

STATE OF INDIANA) **MARION CIRCUIT AND SUPERIOR**
) **COURTS**
)
COUNTY OF MARION))
)
In Re Local Court Rules)

Notice of Proposed Local Rule Adoption, Finding Good Cause to Deviate from the Schedule for Amending Local Court Rules, and Requesting Comments

The Judges of the Marion County Courts in compliance with the provisions of Trial Rule 81 give Notice of the proposed adoption of a new local court rule, replacing the existing rule concerning the **Marion Superior Court Administrative Rule LR49-AR15 Rule 307 Court Reporter Services**. And, pursuant to Trial Rule 81(D), the Judges find that good cause exists to deviate from the schedule established by the Division of State Court Administration for the publishing of amendments to local rules. Accordingly, the Courts issue the following proposed new Marion Superior Court Administrative Rule LR49-AR15 Rule 307 Court Reporter Services to replace the existing rule and invite comments from the bar and the public. The proposed effective date of the adopted rule is **July 1, 2016**. Supreme Court approval is required.

Comments to this proposed Local Rule will be received through Noon on **June 27, 2016**. Comments to this proposed Local Rule should be e-mailed to the Office of the Court Administrator, c/o Emily.Vanosdol@indy.gov or mailed to:

Emily VanOsdol
Office of the Court Administrator
Marion County Circuit and Superior Courts
200 East Washington St., Ste. T-1221
Indianapolis, IN 46204

All of the above is so ORDERED this 25th day of May, 2016.

/s John M.T. Chavis, II
*Judge John M.T.Chavis, II
Presiding Judge

*Original signature on file with the Court.

- A. **Application of Rule.** All of the courts of record in Marion County, Indiana hereby adopt the following local rule by which all Court Reporter services shall be governed. This rule enables each Court to choose between one of two models adopted by the Marion County Judiciary. A Court may only use one model in any given calendar year. If a Court wishes to change its model for the following calendar year, the Court must notify State Court Administration no later than September 1.
- B. **Definitions.** The following definitions shall apply under this local rule:
- (1) A *Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
 - (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 28A. A *page* does not include an Exhibit Page.
 - (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 that are 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 week.

- (9) *Compensatory Time* means that time off to which an employee may be entitled by reason of the employee having worked gap hours and/or overtime hours as defined herein, and for which an employee would otherwise be entitled to receive regular pay and/or overtime pay. An employee's compensatory time off for gap hours worked shall be computed at an hour for hour basis. Compensatory time off for overtime hours worked shall be computed at a rate of one and one half compensatory time for each hour of overtime hours accrued. An employee shall receive compensatory time off for gap hours and/or overtime hours in lieu of gap and/or overtime pay.
- (10) *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.
- (11) *Court* means the particular court for which the court reporter performs services. In Marion County, pursuant to LR49-AR00 Rule 301, the Courts are broadly grouped into divisions. The divisions are as follows: Civil Division, Juvenile Division, Probate Division and Criminal Division. The Criminal Division is further divided by case filings to include: Major Felony Courts, Domestic Violence Courts, Drug Courts, Level 6 Felony Courts, and Misdemeanor Courts.
- (12) *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.
- (13) *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.
- (14) *Private transcript* means a transcript, including but not limited to a deposition transcript that is paid for by a private party.
- (15) *Expedited Transcript* means a transcript that is to be completed within seven (7) days of the request for the transcript.
- (16) *Schedule of Transcript Supplies* means those supplies and or services necessary for the binding of the transcript and exhibit binders pursuant to Appellate Rules 28 and 29. Transcript supplies shall include, but not be limited to, C-D ROM disks, software disks, tabs and binders.
- (17) *Minimum Transcript Fee* means the minimum fee charged for the preparation of a transcript or any portion thereof.
- (18) *Exhibit Page* means all documentary, non-documentary and oversized exhibits and includes an index of exhibits pursuant to Appellate Rule 29.

(19) *Court Reporter Agreement* means a contractual agreement between Marion County Circuit and Superior Courts, by and through its Executive Committee and the Supervising Judge with the Court Reporter outlining and defining the reporter's terms of employment.

(20) *Government transcript* is a transcript requested by an agent of the county or state on behalf of an indigent party, or by a prosecutor.

C. Court Reporter Model One: The Court Reporter shall type all transcripts outside of regular work hours and receive payment directly for all transcripts completed at the per page rate. A Court Reporter Agreement shall be entered addressing the following topics and any other terms of employment:

(1) Court Reporters under Model One shall be paid an annual salary for time spent working under the control, direction, and direct supervision of the Court during any regular work hours, gap hours, or overtime hours.

(2) The annual salary paid to the court reporter shall be based upon 37.5 working hours per week.

(3) The amount of the annual salary shall be set by the Marion Superior Court salary classification schedule.

(4) Court Reporters under Model One shall not type any transcripts during regular work hours. The Court Reporter will receive payment directly for all transcripts pursuant to the per page fee schedule.

(5) A Court Reporter shall be entitled to additional compensation beyond regular salary under one of the two options set forth as follows:

(a) Gap hours shall be paid in the amount equal to the hourly rate of the annual salary and overtime hours shall be paid in the amount of one and one-half (1 1/2) times the hourly rate of the annual salary OR

(b) Compensatory time off from regular work hours shall be given in the amount equal to the number of gap hours worked; and compensatory time off from regular work hours shall be given in the amount of one and one-half (1 1/2) times the number of overtime hours worked.

