

SMALL CLAIMS PROCEDURES

LR53-SC00-0700 SCOPE

Updated 10/10/2022

- A. Scope. These rules shall govern the procedure and practice of small claims cases in the Monroe Circuit Court.
- B. Citation. These rules may be cited as LR53-SC00-07 **-
- C. Conflict of Rules. All cases in the Monroe County Small Claims Court shall be governed by the Indiana Small Claims Rules and by the Local Rules set forth here. In instances where the Local Rules conflict with the Indiana Small Claims Rules, the Indiana Rules shall control. If there is not a Small Claims Rule applicable to the situation, the Indiana Rules of Trial Procedure apply.

LR53-SC00-0701 COMMUNICATIONS WITH THE COURT

Updated 10/10/2022

- A. Written Communications. Any matter communicated to the court outside of the courtroom must be in writing, signed, and served on all other parties to the case. Many court forms are available at www.indianalegalhelp.org but no special form is needed.
- B. Case Identification. The communication shall contain the case number, which generally begins with “53C0.”
- C. Duty to Serve. The person filing the communication shall certify in writing that they have sent a copy of the communication to all parties, including the date it was sent to each other party, the method of sending, and the exact address it was sent to. If that party accepts or the court has approved email service or fax service, then the certification shall include the email address or fax number. For example:

CERTIFICATE OF SERVICE

I certify that on date _____, I sent a copy of this document to all other parties in this case, as shown below:

Party A’s Name

Street Address

City, ST ZIP

Party B’s Name

Fax Number: (812) 555-5555

Party C’s Name

Email: partyc@fakeemail.fake

/s/_____

Printed Name of Party sending the copies

- D. Appearance by Spouse. Except as otherwise ordered by the Court, when legally married spouses are

co-plaintiffs or co-defendants in a case, the appearance of one (1) spouse at a hearing shall be considered and treated as if both spouses are present. The appearing spouse shall verify under oath that no one has filed a divorce or legal separation case and that the spouses are living together.

- E. Unrepresented Party's Current Addresses. The Court sends Notices and Orders to the most recent address provided by each party. An unrepresented party is solely responsible to keep their address updated in each case in which they are a party.

LR53-SC00-0702 SCHEDULING

Updated 10/10/2022

- A. Initial Hearing. Upon the filing of a complaint, the Clerk of Court or the Court shall schedule an initial hearing. Parties are not expected to be fully prepared for trial at the initial hearing but must be prepared to present a prima facie (summary) case through direct testimony or affidavit in the event an opposing party fails to appear, in accordance with Indiana Small Claims Rule 10(b). If permitted by rule or order of the Indiana Supreme Court, and at the discretion of the court, initial hearings may be held by video conference.
- B. Contested Hearing. If both parties appear at the initial hearing, the judge shall encourage the parties to resolve their dispute. If the parties are unable to achieve a resolution, they shall inform the judge of the need to schedule a trial and indicate the amount of time needed to present their respective cases.
- C. Waiver of Initial Hearing. If the parties know prior to the initial hearing that the matter will be contested, a motion may be filed to vacate the initial hearing and schedule a contested hearing. The motion shall estimate the time needed to present the petitioner's case-in-chief and the time needed to present the case in opposition if that can be reasonably ascertained.

LR53-SC00-0703 CONTINUANCES

Updated 10/10/2022

- A. Written Motion Required. Parties who wish to delay (continue) a hearing should file a written Motion to Continue as soon as they know that the hearing date presents a problem. The court will consider written, signed, and served Motions to Continue if a good reason is provided for the delay.
- B. Advance Notice. A continuance will not be granted for any request filed within 72 hours of the trial unless the opposing party agrees to the continuance or the judge determines a continuance is necessary.

LR53-SC00-0704 DISCOVERY

Updated 10/10/2022

Upon a written, signed, and served Motion to Permit Discovery, and in accordance with Indiana Small Claims Rules, the court may grant an order permitting discovery, which would then proceed as per the Indiana Rules of Trial Procedure and any applicable local rules.

LR53-SC00-0705 DISMISSAL OF ACTIONS

Updated 10/10/2022

- A. Motion Required. A claim, counterclaim, or cross-claim may be dismissed by the moving party filing a written pleading at any time before judgment.
- B. Dismissals. If a counterclaim or cross-claim has been filed, the dismissal of the original claim will not result in the cancellation of the hearing unless the counterclaim or cross-claim has also been dismissed.

