

REVISED SUPERIOR COURT NO. 3 PLANS, PROCEDURES AND RULES

During the past twelve months, Courts throughout the state of Indiana and the entire country have ridden the COVID-19 rollercoaster. Beginning late February or early March 2020, temporary plans and procedures were necessarily adopted to accommodate the virtual closing of most public buildings.

Then, during the first week of July 2020, this Court issued its "PRELIMINARY PLAN TO PROCEED" in response to the re-opening of the Courthouses.

Unfortunately, on November 13, 2020, the LaPorte County Commissioners justifiably found the need to, again, close the Courthouses to the general public requiring implementation of new plans, procedures and rules resulting in the issuance of "SUPERIOR COURT NO. 3 PLANS, PROCEDURES AND RULES".

Effective February 3, 2021, the Courthouses were, again, opened to the public and the Indiana Supreme Court has authorized jury trials to begin as of March 1, 2021. The Court is aware that implementation of wholesale changes such as these makes it difficult upon the public and the practitioners in the Court. This process is also difficult on the Court staff and other support personnel.

Although we hope and anticipate that there will not be a need for another major shut down of the Courthouses and that we may be returning to some semblance of normalcy, we know that things will never be exactly the way they were in January of 2020. With the advent of vaccinations and social distancing, we look forward to opening the Court to more frequent in-person, in-Court events. By the same token, we have learned that some of the technology which was employed during the shut downs can continue to be of value moving forward.

Specifically, the use of Zoom has been found to have some non-pandemic related value. The ability to live stream Zoom events allows us to comply with the requirement that the Courts be open to the public. Therefore, throughout these plans you will see references to Zoom hearings which, in most cases, will be optional. We also plan to live stream all Court sessions.

In those instances where Zoom participation is mandatory, the Court will continue its practice of notifying the parties that the hearing is to be conducted by Zoom and the obligation of the parties to provide the Court with an email address to which the Zoom invitation can be sent. This is the practice that has been employed for virtually all Court matters between November 30, 2020 and February 25, 2021.

In those cases where "Zoom optional" is indicated, it will be incumbent upon all parties to agree to proceed with Zoom and so notify the Court not less than fifteen (15) days prior to the scheduled event. In situations where one or more parties wish to proceed by Zoom but one or more parties do not agree, then it is incumbent upon the party seeking Zoom treatment to file a Motion with the Court not less than twenty-one (21) days prior to the scheduled event. The party filing said motion should state in detail the reasons why Zoom treatment should be granted and the opposing party shall have five (5) business days to file its response. The Court will then either rule on the basis of the pleadings or set the matter for hearing at the Court's discretion.

The following shall become effective seven (7) days from the date of this notice:

REVISED PLAN TO PROCEED-CIVIL

Civil/Pro Se Matters: The gallery will hold a maximum of 18 people at a distance of six feet apart which shall be marked on each pew. The courtroom will remain locked. The bailiff will hold a roll call in the foyer and will allow the maximum number of people in the courtroom. A list of cases providing the name of plaintiffs/defendants will be given to Security who will advise all parties entering the courthouse that any additional people with them will not be allowed in the courtroom due to the minimal number of seats allowed.

We will hold three sessions for pro se proceedings supplemental and/or status hearings beginning at 8:30 a.m. until 9:30 a.m.; 9:30 a.m. until 10:30 a.m. and 10:30 a.m. until 11:30 a.m. We will limit the number of cases per session to 15 per hour. There will be face masks and hand sanitizer available which will be mandatory.

When their case is called in the courtroom the plaintiff(s) and defendant(s) will stand at their designated tables; no seating will be available to them during their hearing.

Zoom option available.

Proceedings Supplementals/Garnishments, etc.:

1. Creditor/Plaintiff's counsel may file new Proceedings Supplemental with Interrogatories to Employers. The new Proceedings Supplemental shall contain language directing employers to refrain from withholding wages until an actual Garnishment Order is issued and received by the employer. The following language must be included in all new Proceedings Supplemental with Interrogatories to Employers:

"The Garnishee Defendant shall not withhold from the wages of the employee/defendant until the Garnishee Defendant receives a Garnishment Order from this Court directing the Garnishee Defendant to withhold the wages."

This language must be contained in the body of the Order to Defendant and Notice and Summons to Garnishee Defendant under the "To the Garnishee Defendant" paragraph.

