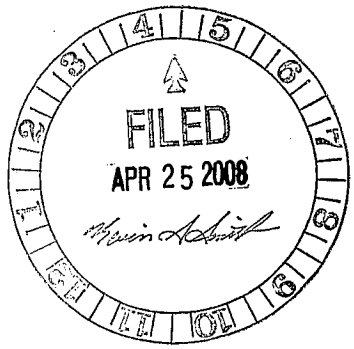

In the
Indiana Supreme Court

IN THE MATTER OF THE	)	
	)	
APPROVAL OF LOCAL RULES	)	Case No. 30S00-0804-MS- 195
	)	
FOR HANCOCK COUNTY	)	

ORDER APPROVING AMENDED LOCAL RULES

The judges of the Hancock Circuit and Superior Courts request the approval of amended local rules: for caseload allocation in accordance with Ind. Administrative Rule 1(E), appointment of special judges in accordance with Ind. Trial Rule 79, assignment and reassignment of criminal case in accordance with Ind. Criminal R. 2.2, and regulation of court reporter services in accordance with Ind. Administrative Rule 15. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Hancock Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR30-AR1-2, LR30-TR76-2, LR30-TR45-1, and LR30-AR15-1 , comply with the requirements of Ind. Administrative Rule 1(E), Ind. Trial Rule 79, Ind. Criminal R. 2.2, and Ind. Administrative Rule 15, and accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that Hancock County Local Rules, LR30-AR1-2, LR30-TR76-2, LR30-TR45-1, and LR30-AR15-1 , set forth as an attachment to this Order, are approved effective immediately, 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.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. Richard D. Culver, Hancock Circuit Court, 9 East Main Street, #302, Greenfield, IN 46140-2320; the Hon. Terry K. Snow, Hancock Superior Court, 9 East Main Street, #303, Greenfield, IN 46140-2320; the Hon. Dan E. Marshall, Hancock Superior Court, 9 East Main Street, #106, Greenfield, IN 46140-2320; and to the Clerk of the Hancock Circuit Court, and to post this Order on the Court's website dealing with local rule amendments.

The Clerk of the Hancock 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 25th day of April, 2008.

RT Shepard

Randall T. Shepard
Chief Justice of Indiana

LR 30- AR00-2 Local Caseload Plan For The Eighteenth Judicial Circuit

Pursuant to the Order for Development of Local Caseload Plans of the Indiana Supreme Court entered on July 16, 1999, the undersigned Judges of the Eighteenth Judicial Circuit adopt the following Local Caseload Plan for the Courts of the Circuit:
The Judicial Circuit

Hancock County, Indiana constitutes the Eighteenth Judicial Circuit of the State of Indiana and is served by the Hancock Circuit Court and Hancock Superior Courts No. 1 and 2. According to the 2006 Weighted Caseload Measures (WCLM) the County average was 1.40 as opposed to the State average of 1.23. The WCLM of the courts within the Circuit were: Hancock Circuit Court, 1.44; Hancock Superior Court No. 1, 1.27; and Hancock Superior Court No. 2, 1.49.

Plan Concepts

The Local Plan shall be premised upon a review and evaluation of:

1. WCLM information for the courts serving the Circuit,
2. resources and needs of individual courts within the Circuit as well as available judicial resources,
3. measures which would facilitate as well as impede implementation of the Plan goal and
4. mechanics for the implementation of the Plan goal.

Upon completion of such review significant caseload disparities have been determined to exist among the courts of the Circuit as evaluated by WCLM.

The goal of the Local Plan is the alteration of the caseloads of the courts so that each is within 0.25 points of the state average WCLM relevant to the Plan (1.22 for 2006) or the range which may hereafter be adopted by the Indiana Supreme Court. The most efficient method for balancing caseloads within the Circuit is through management of the docketing of cases within the courts of the Circuit so that WCLM analysis of each court will be approximately 1.00.

Implementation

Yearly Evaluation and Review

The judges of the Circuit shall meet en banc each year for the purpose of evaluating the WCLM of each court within the Circuit and adopting appropriate alterations or revisions of the Local Plan and to relieve caseload disparities among the Courts. Each annual meeting shall be scheduled within thirty days of the yearly certification of WCLM information by the Division of State Court Administration. Implementation of the Local Plan shall be on a calendar year basis.

At their annual meeting an evaluation shall be made of the utilization of judicial resources within the courts of the Circuit based upon WCLM for the prior year. A determination shall be made concerning the most efficient and appropriate manner for the Circuit to meet its responsibilities pursuant to the Orders of the Indiana Supreme Court regarding caseload allocation. Upon the completion of the yearly review appropriate and necessary Plan modifications shall be adopted by a majority vote and an order shall be entered which shall direct the Clerk of Hancock County with respect to implementation of the Local Plan. Starting in **January of 2008,** the courts will move the filing of Protective Order cases (PO) from Superior Court 2 to Superior Court 1.

Judicial Circuit Plan

Case types shall be docketed in the courts of the Circuit only as indicated:

a. **Circuit Court and Superior Court No. 1**

MR, FA, FB, FC, FD, MC, JC, JD, JS, JM, JT, JP, PL, CC, MF, CT, DR, RS, MH, AD, AH, ES, EU, GU, TR and MI,

b. **PO cases** are to be filed in Superior Court No. 1. They may be transferred to Circuit Court or Superior Court 2 if there is a DR case or other case involving the parties in that court.

c. **Superior Court No. 2**

FD (as limited by local filing rule), CM, MC, IF, OV, SC.