LR53-SC00-0706 COLLECTING A JUDGMENT

Updated 10/10/2022

- A. Proceeding Supplemental.
 - 1. If the debtor has not paid a judgment within 30 days, the creditor may file a Motion for Proceeding Supplemental with the Court.
 - 2. At the Proceeding Supplemental, the parties may discuss whether the debtor is indigent (unable to pay); can agree to a payment plan or garnishment; or has assets that may be applied to the judgment. Any agreement must also include a signed and completed Notice of Exemption Rights as provided in the Indiana Small Claims Manual.
 - 3. After a determination by the court that there is no income or property that may be applied to the judgment, the case will be re-docketed for proceeding supplemental only if the judgment creditor can show that income or property has been discovered which may be applied to the judgment.
 - 4. If a judgment defendant fails to appear at the supplemental proceeding hearing, the court shall, upon request of the judgment plaintiff, set the case for a Contempt Hearing, for another Proceeding Supplemental, or may dismiss collections efforts at that time.
- B. Contempt Hearing.
 - 1. For a Debtor's first Contempt Hearing on a case, the Court shall have service provided by Sheriff. If a Sheriff service fee has not been previously paid, the judgment plaintiff shall pay the Sheriff service fee within thirty (30) days.
 - 2. For a Debtor's second or subsequent Contempt Hearing on a case, the Creditor shall serve the Debtor personally (according to the requirements of Trial Rule 64(A)(2)(a)).
 - 3. If the debtor appears at the Contempt Hearing, the parties may discuss whether the debtor is indigent (unable to pay), can agree to a payment plan or garnishment, or has assets that may be applied to the judgment. Any agreement must also include a signed and completed Notice of Exemption Rights as provided in the Indiana Small Claims Manual.
 - 4. If the debtor fails to appear at the Contempt Hearing and has been personally served as described in Trial Rule 64(A)(2)(a), the Court may issue a Writ of Body Attachment.

LR53-SC00-0707 REQUIREMENTS FOR GARNISHMENT ORDER

Updated 10/10/2022

The Court shall not issue an order garnishing a debtor's wages or other property without the following:

- A. An active proceeding supplemental as to the judgment debtor or waiver of notice by the judgment debtor;
- B. Proof of service on the garnishee defendant of the proceedings supplemental or interrogatories as laid out in Indiana Small Claims Rule 3;
- C. Verification of the judgment debtor's employment by answered interrogatories or other credible evidence, or the failure of the garnishee defendant to answer interrogatories regarding the judgment debtor's employment; and
- D. If the creditor is seeking a bank account hold, verification of the judgment debtor's ownership interest in a bank account by answered interrogatories or other credible evidence, or the failure of the garnishee defendant to answer interrogatories regarding the judgment debtor's bank account.

LR53-SC00-0708 BANKRUPTCY STAY

Added 10/10/2022

Any party seeking a stay of the proceedings as a result of a bankruptcy proceeding shall petition the court, attaching to the petition a copy of the Bankruptcy Cover Petition and the Schedule of Creditors.

LR53-SC00-0710 RELEASE OF JUDGMENTS

Added 10/10/2022

The Creditor shall file a Release of Judgment within thirty (30) days after the opposing party has paid a judgment in full.

LR53-SC00-0711 EVICTION & DAMAGES CASES

Added 10/10/2022

- A. Claims for Damages. All claims for damages on rental property must be documented by a Landlord's Request for Damages Form (Appendix A and Appendix B) and corroborating evidence. The corroborating evidence shall include:
 - 1. The written lease agreement (if any);
 - 2. Copy of the Landlord's notice under IC 32-31-3-14;
 - 3. Ledger or other documentation showing all monthly charges and payments; and
 - 4. Documentation to support the specific damages claimed.
 - 5. Any work done personally by the landlord shall also be documented including the hours spent and tasks completed.
 - 6. At its discretion, the Court may require additional corroborating evidence.
- B. Late Fees. The Court will generally limit late fees on past due rent to ten percent (10%) of the monthly rent amount for each month the rent is not timely paid.