2. All Proceedings Supplemental Orders shall contain language explaining the process for Defendants to file Requests for Reduction of the Garnishment Orders. The following language must be contained in the actual Order under the "To the Defendant" portion as follows:

"If you, the Defendant, believe that you are entitled to a reduction of the Garnishment Order due to financial hardship, you may file a written request to reduce the amount of the garnishment."

3. All Orders regarding the motions for reduction of garnishment shall include the following notice:

"If the Plaintiff files a written Objection to this Motion within seven (7) days of the date of this Order, the Court shall schedule an immediate hearing on the Motion. If the Plaintiff does not timely file an Objection, the Defendant's Motion shall be Granted, and the garnishment shall be reduced to ten percent (10%)."

4. The Indiana Supreme Court issued an Order regarding bank garnishments on April 20, 2020, which has been extended to July 1, 2021. That Order is captioned "In re Petition to the Indiana Supreme Court to Engage in Emergency Rulemaking to Protect CARES Act Stimulus Payments From Attachment or Garnishment from Creditors." The Order states:

"6.1. Courts shall issue no new orders placing a hold on, attaching, or garnishing funds in a judgment-debtor's account in a depository institution as defined in the Depository Financial Institutions Adverse Claims Act, I.C. 28-9-1-1, et seq., if those funds are attributable to a stimulus payment except that this prohibition shall not apply to judgments or orders for payment of child support."

6.2. As for any previously issued court orders placing a hold on a judgment-debtor's account in a depository institution, the judgment-debtor shall be entitled, upon request, to a hearing (either in person or remotely, as local circumstances permit), within two business days of the court's receipt of said request, to determine what funds in the account are attributable to a stimulus payment and for the judgment-debtor to assert any exemptions(s) under state or federal law. Courts shall treat such hearings as "essential" and "urgent" under this Court's orders of March 16 and 23, 2020 in 20S-CB-123."

The Court will schedule immediate hearings via ZOOM to determine "if those funds are attributable to stimulus payment" and for the judgment-debtor to assert any other applicable exemptions.

Attorneys in Hallway for Cattle Call Collection Matters: While the Court encourages collection attorneys to continue the practice of notification to judgment debtors requiring telephonic contact with the attorney, if attorneys wish to schedule hearings in the hallway that must be done in advance through Court staff. There will be a maximum of **20 cases per hour** allowed in the second floor foyer which seating will be marked at a distance of six feet separation.

Attorneys who have their own sessions will be allowed **20 cases per hour**. The Court will give attorneys up to three hours per session depending on how many cases they have.

Small Claims Trials and Damages Hearings: We will continue to set these matters for individual in-court sessions while practicing social distancing.

Zoom option available.

Evictions: All eviction possession hearings will continue to be conducted by Zoom with the dates and times assigned by the Clerk upon filing. The Clerk will also notify all parties that the hearing is to be conducted by Zoom and the party's obligation to provide an email address to the Court. Attorneys representing Plaintiffs must provide the Court with their client's email address and must also notify the Defendant(s) of its obligation to provide the Court and to Plaintiff's counsel the Defendant(s) email address(s).

REVISED PLAN TO PROCEED-CRIMINAL

Criminal Call: The gallery will hold a maximum of 18 people at a distance of six feet apart which shall be marked on each pew. The courtroom will remain locked. Bailiff to hold a roll call in the hallway and will allow the maximum number of defendants in the courtroom. A list of cases providing names of defendants will be given to Security who will advise all defendants entering the courthouse that any additional people with them will not be allowed in the courtroom due to the minimal number of seats allowed. There will be face masks and hand sanitizer available which will be mandatory.

While in the courtroom: When their case is called in the Courtroom, the defendant (and attorney) will stand at the podium which will be set up in front of court reporter's desk and it will have a microphone on it. There will be sanitary wipes for the defendant to clean the area if touched. We will no longer allow for the defendant/attorney to sit at their respective table. All pro se defendants will be given a pink slip by the bailiff with their next court date listed.

All cases, after the Initial Hearing, will now be limited to **3 Status Hearings ONLY** followed by disposition or trial setting.

Criminal sessions are to be conducted as follows with the courtroom being cleared at the end of each session:

Mondays: First session to begin at 1:30 p.m. with in-custody cases first via video followed by defendants with attorneys.

Second session to begin at 2:30 p.m. for pro se defendants.

Tuesdays: First session to begin at 8:30 a.m. The transport of in-custody defendants (only for purposes of plea entry or trial setting) will be limited to 4 at a time followed by defendants with their attorneys.

