

STATE OF INDIANA - COUNTY OF FLOYD
IN THE FLOYD CIRCUIT AND SUPERIOR COURTS

**NOTICE OF PROPOSED LOCAL RULE AMENDMENT FOR THE COURTS OF RECORD
OF FLOYD COUNTY**

JUNE 1, 2011

In accordance with Trial Rule 81(B), the Floyd Circuit and Superior Courts hereby give notice to the bar and the public that the Courts propose to amend the Local Rule at LR22-AR15-113 setting forth Praecipis/Transcripts and the Local Rule at LR22-TR79-116 setting forth Appointment of Special Judges. All new text is shown by underlining and deleted text is shown by ~~striketrough~~. Supreme Court approval is required for the amendments and may not take effect until approved by the Supreme Court.

In accordance with Trial Rule 81(B), the time period for the bar and the public to comment shall begin on June 1, 2011, and shall close on July 1, 2011. The proposed amendments to the rule will be submitted to the Indiana Supreme Court for approval by August 1, 2011, and the effective date shall be the date of the rule is January 1, 2012.

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

Honorable J. Terrence Cody, Judge of the Floyd Circuit Court
Attention: Public Comment on Local Rules
417 City-County Building; 311 Hauss Square
New Albany, IN 47150

A paper copy of the proposed amended local rule will be made available for viewing in the office of the:

Clerk of Floyd County
235 City-County Building; 311 Hauss Square
New Albany, IN 47150

during normal business hours. Persons with internet access may view the proposed material amended local rule at the following website:

<http://www.in.gov/judiciary/rules/local>

Honorable Susan L. Orth
Floyd Superior Court No. 1

Honorable Maria D. Granger
Floyd Superior Court No. 3

Honorable Glenn G. Hancock
Floyd Superior Court No. 2

Honorable J. Terrence Cody
Floyd Circuit Court

LR22-TR79-116
APPOINTMENT OF SPECIAL JUDGES

A. SELECTION OF ASSIGNMENT JUDGE. On or before October 1st of each year, the Judges of the Circuit and Superior Courts of Floyd County shall meet with the presiding judges of Administrative District 14 for the purpose of selecting a judge designated as the assignment judge who shall serve the Administrative District for a period of twelve (12) months.

B. SECTION H APPOINTMENTS. In the event it becomes necessary to appoint a special judge under Section H of Trial Rule 79 of the Indiana Rules of Trial Procedure, the judge before whom the case is pending shall send notice of the need of the appointment of a special judge to the Administrative District's assignment judge who shall then make such assignment within five (5) days of receiving said notice.

C. METHOD OF ASSIGNMENT. The Administrative District's assignment judge shall select special judges from a roster of the available judges in the Administrative District. The assignments shall be in a sequential order beginning with the name of the judge following the last judge so assigned. If, however, because of travel considerations a judge has been passed over or if a judge is otherwise disqualified to hear a particular case, that judge shall be deemed to be the next in sequence until assigned a case. The assignment judge shall maintain a record of all assignments and shall issue a summary report of the assignments on a quarterly basis.

~~**D. TRAVEL CONSIDERATIONS.** In making the selection of a special judge, the assignment judge shall consider that travel of more than forty (40) miles in one direction is not an effective use of judicial resources.~~

E. D. ROSTER OF AVAILABLE JUDGES. The roster of available judges in Administrative ~~15~~ District 14 shall be maintained by Court designation in the following sequential order and shall include senior judges as available:

- | | |
|---|--|
| (1) Clark Circuit #1 | (11) Harrison Superior |
| (2) Clark Superior #1 <u>Circuit #2</u> | (12) Orange Circuit |
| (3) Clark Superior #2 <u>Circuit #3</u> | (13) Orange Superior |
| (4) Clark Superior #3 <u>Circuit #4</u> | (14) <u>9.</u> Scott Circuit |
| (5) Crawford Circuit | (15) 10. Scott Superior |
| (6) <u>5.</u> Floyd Circuit | (16) Washington Circuit |
| (7) <u>6.</u> Floyd Superior #1 | (17) Washington Superior |
| (8) <u>7.</u> Floyd Superior #2 | (18) <u>11.</u> Senior Judges <u>who agree to serve as</u> |
| (9) <u>8.</u> Floyd Superior #3 | <u>Special Judge</u> |
| (10) Harrison Circuit | |

~~**F. E. APPOINTMENT ORDER.** Upon selecting a special judge, the assignment judge shall prepare an Order of Appointment and forward said Order to the judge before whom the case is pending who shall then sign and enter the an Order of Appointment and forward a copy of the Order to the special judge and the attorneys of record.~~

G. F. ACCEPTANCE OF JURISDICTION. The Order of Appointment, when entered by the judge before whom the case is pending, shall constitute acceptance of jurisdiction by the appointed special judge unless the judge is otherwise disqualified, and no special appearance, oath or additional evidence of acceptance shall be required.

