In the
Indiana Supreme Court

IN THE MATTER OF	)	
	)	
APPROVAL OF LOCAL RULES	)	Cause No. 70S00-0710-MS-435
	)	
FOR RUSH COUNTY	)	

ORDER RE-APPROVING CASELOAD ALLOCATION PLAN

Pursuant to Ind. Administrative Rule 1, the Judges of the Rush County Circuit and Superior Courts, request this Court to re-approve their caseload allocation plan based upon their revalidation of the plan.

And this Court being duly advised, now finds that the caseload allocation plan for Rush County should be re-approved.

IT IS, THEREFORE, ORDERED by this Court, based upon revalidation by the Rush County Judges, that the Rush County caseload allocation plan, as set forth in local rules LR70-AR00-1, LR70-CR00-1, LR70-JV00-1 and LR70-SC00-1, is re-approved.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. David E. Northam, Rush Circuit Court, 100 East Second Street, 3rd Floor, Rushville, IN 46173-1887; the Hon. Brian D. Hill, Rush Superior Court, 100 East Second Street, Rushville, IN 46173-1883; to the Clerk of the Rush Circuit Court; and to post this Order on the Court's website.

The Clerk of the Rush Circuit Court is directed to enter this Order in the Record of Judgments and Orders for the Courts, to post this Order for examination by the Bar and the

general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 18th day of October, 2007.

RT Shepard

Randall T. Shepard
Chief Justice of Indiana

In the
Indiana Supreme Court

IN THE MATTER OF	)	
	)	
REQUEST FOR APPROVAL	)	Case No.
	)	
OF LOCAL RULES	)	
	)	
FOR COURTS OF RECORD IN	)	
	)	
RUSH COUNTY	)	

REQUEST FOR APPROVAL OF LOCAL RULES

The judges of the courts of record of Rush County have decided to re-adopt their local rules, as indicated below, request Supreme Court approval for the following local rules for which Supreme Court approval is required relating to caseload allocation rules pursuant to Administrative Rule #1:

- Rule LR70-AR00-1 case assignment
- Rule LR70-CR00-1 case assignment
- Rule LR70-JV00-1 case assignment
- Rule LR70-SC00-1 case assignment

The local rule(s) indicated above have been previously published for comment pursuant to the schedule established by T.R. 81(B).

Accordingly, the judges of record of Rush County request approval of the above Local Rules.

Submitted this 1st day of October, 2007.

Brian D. Hill, Presiding Judge
Rush Superior Court

David E. Northam, Presiding Judge
Rush Circuit Court

LOCAL RULES OF PRACTICE AND PROCEDURE FOR THE RUSH CIRCUIT AND SUPERIOR COURT

TRIAL RULES

Rule LR70 – TR53.5-1

In all cases in which a Motion for Continuance is filed, the Motion must contain the following:

A. The Motion is made with the knowledge and consent of the party in whose name the Motion is being filed.

B. All opposing counsel (or parties if prose) including any Guardian Ad Litem have been contacted and agree or object to the continuance.

All Motions for Continuance must be accompanied by a proposed Order with blanks for resetting the hearing.

Rule LR70 – TR79-2 Special Judge Selection

In the event a special judge selected pursuant to Trial Rule 79(D), (E) or (F) does not accept the case, a special judge shall be designated by the Clerk of the Rush Superior and Rush Circuit Courts in sequence from the following list of judges, to-wit:

1. Judge, Union Circuit Court
2. Judge, Fayette Superior Court
3. Judge, Fayette Circuit Court
4. Judge, Wayne Superior Court No. 2
5. Judge, Wayne Superior Court No. 1
6. Judge, Wayne Circuit Court
7. Judge, Franklin Circuit Court
8. Judge, Rush Circuit Court
9. Judge, Wayne Superior Court No. 3
10. Judge, Rush Superior Court

The Clerk shall maintain such records as necessary to assure that selections are rotated in the above sequence.

Rule LR70 – TR79-3 Special Judge Selection in Civil Cases Pursuant to TR 79C

In the event that the Judge of the Rush Superior Court recuses himself in a case, the Judge of the Rush Circuit Court shall serve as Special Judge. In the event the Judge of the Rush Circuit Court recuses himself in a case, the Judge of the Rush Superior Court shall serve as Special Judge in that case.

ADMINISTRATIVE RULES

Rule LR70 – AR00-1 Case Assignment

Until further order of the Courts the following case assignments will be in effect for case distribution between the Rush Circuit Court and Rush Superior Court:

A. Infractions opened during odd numbered months shall be assigned to Superior Court while infractions opened during even numbered months shall be assigned to Circuit Court.

B. Unless otherwise designated, all other cases will be assigned on an equal random basis.

Rule LR70 – A12-2 Facsimile Transmission

The Judges of the Rush Superior and Circuit Courts authorize electronic facsimile filing and designate (765) 932-2856 for Superior Court and (765) 932-2357 for Circuit Court as the telephone numbers to receive such transmissions for filing in any case, provided:

A. Such matter does not exceed ten (10) pages including the cover sheet;

B. Such matter does not require the payment of fees;

C. The sending party creates, at the time of transmission, a machine generated log for such transmission; and

D. The original document is sent or delivered to the Rush County Clerk as soon as practicable and the transmission log is maintained by the sending party for the duration of the litigation.

E. During normal, posted business hours, the time of filing shall be the time of the facsimile is received in the office of the Circuit or Superior Courts. The original document shall be substituted for the facsimile upon receipt by the Clerk's office.

F. If an original document is not received within ten (10) days, the facsimile shall be destroyed and the filing shall be null.

In all other respects, facsimile transmissions shall comply with Administrative Rule 12.

Rule LR70 – AR15-3 Preparation of Transcripts

The undersigned Courts comprise all the Courts of record of Rush County, Indiana and hereby adopt the following Local Rule by which Court Reporter services shall be governed.

PREPARATION OF TRANSCRIPTS FOR INDIGENT PERSONS

1. All transcripts for indigent persons be prepared during the regular business hours of the Court.
2. In the event an indigent transcript cannot be prepared during regular working hours, the Reporter must receive permission from the Judge to prepare portions of the transcript outside the regular business hours of the Court.
3. Upon approval by the Judge for preparation of indigent transcripts outside of the regular business hours, the Reporter shall charge no more than $3.50 per page for transcripts outside of the regular business hours. The Reporter shall charge no more than $1.25 per page for each copy of the transcript. A minimum fee of $35.00 per transcript may be charged for small transcripts and is not to be used in addition to a per page fee. The Index and Table of Contents shall be charged at the per page rate. The Reporter may charge up to $14.00 per hour for time spent binding the transcript and exhibit binders. The Reporter may charge reasonable costs for office supplies for binding and electronic transmission not to exceed $1.00 per diskette and $.75 per binder. The Reporter shall submit a claim to the county for the preparation of indigent transcripts. The claim must be approved by the supervising Judge.
4. The fees for any state indigent transcripts shall be the same amount as the fee for county transcripts.
5. The 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.
6. In preparing non-indigent transcripts, the Court Reporter may contract directly with a party or attorney to provide the services. The Court Reporter shall charge with a party or attorney to provide the services. The Court Reporter shall charge no more than $3.50 per page for an original transcript and $1.25 for a copy of a transcript. In the event the Court Reporter uses any Court equipment for the preparation of a private transcript she shall reimburse Rush County at a rate of $.01 per page. This reimbursement shall be made once per quarter no later than January 15, April 15, July 15 and October 15.

CRIMINAL LAW RULES

Rule LR70 – CR00-1 Case Assignment

Until further order of the Courts the case assignments will be in effect for case distribution between the Rush Circuit Court and Rush Superior Court for criminal cases as follows:

A. All criminal cases with material elements (or separate counts) involving drugs or alcohol shall be assigned to Superior Court.

B. All other criminal case shall be assigned to Circuit Court.

Rule LR70 – CR13-2 Transfer

A Judge of Rush Circuit or Rush Superior Court by appropriate order entered in the Record of Judgment Orders may transfer and reassign to any other court of record the county with jurisdiction to hear the charged offense in any pending case, including cases of the recusal of the Rush County Judge, subject to acceptance by the receiving court.

Rule LR70 – CR13-3 Refiling and Subsequent Filings

When the State of Indiana dismisses a case and chooses to refile that case, the case shall be assigned to the court from which the dismissal was taken.

Rule LR70 – CR13-4 Reassignment

The following individuals have agreed to serve in the event it becomes necessary to reassign a Felony or Misdemeanor case in Rush Circuit or Rush Superior Court: The Honorable John Westhafer, Honorable Warren Michael Wilke, Honorable Stephen Cox, Honorable Jack Tandy, Honorable Russell J. Sanders and Honorable Charles D. O'Connor, Jr. By order of adoption of these rules, the Indiana Supreme Court, pursuant to I.C. 33-24-6-10 temporarily transfers the above Judges to the Rush Circuit or Rush County Court for purposes of reassignment of Felony or Misdemeanor cases.

In the event it becomes necessary to reassign a Felony or Misdemeanor case, the cases will be reassigned in consecutive order to the above noted Judges. Multiple cases may be assigned to one judge if the cases are related.

Rule LR70 – CR13-5 Appointment of Special Judge

In the event no Judge is available for assignment or reassignment of a Felony or Misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a Special Judge. In the event the Judge presiding in a Felony or Misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a Special Judge, this presiding Judge may request the Indiana Supreme Court for such appointment.

FAMILY LAW RULES

Rule LR70 – FL00-1 Case Assignment

Until further order of the Courts all cases shall be assigned on an equal random basis.

Rule LR70 – FL00-2

In all dissolution case in which a petition for contempt or other request for an Order to Appear is requested, the Clerk of the Rush Circuit Court shall sign said Order to Appear.

Rule LR70 – FL00-3

Before final hearing is scheduled on a Petition for a Dissolution of Marriage or Petition for a Legal Separation in which the parties have minor children of the marriage, each party must attend not less than one session on parenting.

A. The moderator of each session will provide each attendee with a certificate of attendance which must be filed with the Clerk prior to the Court's granting a Petition for Dissolution of Marriage or a Petition for Legal Separation.

B. Each party is responsible for cost of the party's participation. Allowances for waiver of fee will be given upon a good faith showing of indigence.

Rule LR70 – FL00-4

It shall be presumed that the effective date for a modification of child support shall be sixty (60) days from the filing of a Petition to Modify Support.

JUVENILE LAW RULES

Rule LR70 – JV00-1 Case Assignment

Until further order of the Courts the case assignments will be in effect for case distribution between the Rush Circuit Court and Rush Superior Court for criminal cases as follows:

A. Chins cases shall be assigned to Circuit Court.

B. All other cases will be assigned on an equal random basis. However, if a juvenile has an open delinquency case, all subsequent delinquency cases shall be filed in the same court as the open case.

SMALL CLAIM LAW RULES

Rule LR70 – SC00-1 Case Assignment

Small claims for Atlas Collections and the schools shall be assigned to Circuit Court.

All other small claims shall be assigned to Superior Court.

PROBATE LAW RULES

Rule LR70 – PR00-1 Bond

In every supervised estate and guardianship, the personal representative or guardian, before entering duties, shall file a bond not less than the value of the annual rents and profits of all property of the estate, except as hereinafter provided:

1. Where, under the terms of the will, the testator expresses an intention that the bond be dispensed with, the Court shall set a bond adequate to protect creditors and tax authorities.
2. Where the heirs or legatees have filed a written request that the personal representative serve without bond, the bond will be set in an amount adequate to protect the rights of creditors and tax authorities only.
3. No bond shall be required in any supervised estate or guardianship in which a corporate fiduciary qualified by law to serve as such is either the personal representative or one of several co-personal representatives or guardians.

4. In lieu of a bond, fiduciary may restrict transfer of all or part of the estate or guardianship liquid assets by placing those assets in a federally-insured financial institution with the following restriction placed on the fact of the account or document: NO PRINCIPAL OR INTEREST SHALL BE WITHDRAWN WITHOUT WRITTEN ORDE R OF THE RUSH CIRCUIT COURT OR SUPERIOR COURT OF RUSHVILLE, INDIANA.

The fiduciary shall file the following with the Court:

A. Prior to issuance of Letters, the fiduciary's attorney shall execute an Attorney's Undertaking for such assets.

B. Within ten (10) days of the order authorizing the creation of the account, a certification by an officer of the financial institution at which the account has been created, stating that the account is restricted as required by the Court, shall be filed with the Court.

Rule LR70 – PR00-2 Inventory

In all supervised estates, the personal representative shall file an inventory with the Court within two (2) months of the appointment of the personal representative. In all unsupervised estates, the personal representative shall file within two (2) months of the appointment of the personal representative certification that the inventory has been completed as required by I.C. 29-1-7.5-3.2.

