit, Superior, County, or Probate Court. If a Court takes judicial notice of a Court Order, CCS, or CCS entry(s), the Court shall provide a copy of such to the parties at or before the time the judicial notice is taken.

C. **Access to Records.** Parties to a Family Court Proceeding shall have access to all cases within the Family Court Proceeding, with the exception of confidential cases or records to which they are not a party. Parties may seek access to the confidential cases or records in another case within the Family Court Proceeding in which they are not a party, by written petition based on relevancy and need. Confidential records shall retain their confidential status and the Family Court shall direct that confidential records not be included in the public record of the proceedings.

LR02-FL00-34 Alternative Dispute Resolution

A. If a case pending before the Court involves parenting time issues, the Indiana Parenting Time Guidelines require mediation unless otherwise ordered by the Court.

B. In all family relations cases the parties shall participate in the mediation prior to scheduling any matter requiring a hearing of one half day or longer, unless otherwise ordered by the Court.

C. Consistent with A.D.R. Rule 2.2, any party may file a motion for mediation at any time.

D. The parties are encouraged to stipulate to the selection of a mediator. If the parties are unable to do so, the Court shall appoint the mediator, or the Court shall name a panel of three from the Court's approved mediation list, from which the parties shall strike, with the moving party striking first, and the entire selection process to be completed within 30 days. If a party fails to exercise their strike within the allotted time, the Court shall either make the strike or order the Clerk to make the strike on the party's behalf.

E. The Indiana Rules for Alternate Dispute Resolution shall apply in all respects to all family

law mediation.

F. Unless otherwise agreed by the parties, or ordered by the Court, the mediator's fee shall be allocated between the parties on a income shares model basis. In the event of settlement within three (3) days of the scheduled mediation date, the mediator may charge a fee for two (2) hours of time. Each party shall pay their portion of the mediation fees and costs within thirty (30) days after the close of mediation. If a party fails to appear for the mediation without good cause, as determined by the Court, or fails to participate in good faith during mediation, the entire cost of the mediation may be assessed against that party. Mediation costs may include attorney fees, expert witness fees, mediator fees and other incidental costs.

LR02-FL00-35 Pending Criminal Domestic Violence Litigation Disclosure

Prior to any hearing or within thirty (30) days after service of a petition seeking relief in a family law matter, whichever shall first occur, each party shall file a written disclosure of any criminal proceedings pending against them as well as any pending civil proceedings in which allegations of spousal abuse, child abuse or domestic violence have been made against either or both parties. The written disclosure shall include the name and location of the Court in which the case is pending, the case number, the names of the parties involved and a brief summary of the nature and procedural status of the other legal proceeding.

LR02-FL00-36 Transitional and Problem Solving Parenting Classes

A. It is in the best interest of minor children for the Court to encourage cooperation and conciliation between parents. In all dissolution of marriage and legal separation proceedings involving children under the age of seventeen (17) years, each party shall be ordered to attend Court approved educational programs which are designed to teach effective parenting and parent communication skills unless the Court waives the request upon good cause being provided to the Court.

B. In all paternity proceedings involving children under the age of seventeen (17) years, each party may be ordered to attend Court approved educational programs which are designed to teach effective parenting, parent communication skills, and early childhood development education. Each party who has been ordered to attend such a program must file a Certificate of Completion with the Court. Information concerning the name and location of the Court approved organizations providing these classes can be obtained from the Court.

C. Failure to comply with this rule may subject the non-complying party to Contempt of Court proceedings and other appropriate sanctions.

LR02-JV00-37 Children in Need of Services-Preliminary Inquiry Hearings

A. **Procedure** – In all cases in which the court is to determine whether to authorize a petition, the court shall conduct a hearing to consider the preliminary inquiry and evidence of probable cause to believe a child is a child in need of services. If probable cause is found and a petition is authorized, the court shall schedule an Initial Hearing and order the parties to participate in facilitation. From the evidence and reports presented the court shall:

1. Enter an order for the detention of the child or to release the child to the child's parent, guardian or custodian under the supervision of the Department of Child Services;

2. Consider and determine whether to enter a provisional order for the care, treatment and rehabilitation of the child, the parent, guardian, and/or custodian;
3. Determine whether the child and/or the parent, guardian, and/or custodian should be ordered to complete a mental health assessment and/or psychological evaluation;
4. Determine whether the child and/or the parent guardian, and/or custodian should be referred for services through the court's Mental Health Specialty Track; and,
5. Enter findings as to whether the state has made reasonable efforts to prevent the removal of the child from the home or whether exigent circumstances precluded the opportunity to provide services to the parent, guardian or custodian.

B. Facilitation – At the Court's discretion, the court may order that a preliminary hearing be first addressed in facilitation in the manner as set forth herein.