I. G. IMPLEMENTATION OF RULE. In the event a selected judge does not accept an appointment to serve as a special judge under the provisions of Section (D), (E) or (F) of Trial Rule 79 of the Indiana Rules of Trial Procedure, the judge before whom the case is pending shall notify the assignment judge of the need for an appointment of a special judge under this local rule.

J. H. CERTIFICATION TO SUPREME COURT. If, under the provisions of this Rule, no judge is eligible to serve as a special judge in a case, the assignment judge shall notify the judge before whom the case is pending who shall then certify such fact to the Indiana Supreme Court for the appointment of a special judge.

If the judge before whom the case is pending is of the opinion that the particular circumstances of a case warrants selection of a special judge by the Indiana Supreme Court, said judge shall certify such facts to the Indiana Supreme Court for the appointment of a special judge. Under such circumstance this Rule shall not be implemented unless the Indiana Supreme Court declines to appoint a special judge.

I. FORM OF ORDER. The Order of Appointment shall be in the following form:

IN THE COURT FOR COUNTY
STATE OF INDIANA

(CAPTION)

ORDER OF APPOINTMENT

Under the provisions of Trial Rule 79(H) of the Indiana Rules of Trial Procedures, the
Honorable _____ of the _____ Court of _____ County is hereby appointed to
serve as Special Judge in the above-captioned case.

SO ORDERED AND ASSIGNED this _____ day of _____, 20____, BY THE
ASSIGNMENT JUDGE FOR THE 14TH JUDICIAL DISTRICT.

Judge.

**LR22-AR15-113
PRAECIPES/TRANSCRIPTS**

A. CONTENT. All notice of appeal and requests for transcripts shall be in writing and filed with the Clerk of the Court. Such notices and requests for transcripts relating to trials by jury shall not include *voir dire*, opening statements, and closing statements unless specifically requested.

B. COSTS. The party requesting a transcript shall obtain an estimate of the cost of the transcript from the Court Reporter and shall pay a deposit equal to one-half of the estimated cost of the transcript before the transcription process is undertaken by the Court Reporter. The remaining estimated cost of the transcript shall be paid upon notification by the Court Reporter to the requesting party that one-half of the transcript has been completed. The actual total cost of the transcripts shall be paid in full before the transcript is released to the requesting party.

C. COURT REPORTER RULE (Pursuant to Adm. Rule 15) Definitions.
The following definitions shall apply under this local rule:

(1) *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 that are in excess of the regular hours worked but not in excess of forty (40) hours per work week.

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

(9) *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.

(10) *Court* means the particular court for which the Court Reporter performs services. Court may also mean all of the courts in Floyd 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.

SECTION 2

A. Salaries. Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters 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.

B. Per Page Fees. The Court Reporter shall be compensated at the rate of ~~Five Dollars (\$5.00)~~ Five Dollars and Fifty Cents (\$5.50) per page for any county indigent, state indigent or private transcripts prepared. The Court Reporter shall submit directly to the county a claim for the preparation of the county indigent transcript as other county claims are submitted.

If the Court Reporter is requested to prepare an expedited transcript, the per page fee shall be ~~Eight Dollars and Fifty Cents (\$8.50)~~ Ten Dollars (\$10.00) per page where the transcript must be prepared within twenty-four (24) hours or less and ~~Seven Dollars (\$7.00) per page~~ Eight Dollars and Fifty Cents (\$8.50) per page where the transcript of fifty (50) pages or more and is to be prepared in an expedited fashion, the maximum per page fee shall be ~~Seven Dollars (\$7.00)~~ Eight Dollars and Fifty Cents (\$8.50) per page and shall be prepared within a time frame to be agreed upon between the Court Reporter and the Attorney. Index and Table of Contents will be charged at the same rate as the other pages.

Copies shall be made at the rate of ~~Two Dollars and Fifty Cents (\$2.50)~~ Two Dollars and Seventy-five Cents (\$2.75) per page.

C. Minimum Fee. A minimum fee of ~~Fifty Dollars (\$50.00)~~ Fifty-five Dollars (\$55.00) will be charged for transcripts less than ten (10) pages in length.