(6) The Marion Circuit Court through its Circuit Court Judge and the Marion Superior Court, by and through its Executive Committee and the Supervising Judge shall determine which of the preceding two (2) options shall be utilized.

(7) If a Court Reporter elects to engage in private practice through recording a deposition and/or preparing a deposition transcript, such private practice shall be conducted outside of regular working hours.

(8) If a Court Reporter elects to engage in private practice through recording a deposition and/or preparing of a deposition transcript, then the Court may agree to the use of court equipment for such purposes. The Court Reporter Agreement must, at a minimum, designate the following:

(a) the reasonable market rate for the use of equipment, work space and supplies;

(b) the method by which records are to be kept for the use of equipment, work space and supplies;

(c) the method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.

D. Court Reporter Model Two: The Court Reporter shall type government transcripts during regular work hours and the payment shall be paid directly to the Court. A Court Reporter Agreement shall be entered addressing the following topics and any other terms of employment:

(1) Court Reporters under Model Two shall be paid an annual salary for time spent working under the control, direction, and direct supervision of the supervising judge during any regular work hours, gap hours, or overtime hours.

(2) The annual salary paid to the court reporter shall be based upon 37.5 working hours per week.

(3) The amount of the annual salary shall be set by the Marion Superior Court salary classification schedule.

(4) Court Reporters under Model Two shall also receive additional compensation in proportion to the amount of transcript pages produced.

(5) The Court Reporter shall, if requested or ordered, prepare any government transcript during regular work hours.

(6) In the event that preparing a government transcript cannot be completed during regular hours worked, a court reporter shall be entitled to additional compensation beyond regular salary under one of the two options set forth as follows:

(a) Gap hours shall be paid in the amount equal to the hourly rate of the annual salary and overtime hours shall be paid in the amount of one and one-half (1 1/2) times the hourly rate of the annual salary OR

(b) Compensatory time off from regular work hours shall be given in the amount equal to the number of gap hours worked; and compensatory time off from regular work hours shall be given in the amount of one and one-half (1 1/2) times the number of overtime hours worked.

(7) The Marion Circuit Court through its Circuit Court Judge and the Marion Superior Court, by and through its Executive Committee and the Supervising Judge shall determine which of the preceding two (2) options shall be utilized.

(8) If a Court Reporter elects to engage in private practice through recording a deposition and/or preparing a deposition transcript, such private practice shall be conducted outside of regular working hours.

(9) If a Court Reporter elects to engage in private practice through recording a deposition and/or preparing of a deposition transcript, then the Court may agree to the use of court equipment for such purposes. The Court Reporter Agreement must, at a minimum, designate the following:

(a) the reasonable market rate for the use of equipment, work space and supplies;

(b) the method by which records are to be kept for the use of equipment, work space and supplies;

(c) the method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.

E. Per Page Fees: All court reporters who work for Marion Circuit and Superior Courts shall use the following per page fee schedule:

(1) The maximum per page fee a Court Reporter may charge for the preparation of a county indigent transcript shall be Three Dollars (\$3.00).

(2) The maximum per page fee a Court Reporter may charge for the preparation of a state indigent transcript is Three Dollars and Fifty Cents (\$3.50).

(3) The maximum per page fee a Court Reporter may charge for the preparation of a transcript for the County Prosecuting Attorney shall be Four Dollars (\$4.00).

(4) The maximum per page fee a Court Reporter may charge for the preparation of a private transcript is Four Dollars and Fifty Cents (\$4.50).

- (5) The maximum per page fee a Court Reporter may charge for all expedited transcripts, (those to be completed within seven (7) days of the date of the request) shall be Five Dollars and Fifty Cents (\$5.50).
- (6) The maximum per page fee a Court Reporter may charge for the preparation of all daily transcripts, (those to be completed within 24 hours of the request) shall be Eight Dollars (\$8.00). A Court Reporter may charge a minimum transcript fee of Fifty Dollars (\$50.00).
- (7) The Court Reporter's time spent assembling the transcript and exhibit binders shall be set forth and charged at the Court Reporter's regular hourly rate based upon the court reporter's annual compensation.
- (8) For copies of any transcript, the charge shall be One Dollar (\$1.00) per page.
- (9) The maximum fee a Court Reporter may charge for preparing a Compact Disc recording of a proceeding is Twenty-five Dollars (\$25.00).
- (10) The transcript supplies used in the preparation and assembly of the transcript and exhibit binders shall be itemized and charged in accordance with the fee schedule set out in the Schedule of Transcript Supplies and Fees on file in the Court Administrator's office.
- (11) Each Court Reporter shall, on an annual basis, file a written report with the Indiana Supreme Court, Office of State Court Administration disclosing all transcript fees received by the Court Reporter for the preparation of County indigent, State indigent or private transcripts. The report shall be made on forms prescribed by the Division of State Court Administration and timely filed with that office.

F. Miscellaneous

- (1) If a recording of a court proceeding is made and a Court Reporter was not available at the time the recording was made, and a transcript of the hearing is requested, the duly qualified Court Reporter to which the case is transferred pursuant to Local Rule shall transcribe the proceeding in accordance with these Rules and terms and conditions of the Court Reporter Agreement.