

Date: June 17, 2020

TO: THE MUNCIE BAR ASSOCIATION AND THE GENERAL PUBLIC

**Notice of Proposed Local Rule LR18-DR00-DLR-0014  
June 17, 2020**

The Delaware County Board of Judges pursuant to Trial Rule 81 give notice to the bar and the public of their proposed Local Rule to be effective **July 18, 2020**. All new text is shown by underlining and deleted text is shown by ~~striketrough~~.

The time period for the bar and the public to comment shall begin on June 17, 2020, and shall close on July 17, 2020. The proposed amended rules will be adopted, modified or rejected before July 17, 2020, and changes made if required after the comment period has ended.

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

The Honorable Marianne Vorhees, Presiding Judge of the DELAWARE Circuit Court c/o Emily M. Anderson, Court Administrator, Attn: Public Comment on Local Rules, DELAWARE County Justice Center, 100 W. Washington Street, Muncie, Indiana. Or, e-mail to: [eanderson@co.delaware.in.us](mailto:eanderson@co.delaware.in.us)

A paper copy of the proposed local rule will be made available for viewing in the office of the Clerk of Delaware County, Delaware County Courthouse, 100 W. Main Street, Muncie, Indiana and the Delaware County Clerk's Filing Office, Delaware County Justice Center, 100 W. Washington Street, Muncie, Indiana during normal business hours. Persons with Internet access may view the proposed amended Local Rules at the following websites: [www.co.delaware.in.us/clerk](http://www.co.delaware.in.us/clerk) and <https://www.in.gov/judiciary/2953.htm>

**DELAWARE COUNTY BOARD OF JUDGES**

\_\_\_\_\_/s/  
Marianne Vorhees, Presiding Judge  
Delaware Circuit Court No. 1

\_\_\_\_\_/s/  
Kimberly S. Dowling, Judge  
Delaware Circuit Court No. 2

\_\_\_\_\_/s/  
Linda Ralu Wolf, Judge  
Delaware Circuit Court No. 3

\_\_\_\_\_/s/  
John M. Feick, Judge  
Delaware Circuit Court No. 4

\_\_\_\_\_/s/  
Thomas A. Cannon Jr., Judge  
Delaware Circuit Court No. 5

Delaware County Eviction & Landlord/Tenant Relations  
Alternative Dispute Resolution Fund Plan

Preamble:

The Delaware Circuit Courts have established the Program to foster landlord/tenant relations and to prevent evictions through alternative dispute resolution, including mediation.

The Delaware Circuit Court will use funds to provide opportunities for parties involved in eviction to mediate and settle their disagreements, when their economic circumstances would otherwise limit their access to registered mediators.

The Board of Judges adopts and incorporates by reference all provisions from the Rules for Alternative Dispute Resolution as adopted and amended from time to time by the Indiana Supreme Court.

This Local Rule shall apply to all Small Claims (“SC”) and Civil Plenary (“CP”) cases filed in the Delaware Circuit Courts in which a landlord is seeking to evict a tenant from a dwelling. It shall not apply to commercial real estate or mortgage foreclosures.

1. Purpose

Mediation under this section involves the confidential process by which a Mediator, appointed by the court, assists the litigants in reaching a mutually acceptable agreement. The role of the mediator is to assist in identifying the issues, reducing misunderstanding, clarifying priorities, exploring areas of compromise, and finding points of agreement as well as legitimate points of disagreement. Any agreement reached by the parties is to be based on the autonomous decisions of the parties and not the decisions of the mediator. It is anticipated that an agreement may not resolve all of the disputed issues, but the process can reduce points of contention. Parties and their representatives are required to mediate in good faith, but are not compelled to reach an agreement.

2. Case Selection

A landlord and/or a tenant, either before or after a case is filed, may request a referral and may elect to participate in the plan through PathStone Corporation. An attorney representing a party may request a referral through PathStone Corporation. A housing non-profit may request a referral to the Plan through PathStone Corporation.

If a case is referred for mediation after it has been filed, the case shall remain on the court docket and the trial calendar.

### **3. Mediators**

The Plan Administrator will refer cases to attorneys who are registered with the Indiana Supreme Court, Office of Admissions and Continuing Education as civil mediators and who indicate their willingness to accept cases at a reduced rate.

The Plan Administrator will refer cases to such mediators on a rotating basis, considering any conflict of interest. The Plan Administrator will keep a current list of willing registered civil mediators on an Excel spreadsheet.

### **4. Mediation Costs**

The Program costs are being funded through grants. The grant monies should primarily benefit cases involving minor children; cases where one or more party is representing him/herself; cases involving the elderly; cases where one party owns no property with significant value and has no substantial equity in real property; cases where either party is enrolled in or uses Section 8 vouchers; and cases where one or more parties is are classified as low or moderate income.

Every participant will have their income compared to the sliding fee scale to determine if a co-payment is required and what amount. The co-payment will be paid directly to the Delaware County Auditor's Office by the litigants before mediation is scheduled, and the Auditor will apply the payment to the Eviction ADR fund. Failure to pay will result in the mediation being cancelled.

### **5. Report of Mediation**

Within three (3) days after the mediation, the mediator shall submit to the court, without comment or recommendation, a report of mediation status. The report shall indicate that an agreement was or was not reached in whole or in part or that the mediation was extended by the parties.

If an agreement is reached, in whole or in part, it shall be reduced to writing and signed by the parties and/or their counsel.

With the consent of the parties, the mediator's report may also identify any pending motions or outstanding legal issues, discovery process, or other action by any party which, if resolved or completed, would facilitate the possibility of a settlement.

In the event of any breach or failure to perform under the agreement, upon motion, and after hearing, the court may impose sanctions, including entry of judgment on the agreement.

### **6. Optional Early Mediation**

Persons may agree to use the Program to mediate a dispute not in litigation. They shall enter the Program as provided in Section 2. Cases submitted to the Program through Optional Early Mediation are subject to the same rules as cases filed in the Delaware Circuit Courts.