LR02-JV00-38 Children in Need of Services – Facilitation of Initial Hearings and Dispositional Hearings

A. Facilitation – Immediately preceding the Initial Hearing on a petition to adjudicate a child to be a child in need of services, or at a time otherwise directed by the court, a facilitation shall be conducted.

B. Facilitation defined – Facilitation is a confidential process in which a neutral third person, appointed by the court, acts to encourage and to assist the parties in achieving a non-adversarial resolution to the allegations set forth in the petition alleging the child to be a child in need of services. The facilitator assists the parties in problem identification and resolution. During the facilitation process, the parties may agree to orally amend the allegations of the petition and the terms of the proposed plan for parent participation. The facilitator will assist the parties in resolving issues regarding the child's placement; the plan for visitation by the parent, guardian, and/or custodian; the responsibilities, duties and requisite services for the family's care, treatment and rehabilitation; the roles of other individuals in the family's rehabilitation; and other matters relative insuring the child's protection and best interests.

C. Participants to the facilitation – The parent, guardian and/or custodian; the attorney representing the parent, guardian, and or custodian; the guardian ad litem or court appointed special advocate; the county Department of Child Services shall participate in the facilitation process. The child shall attend the facilitation if the child's guardian ad litem or court appointed special advocate believes it is in the child's best interests to attend and believes the child to be of suitable age and maturity to participate. The child's relatives; the foster parent; persons providing support for the parent, guardian or custodian; and/or other persons who have significant or caretaking relationships to the child may be in attendance at the facilitation unless excluded by the court. Facilitations are not otherwise open to the public except as may be approved by the court for the purposes of training or research.

D. Facilitation Procedure – All cases pending an Initial Hearing shall be first submitted for facilitation. All parties are required to mediate the issues in good faith but are not compelled to reach an agreement. The facilitator shall first determine whether the parties named in the petition have been apprised of their rights. Any request for the appointment of pauper counsel shall be completed in writing on a form prescribed by the court and submitted to a judge or magistrate for a ruling prior to the start of the facilitation. The facilitator shall explain the process and identify the issues that are to be discussed in facilitation. Each allegation of the petition alleging the child to be a child in need of services shall be reviewed. Parties shall be given an opportunity to explain their position with regard to each

allegation. Where appropriate and, by agreement of the parties, the allegation may be amended. Once the petition is facilitated, the facilitator shall assist the participants in determining the nature and types of services in which the child or parent, guardian, custodian, or other person should be required to participate. Agreements reported to the court following facilitation must be based on the autonomous decisions of the parties and not the decisions of the facilitator. The facilitator shall orally present the facilitation report to the court at the Initial Hearing and, if appropriate, the Dispositional Hearing. The report shall include a recitation of the parties' respective admissions and denials to the allegations of the petition, the parties' agreement for provisional orders, parent participation plan and/or dispositional decree and a statement of unresolved issues. At the Initial Hearing, the court will confirm with the parties and the participants the terms of the facilitated agreement. The Court may adopt the parties' agreement as orders of the court if it determines the agreement is in the best interests of the child. Issues that are not resolved through facilitation or not adopted as an order of the court may be referred back by the court for additional facilitation, may be resolved by order of the court based on a summary presentation, or may be scheduled by the court for a subsequent hearing or fact finding. The rules of evidence do not apply in facilitation.

E. Termination of Facilitation – The facilitator may terminate facilitation whenever the facilitator believes that continuation of the process would harm or prejudice the child or one or more of the parties. The facilitator may bifurcate the process whenever the facilitator determines that due to a party's history of domestic violence would impede another party's ability to openly discuss issues should the other person be present.

F. Confidentiality – Statements and issues discussed in facilitation are confidential and may not be used as statements against interest or otherwise against a party in any Initial Hearing, fact finding, or pending or impending civil or criminal trial unless consent by the declarant is given. Facilitators shall not be subject to process requiring the disclosure of any matter discussed during the facilitation, but rather, such matter shall be considered confidential and privileged in nature. The confidentiality requirement may not be waived by the parties, and an objection to the obtaining of testimony or physical evidence from facilitation may be made by any party or by the facilitators.