D. Binding and Disk Fees. An additional fee shall be added to the cost of the transcript for:

(1) The time spent binding the transcript and the exhibit and index volumes at an hourly rate based on one and one-half (1 ½) times the Court Reporter's hourly rate.

(2) The costs of office supplies and utilized for finding and transmission of the transcript pursuant to the Indiana Rules of Appellate Procedure 28 and 29. Said costs shall be pursuant to a Schedule of Transcript Supplies established and published annually by the Courts.

E. Annual Report Requirement. Each Court Reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

F. Private Practice. If a Court Reporter elects to engage in private practice through the recording of a deposition and/or preparing a deposition transcript, all such private practice work shall be conducted outside regular working hours.

If a Court Reporter engages in such private practice and the Court Reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the Court Reporter shall enter into a written agreement which must, at a minimum, designate the following:

(1) The reasonable market rate for the use of equipment, work space and supplies.

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

(3) The method by which the Court Report is to reimburse the court for the use of the equipment, work space and supplies.

G. Disk as Official Record. Upon the filing of a notice of appeal or written request for transcript or the Court Reporter shall transcribe any court proceeding requested and produce an original paper transcript along with an electronically formatted transcript.

Multiple disks containing the electronically formatted transcript shall be prepared and designated as "~~Original Transcript~~," "Official Record," "Court Reporter's Copy" and "Court's Copy" "Party Copy." Each disk shall be labeled to identify the case number, the names of the parties, the date completed, the Court Reporter's name, and the disk number if more than one disk is required for a complete transcript. The Court's Copy of the electronic transcript shall become the official record of the court proceeding, in lieu of a paper copy of the transcript, and shall be retained in the court where said proceeding was held. The Court Reporter's Copy shall be retained by the Court Reporter. The original paper transcript along with the disk designated as the ~~original transcript~~ Official Record shall be forwarded to the Clerk if the transcript was prepared for purposes of appeal. If the transcript was not prepared for purposes of appeal, the original paper transcript shall be delivered to the requested party.

SECTION 3

A. Assembly of the Clerk's Record. Upon the filing of a notice of appeal, the trial court clerk shall assemble the Clerk's Record. The Clerk's Record shall be bound and secured by using any method which is easy to read and permits easy disassembly for copying.

PROPOSED

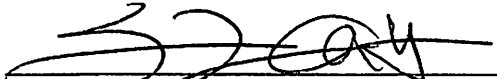
**ORDER AMENDING LOCAL RULES OF PRACTICE FOR THE
CIRCUIT AND SUPERIOR COURTS
OF THE 52ND JUDICIAL CIRCUIT, FLOYD COUNTY, INDIANA**

Pursuant to the requirements of Administrative Rule 15 of the Indiana Supreme Court, IT IS HEREBY ORDERED that the Local Civil Rules of Practice for the Circuit and Superior Courts of the 14th Judicial Circuit, Floyd County, Indiana, are hereby amended by the revision of the following Local Civil Rule 22-AR15-113 regarding Praecipes/Transcripts and Local Civil Rule 22-TR79-116. This Local Civil Rule shall be applicable in all criminal and civil matters and shall be effective immediately, on approval by the Indiana Supreme Court.

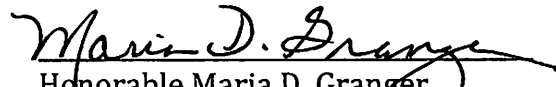
The Courts find that pursuant to Trial Rule 8(D) good cause exists to deviate from the schedule established by the Division of State Court Administration for the adoption of local rule.

The Clerk of the Floyd Circuit Court is advised to post this rule amendment in their office and on their website, if any, for a period of thirty (30) days.

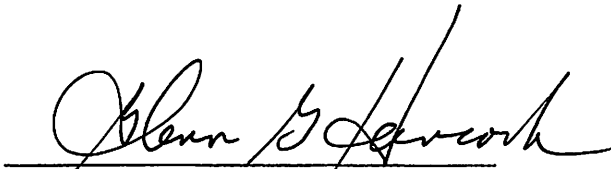
SO ORDERED this 1st day of June, 2011.



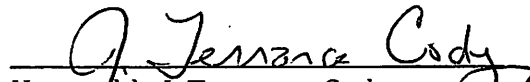
Honorable Susan L. Orth
Floyd Superior Court No. 1



Honorable Maria D. Granger
Floyd Superior Court No. 3



Honorable Glenn G. Hancock
Floyd Superior Court No. 2



Honorable J. Terrence Cody
Floyd Circuit Court

J.T.C.