Second session to begin at 10:30 a.m. for pro se defendants.

Wednesdays: Court to begin at 4:00 p.m. with in-custody first via video followed by pro se defendants totaling no more than 20 cases.

Fridays: First session to begin at 1:30 p.m. with in-custody cases first via video followed by defendants with attorneys.

Second session to begin at 2:30 p.m. for pro se defendants

The Court will continue to allow Defense attorneys the option to dispose of a criminal case by e-filing pursuant to instructions enclosed herewith.

Another option available would be a Zoom plea entry where the Court has been provided, in advance, fully executed forms of Statement of Plea Agreement, Waiver of Right to be Present at Trial Setting or Disposition, Rules of Probation, Waiver of Rights and Cash Bond Order.

REVISED PLAN TO PROCEED-JURY TRIALS

The day the trial is to begin, potential jurors will be directed to report to the conference room in the LaPorte County Annex Building per instructions provided in their juror summons. The first eighteen potential jurors will be escorted by the bailiff to the courtroom for the voir dire process in the gallery. As potential jurors are excused, additional panel members will be escorted as needed. We will live stream from the courtroom to the Annex Building.

The first and second rows of the gallery will be limited to selected jurors only and will be seated at a six feet separation for the trial, itself.

The prosecution and defense tables will be turned so that they will face the gallery. The witness chair will be seated to the west of the defense table.

The balance of the gallery will allow seating for ten members of the public.

ALL OF WHICH IS ISSUED this 26th day of February, 2021.



JEFFREY L. THORNE, Judge
LaPorte Superior Court No. 3

E-FILED MISDEMEANOR DISPOSITIONS

Until further notice, the LaPorte Superior Court No. 3 will entertain Motions for the e-filing of Plea Agreements on misdemeanor charges. In order to exercise this option, the defense attorney must e-file the following documents:

1. **Verified Motion to Allow Plea Entry by E-Filing.** This Motion must be signed by the defendant and counsel, and should contain the following:
 - a. Identification of the defendant and the defense attorney.
 - b. Information as to the date of the charges and a background of the development of the case in the meantime.
 - c. Good cause reasons justifying disposition by e-filing.
 - d. The fact that a Plea Agreement has been negotiated.
 - e. The State of Indiana does not oppose disposition by e-filing.
 - f. The defendant, when executing the documents, was not under the influence of any drugs or alcohol.
 - g. The defendant acknowledges that he or she has read the Probable Cause Affidavit and agrees to the accuracy of the facts constituting the offense to which the defendant is pleading.
 - h. The defendant understands the charges and the possible penalties.
 - i. The defendant is not currently on probation, parole or a suspended sentence that would be jeopardized by the entry of the e-filing of this Plea Agreement.
 - j. The defendant is not currently out on bond for other charges which bond would be jeopardized by the entry of the e-filing of this Plea Agreement.
 - k. The execution of the Motion, Plea Agreement and all other documents are not the result of any promises or threats.
 - l. That either there is no victim that requires notification or that victim notification has been made and what response, if any, has been made.
2. **Plea Agreement.** This document needs to be fully completed and signed by the State of Indiana, the defendant and defense attorney subject only to approval by the Court.
3. **Waiver of Right to be Present at Plea Entry and Sentencing.** This document should be signed by the defendant.
4. **Waiver of Rights.** This document should be signed by the defendant.
5. **Order of Probation.** This document shall be prepared by defendant's attorney and should be completely filled out including a current valid address and phone number for the defendant. This document should be signed by the defendant and the Probation Department, requiring only the signature of the Court. After the Order of Probation has been approved by the

Court and the Plea Agreement has been accepted, it shall be the duty of defense counsel to provide the defendant with copies of all documents, including written instructions to the defendant to contact the LaPorte County Adult Probation Department at 219-326-6808 within five (5) days to schedule an appointment. Defense counsel shall also provide the LaPorte County Adult Probation Department with a fully executed copy of the Order of Probation.

6. **Cash Bond Order.** This document should be signed by the Defendant and contain the assignment language by which the defendant assigns the cash bond and an Order that applies the cash bond first to fines and costs, and then the balance either to counsel or the poster. In the event that the fines and costs have been paid prior to the submission of the Plea Agreement, that should be noted and the entire cash bond can then be released per assignment.

This option shall be available until further notice from the Court.