G. Qualification of Facilitators – All facilitators shall be appointed by the court. In determining the appointment of a facilitator, the court may require the following training to be completed: A series of court-approved classes or seminars on the principles of Family Group Decision Making and/or dependency mediation as offered by the court, the American Humane Association, model courts designated by the National Counsel of Juvenile and Family Court Judges; or dependency mediation courses that may be offered by the Association of Family and Conciliation Courts; Classes or seminars on the law governing children in need of services; Classes or seminars on issues related to poverty, racial and cultural diversity, strength based practices, and positive youth development; and, In addition to the foregoing, the court may require a facilitator to complete Alternative Dispute Resolution training as set forth in Alternative Dispute Resolution Rule 2.5

H. Appointment of Pauper Counsel – Any party requesting appointment of pauper council in any case shall complete a questionnaire prescribed by the court that requests information regarding the applicant's employment, earnings, financial resources, education, training, age, family composition, disabilities, or other information necessary for the court to consider the applicant's eligibility for the appointment of pauper counsel. After considering the complexities of the factual and legal issues in this case, the likelihood of the applicant's ability to prevail on the merits of the case, the ability of the

applicant to investigate and present the applicant's claims and/or defenses without an attorney, and the opportunity for facilitation/mediation, the court will enter findings and order that determines whether the applicant has sufficient means to defend or prosecute the case. Based on its findings, the court may appoint pauper counsel who will be fully or partially compensated by the court. The court may require the applicant to pay and be responsible for all or part of the pauper counsel's fees.

I. Attorney Guardian ad Litem and Pauper Counsel Fees – Services by attorneys appointed by the court to serve as paper counsel or as a guardian ad litem shall be deemed quasi pro bono and shall be paid upon submission of a claim for services as restricted by the court's fee schedule. The fee schedule will be based upon an hourly fee as set forth in the court's order of appointment. With the exception of costs of copying and postage, any fees or costs not set out in the fee schedule must be pre-approved by the court. By acceptance of appointment the court appointed counsel agrees to abide by the fee schedule established by the court and further agrees to timely submit all claims for payment. Claims for payment should be submitted on the day services are rendered unless other arrangements are made with the court. Any claims for fee not submitted within thirty (30) days from the date the services were rendered will be deemed waived and such services will be regarded as rendered entirely pro bono.

LR02-DR00-39 Adoptions

A. A final hearing shall be scheduled by the court on its own motion or at the requests of any party only after the court has examined the court file and determined that all conditions precedent to finalization have been met.

B. All other adoption matters shall be disposed of in accordance with the Indiana Rules of Trial Procedure and the applicable Indiana Code.

LR02-JV00-40 Allen Superior Court Paternity Procedures:

A. All Superior Court paternity filings shall be filed at the Allen County Juvenile Center.

B. The Court may order the State of Indiana to file all its paternity pleadings within the existing case management system of the Allen County Juvenile Center.

C. The child must always be a party. Each child must be listed on their own Verified Petition and the caption should reflect the child's full legal name by next friend.

D. Prior to a paternity trial, the court may order all parties to submit to DNA testing. In the event of DNA exclusion, the court shall assess the costs of DNA testing to the Petitioner unless such costs are waived by the Court.

E. In the event that custody or parenting time issues are presented for Court consideration, the Court on its own motion or on the motion of any party, may order a party to submit to a parenting inventory, skill, risk, and/or needs assessment.

LR02-JV00-41 Juvenile Delinquency Proceedings

A. The Court may order the State of Indiana and the Office of the Public Defender to file its pleadings within the existing case management system of the Allen County Juvenile Center.

APPENDIX B NOTICE OF TRIAL CALENDAR STATUS

STATE OF INDIANA)	IN THE ALLEN SUPERIOR/CIRCUIT COURT
)	
COUNTY OF ALLEN)	CAUSE NUMBER:
)	
,)	
Petitioner,)	
vs.)	
)	
,)	
Respondent.)	

NOTICE OF TRIAL CALENDAR STATUS
(check appropriate paragraph)

_____The , by counsel, _____, hereby certifies to the Court that the above captioned matter has been resolved by agreement filed herewith, and accordingly, the trial set herein for at _____ should now be removed from the Court's calendar.

[OR]

_____ There are presently no matters herein set upon the Court's calendar.

Name and Attorney #
Address
ATTORNEY FOR *

COPIES TO:

Attorney Name
Attorney e-mail
ATTORNEY FOR PETITIONER

Attorney Name
Attorney e-mail
ATTORNEY FOR RESPONDENT

APPENDIX C NOTICE OF JUDGMENT

STATE OF INDIANA) IN THE ALLEN SUPERIOR/CIRCUIT COURT
) SS:
COUNTY OF ALLEN) CASE NUMBER:

IN RE: THE _____ OF)
)
_____,)
)
Petitioner,)
)
and)
)
_____,)
)
Respondent.)

NOTICE OF JUDGMENT

A judgment is entered in matter in the amount of _____
in favor of _____ and against _____
for the purpose of _____.
(ex. Attorney Fees, Property Equalization, Mediator Fees, Medical, Educational, Arrearage, etc...)

Additional instructions (deadlines, interest charging, etc...):

Date:

So Ordered.

Judicial Officer

DISTRIBUTE TO: