

In the
Indiana Supreme Court



IN THE MATTER OF THE)
)
APPROVAL OF LOCAL RULES)
)
FOR DAVIESS COUNTY)

Case No. 14S00-0809-MS- 480

ORDER APPROVING AMENDED LOCAL RULES

The judges of the Daviess Circuit and Superior Courts request the approval of amended local rules: for caseload allocation in accordance with Ind. Administrative Rule 1(E), and the appointment of special judges in accordance with Ind. Trial Rule 79. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Daviess Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR14-AR00-3.1 and LR14-TR79-2.0, comply with the requirements of Ind. Administrative Rule 1(E), and Ind. Trial Rule 79, and accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that Daviess County Local Rules, LR14-AR00-3.1 and LR14-TR79-2.0, set forth as an attachment to this Order, are approved effective January 1, 2009, provided further that the rules shall be posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website not less than thirty (30) days prior to the effective date.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. Gregory Smith, Daviess Circuit Court, 200 East Walnut Street, Washington, IN 47501-2759; the Hon. Dean A. Sobecki, Daviess Superior Court, 200 East Walnut Street, Washington, IN 47501-2759; and to the Clerk of the Daviess Circuit Court, and to post this Order on the Court's website dealing with local rule amendments.

The Clerk of the Daviess Circuit Court is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment 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 29th day of August, 2008.



Randall T. Shepard
Chief Justice of Indiana

Assignment of Cases (Caseload Allocation Plan)

1. All criminal, except neglect or non-support, juvenile offenders waived to adult Court, or invasion of privacy, domestic battery, or related offenses allegedly resulting from or involving a protective order, workplace violence restraining order or no contact order issued by the Daviess Circuit Court, all infraction, and ordinance violation cases and all small claims cases in which the filing party is represented by counsel, except those involving landlord tenant disputes, including possession of real or personal property or rent due or money damages involving a tenancy, filed in the Daviess County courts, or transferred to Daviess County from other jurisdictions, shall be assigned to the Daviess Superior Court. Said assignment shall be non-discretionary.

2. All juvenile delinquent, CHINS, probate, guardianship, domestic relations, mental health, and protective order cases, and criminal charges for all neglect or non-support, juvenile offenders waived to adult Court, or invasion of privacy, domestic battery, or related offenses allegedly resulting from or involving a protective order, workplace violence restraining order or no contact order issued by Circuit Court, and all small claims cases where the filing party is not represented by counsel, and all small claims cases involving landlord tenant disputes, including possession of real or personal property or rent due or money damages involving a tenancy, filed in Daviess County courts, or transferred to Daviess County from other jurisdictions, shall be assigned to the Daviess Circuit Court. Said assignment shall be non-discretionary.

3. All other cases may be filed in either Court.

4. Upon dismissal of a case, if the case is re-docketed it shall remain in the same court before the same judge exercising jurisdiction at the time of the dismissal.

5. SUBSEQUENT FELONY CHARGES: In the interest of judicial economy, if a person has a felony charge pending in the Daviess Circuit Court or the Daviess Superior Court, all subsequent felony charges filed against the same person shall be filed in the Court where the original felony charge is pending. This provision shall take precedence over the other provisions of this rule set forth above.

6. The Judges of the Daviess Circuit Court and the

Daviess Superior Court shall retain authority to reassign cases between

LR14-AR00-3.1 (Cont'd)

the Courts whenever the work load of each Court or the convenience in handling the case make such reassignment judicially desirable.

7. Transfer of Criminal or Civil Cases: The Judges of the Daviess Circuit Court and the Daviess Superior Court, by appropriate Order, may each transfer and reassign to the other Court any pending case, subject to acceptance by the receiving Court.

8. Modification. The Circuit and Superior Courts of Daviess County, Indiana may from time to time, modify the above rules regarding the local assignment of cases to meet the needs of the Courts or the public, in circumstances deemed necessary by agreement of the Judges of the Daviess Circuit and Superior Courts. Instances that may necessitate temporary modification of this assignment of cases rule include, but are not limited to, temporary or extended absence or disability of a judge; a case or cases of a size or complexity as to overburden a particular Court; or temporary case load disparities.

9. Bi-Annual Review. The Judges of the Daviess Circuit Court and the Daviess Superior Court shall meet bi-annually at or near the time of the annual Judicial Conference to review the weighted caseload statistics of each Court and to comply with the Orders of the Indiana Supreme Court concerning case assignments and Administrative Rule 1 (E).

Appointment of Senior Judge Robert L. Arthur

In any case where the Judge of the Daviess Circuit Court enters an order of recusal or disqualification based upon a conflict of interest arising from any case he was involved in as a private attorney prior to assuming the bench on April 30, 2007, the case shall be assigned to Senior Judge Robert L. Arthur for all further proceedings. The Clerk, upon recusal by the Circuit Court Judge, shall enter an order transferring the case to Senior Judge Robert L. Arthur with an appropriate entry in the record of Judgments and Orders and notify Senior Judge Arthur.

Senior Judge Arthur shall accept jurisdiction under the provisions of this rule unless disqualified under the code of Judicial Conduct or excused from service by the Indiana Supreme Court. The reassignment of such case shall be entered in the Chronological Case Summary of the case. An oath or special order accepting jurisdiction shall not be required. Senior Judge Arthur shall retain jurisdiction for all future proceedings unless a specific statute or rule provides to the contrary, or the senior judge is unavailable by reason of death, sickness, absence, or unwillingness to serve. If further reassignment is required, it shall be in the same manner as otherwise provided for in the local Rules of the Daviess Circuit and Superior Courts.

STATE OF INDIANA – COUNTY OF DAVIESS
IN THE DAVIESS CIRCUIT AND SUPERIOR COURTS

Amended Notice of Proposed Amendments to
Daviness County Local Court Rules
July 22, 2008

The Daviess Circuit and Superior Courts gave notice to the bar and the public on May 30, 2008 that the Courts proposed to amend the Local Rule on Caseload Allocation, LR14-AR00-3.1, effective January 1, 2009. The time period for comments on that proposal closed on June 30, 2008. The Courts also proposed amendments to LR14-TR79-2.0, concerning special judge assignments for recusals and disqualification of judges in certain cases, and LR14-FL00-4.0, concerning contested hearing orders in family law cases. This amended notice addresses the amendments to those local rules. All new text is shown by underlining and deleted text is shown by ~~striketthrough~~. Supreme Court approval is required only for the proposed amendments to the caseload allocation plan, LR14-AR00-3.1, and to the special judge assignments for recusals and disqualification of judges in certain cases, LR14-TR79-2.0, and may not take effect until approved by the Supreme Court.

The bar and the public are invited to comment on the amendments to LR14-TR79-2.0 and LR14-FL00-4.0 until August 25, 2008. The proposed amendments to each of these rules will be adopted, modified or rejected and the final version of the rule will be submitted to the Indiana Supreme Court for review and approval not later than September 1, 2008. The amendments will be effective on January 1, 2009.

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

Hon. Gregory A. Smith, Judge of the Daviess Circuit Court, or Hon. Dean A. Sobecki, Judge of the Daviess Superior Court, Attn: Public Comment on Local Rules, Daviess County Courthouse, 200 East Walnut Street, Washington, Indiana, 47501.

A paper copy of these proposed amended local court rules will be made available for viewing in the office of the Clerk of Daviess County, Daviess County Courthouse, 200 East Walnut Street, Washington, Indiana, 47501 during normal business hours. Persons with Internet access may view these proposed amended local rules at the following website:

<http://www.in.gov/judiciary/rules/local>.

Gregory A. Smith, Judge
Daviess Circuit Court

Dean A. Sobecki, Judge
Daviess Superior Court