A temporary guardian shall file an inventory with the Court within thirty (30) days of appointment. All other guardians shall file a complete inventory of property with the Court within ninety (90) days of appointment.

Rule LR70 – PR00-3 Fees for Personal Representatives and Attorneys

1. No fees for personal representatives, guardians or attorneys shall be paid out of any supervised estate or guardianship without prior written order of the court.

2. Final fees in supervised estates and guardianships shall not be paid until the court has approved the final account. All orders for final fees shall provide that said fees are to be paid only after approval of the final account. This rule does not preclude payment of partial fees during administration after obtaining written Court order for the same.

3. No petition for fees of personal representatives or attorneys need be filed in unsupervised estates.

4. Petitions for fees must be signed by the personal representative or guardian.

5. Unjustified delays in carrying out duties by the fiduciary and/or attorney will result in a reduction of fees of the individuals responsible for the delay.

Rule LR70 – PR00-4 Unsupervised Administration

No Petition for Administration without Court Supervision will be granted unless the consent requirements of I.C. 29-1-7.5-2(a)(4) are met along with all of the other requirements of I.C. 29-1-7.5-2(a).

Rule LR70 – PR00-5 Accountings

Whenever a supervised estate cannot be closed within one (1) year, an intermediate account shall be filed with the Court within thirty (30) days after the expiration of the one (1) year and each succeeding year thereafter. Such accounting shall comply with the provisions of I.C. 29-1-6-4 and 29-1-16-6 and:

1. shall state facts showing why the estate cannot be closed;
2. shall proposed partial distribution of the estate to the extent that partial distribution can be made without prejudice to distributees and claimants.

All guardianship accountings shall contain a certification of an officer of any financial institution in which guardianship assets are held, verifying the account balance (See attached form: "Certification by Financial Institution").

All Social Security or Medicare benefits received by the fiduciary on behalf of an incapacitated person shall be included and accounted for in the guardianship accountings unless Court approval has been previously granted to allow said funds to be paid directly to a residential or health care facility.

In all supervised estate and guardianship accountings, vouchers or canceled checks for the expenditures claimed shall be filed with the accounting. No affidavits in lieu of vouchers or canceled checks will be accepted from individual fiduciaries. An affidavit in lieu of vouchers or canceled checks may be accepted from a state or federally chartered financial institution which serves as a fiduciary, provided the financial institution retains the vouchers or canceled checks on file or by electronic recording devices and makes same available to interested parties upon Court order. The institution shall provide a Certification from its Internal Audit Department verifying the accuracy of the accounting.

All accountings shall follow the prescribed statutory format. Informal, handwritten or transactional accountings will not be accepted.

Rule LR70 – PR00-6 Supplemental Reports

All supplemental reports filed with the Court must be accompanied by receipts for distribution made.

Rule LR70 – PR00-7 Adoption

Except for good cause shown, no final hearings in adoption proceedings shall take place until the adopting couple (or the birth parent and adopting step-parent) have been married for at least one (1) year.

A consent to adoption must be notarized.

Rule LR70 – PR00-7 Requirements for Establishing Guardianships

In all guardianships matters seeking to declare an adult incapacitated for any reason, the incapacitated person shall be present at the hearing unless the provisions of I.C. 29-3-5-1(d) are met.

A physician's report by the doctor treating the alleged adult incapacitated person or such additional evidence as the Court shall require, shall be presented to the Court at the time the petition is filed or on the hearing date. No determination will be made without a supporting medical report or testimony.

Rule LR70 – PR00-8 Restricted Accounts in Guardianships or Minors

In guardianships over the estate of a minor, unless otherwise authorized by the Court, funds shall be placed in a restricted account, designating that no principal or interest may be withdrawn without prior written order of the Rush Circuit Court.

Prior to the issuance of letters in a guardianship over a minor's estate or the compromise of a minor's claim, the guardian and attorney shall execute the Lawyer's Undertaking and Obligation and Order to Guardians.

A certification by a financial institution that a properly restricted account has been created shall be filed within ten (10) days of the Order establishing guardianship.

No surety bond or restricted account is required where a corporate fiduciary serves as a guardian or co-guardian of the estate.

Rule LR70 – PR00-9 Address of Fiduciaries

All petition for appointment of personal representatives or guardians shall contain the petitioner's current address. A personal representative or guardian who changes address shall immediately advise the Court of the new address.