

## **Proposed amendment to Marion County Local Rule 49-SC00 Rule 502**

Marion County Small Claims LR49-SC00 Rule 502(F) requires that the Marion County Small Claims Judges review LR49-SC00 Rule 502 every four years to determine whether or not the presumptive fees should be adjusted due to economic changes. For that reason the Marion County Small Claims Judges have reviewed LR49-SC00 Rule 502 and propose the following amendments:

In light of current economic circumstances and the increased cost for legal service the Marion County Small Claims Judges propose that LR49-SC00 Rule 502 be amended to provide that there shall be a rebuttable presumption that a reasonable attorney fee for time and service for prosecution of an eviction proceeding in Small Claims shall be \$600.00 instead of \$500.00

On July 1, 2021, the Marion County Small Claims Courts jurisdictional limit was raised from \$8,000 to \$10,000. For that reason, the Marion County Small Claims Judges propose that LR49-SC00 Rule 502 be amended to include a rebuttable presumption that a reasonable attorney fee for a small claims case other than a eviction proceeding resulting in a judgment between \$8,000 and \$10,000 shall be \$780.

The Marion County Small Claims Judges propose that LR49-SC00 Rule 502 be amended as follows:

### **LR49-SC00 Rule 502. ATTORNEY'S FEES**

A. Attorney's fees shall not be awarded, unless such fees are authorized by law or contract. The party seeking attorney's fees shall support its request with evidence of the legal authority for the fees, the number of hours reasonably spent on the case, the hourly rate for those persons providing legal and / or paralegal services and any other fact relevant to the reasonableness of the requested fee. The parties may present evidence in the form of a sworn affidavit. Attorney fees may only be claimed for services provided for a particular case, provided that in those instances, when time spend on more than one case can be with reasonable accuracy apportioned among the cases, such apportioned time may be compensated.

B. In determining the amount of the fee, the Court shall consider:

1. time reasonably and actually expended on the case up to the date the request is heard or decided;
2. factors enumerated at Rule 1.5 of the Indiana Rules of Professional Conduct;
3. the amount of the fee in relation to the amount of damages sought; and
4. any other circumstance bearing on the "reasonableness" of the fee.

C. There shall be a rebuttable presumption that a reasonable attorney fee for a small claims case other than an eviction proceeding resulting in a judgment between \$1.00 and \$499.99 shall be \$300.00. There shall be a rebuttable presumption that a reasonable attorney fee for a small claims case other than an eviction proceeding resulting in a judgment between \$500.00 and \$999.99 shall be \$400.00. There shall be a rebuttable presumption that a reasonable attorney fee for a small claims case other than an eviction proceeding resulting in a judgment between \$1,000 and \$3,499.99 shall be \$450.00. There shall be a rebuttable presumption that a reasonable attorney fee for a small claims case other than an eviction proceeding resulting in a judgment between \$3,500.00 and \$5,999.99 shall be \$550.00. There shall be a rebuttable presumption that

a reasonable attorney fee for a small claims case other than an eviction proceeding resulting in a judgment between \$6,000.00 and ~~\$8,000.00~~ \$7,999.99 shall be \$650.00. There shall be a rebuttable presumption that a reasonable attorney fee for a small claims case other than an eviction proceeding resulting in a judgment between \$8000 and \$10,000 shall be \$780.00.

D. There shall be a rebuttable presumption that prosecution of an eviction proceeding in a small claims court requires 2.5 hours of time and service and that a reasonable attorney fee for this time and service is ~~\$500.00~~ \$600. This fee is inclusive of time and service incurred to recover compensation for damages and unpaid rent.

E. A party seeking attorney fees is not limited to the presumptive attorney fee and may request fees in excess of the presumptive fee by submitting an attorney fee affidavit in compliance with Section A above. A party who opposes a presumptive attorney fee may require itemization of time and service as required by section A above. A party who seeks a presumptive attorney fee under section C or D shall not be required to itemize time and service unless the request is challenged by the other party.

F. The Marion County Small Claims Judges shall review this rule every four years to determine whether or not the presumptive fees should be adjusted due to economic changes.

Effective July 2, 2025