The Local Rule concerning the filing of criminal cases shall be amended in accordance with such filing procedure and continue to control the docketing of FD case types.

All cases filed in the civil docket of the Hancock Circuit and Superior Court No. 1 shall be filed on a random basis by the Clerk pursuant to a method approved by the courts.

The Local Plan shall continue in effect from year to year thereafter except as modified.

Plan Impact

Based upon WCLM information for 2006, implementation of the Local Plan will result in the WCLM of each court within the Circuit being approximately equal.

LR 30-TR76-2 Selection of a Special Judge Pursuant to Trial Rule 79(H)

Section 1- Cases involving a change of judge

In the absence of an agreement as to a particular special judge [TR 79(D)], or an agreement to have the regular sitting judge appoint a special judge [TR 79(E)], the regular sitting judge shall name a panel pursuant to TR 79(F) consisting, whenever possible, of other judges, senior judges or magistrates from Hancock County. If a sufficient number of Hancock County judges, senior judges or magistrates does not exist, then a panel shall be named including the available Hancock County judges, senior judges or magistrates, and judges, senior judges or magistrates from either Johnson County or Shelby County.

If none of the above methods produce a special judge, the clerk of the court shall select a special judge (on a rotating basis) from an alphabetical list of judges or magistrates eligible under Trial Rule 79(J) from Johnson County and Shelby County.

In cases in which no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.

Section 2- Cases involving recusal or disqualification of a judge

In the absence of an agreement as to a particular special judge [TR 79(D)], or an agreement to have the regular sitting judge appoint a special judge [TR 79(E)], the clerk of the court shall select a special judge (on a rotating basis) from an alphabetical list of judges or magistrates eligible under Trial Rule 79(J) from Hancock County, Johnson County and Shelby County.

In cases in which no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.

LR 30-CR2.2-1 Assignment Of Felony And Misdemeanor Cases

Section 1 – Definitions

A misdemeanor case may include a charged infraction but not a felony.

A felony case may include both misdemeanors and infractions in addition to the charged felony. A felony case shall be deemed to be a felony case of the highest class alleged in the information or indictment.

Section 2 – Case Assignment upon Filing

Immediately upon the filing of a case the Prosecuting Attorney shall deliver the file to the appropriate court and advise the court as to whether the defendant is in custody.

The following offenses shall be filed only in Hancock Superior Court No. 2:
Ordinance Violations,
Infractions,
Misdemeanors,
Class D felonies defined by IC-9 [OWI OR HTO felonies],
Class D felonies defined by IC 35-46-1-4 [Neglect of a Dependent] if joined with a violation of IC 9-30-5-1 through IC 9-30-5-5 [OWI as a misdemeanor or felony],
Class D felonies defined by IC 35-46-1-5 [Non-Support of a Dependent],
Violations of IC 35-43-4-2 [Theft] if the value of the property is less than One Hundred Dollars ($100.00),
Violations of IC 35-44-3-3(b)(1) [Resisting Law Enforcement as a Class D felony] and,
Class D felonies joinable with a filed criminal offense under IC-9 arising out of the same fact situation.

Class "D" felonies filed against other defendants arising out of the same fact situation as any of the above mentioned cases joinable by law shall also be filed in Hancock Superior Court No. 2. All other felony offenses shall be filed in either the Hancock Circuit Court or Hancock Superior Court No. 1 as hereinafter prescribed except Escape charged pursuant to IC 35-44-3-5 shall be filed in the same court which had sentenced or ordered the defendant held.

Offenses shall be filed in the Hancock Circuit Court and Hancock Superior Court No. 1 on an alternate basis within each year according to the date of the earliest offense alleged to have been committed on odd days of the month shall be filed in the Hancock Circuit Court and alleging the commission of offense on an even day of the month shall be filed in Hancock Superior Court No. 1.

If an information or indictment alleges a period of time for the commission of an offense rather than a single specific date, the case shall be filed according to the earliest month alleged. Cases involving offenses alleged to have been committed during odd months shall be filed in the Hancock Circuit Court and those alleging the commission of an offense during an even month shall be filed in Hancock Superior Court No. 1. An information or indictment involving both specific alleged dates and period of time shall be filed as though it alleged specific dates only.

Cases filed against other defendants arising out of the same fact situation which are joinable by law shall be filed in the same court. Juvenile Delinquency cases will be filed as civil cases, however if a juvenile has a pending or open case, a new case shall be filed in the same court as the existing case.

Section 3 – Refiling and/or Subsequent Filing

If the State of Indiana dismisses an information or indictment filed against a defendant, any subsequent refilling of such information or indictment charging the same and/or other offenses, arising out of the same underlying factual situation, shall be filed in the same court from which the dismissal was obtained.

Section 4 – Reassignment of Cases Due to Disqualification of the Judge

If the judge before whom a case is pending becomes disqualified from jurisdiction of a case pursuant to the Indiana Rules of Criminal Procedure, Rules of Procedure for Post Conviction Remedies, Recusal or the Code of Judicial Conduct, the case shall be reassigned to a judge from an alphabetized list of judges of the Circuit or Superior Courts of Henry, Rush and Shelby counties who have consented to serve. Judges who have previously exercised jurisdiction in this case shall not be eligible for reassignment to the case.

In the event a judge is not available for assignment from the list or the particular circumstances of the case warrant selection of a Special Judge by the Indiana Supreme Court, the case shall be certified to the Indiana Supreme Court for the appointment of a Special Judge pursuant to Criminal Rule 13(D).

LR 30-AR15-1 Court Reporter Services

Section 1 - Definitions

The definitions contained in Administrative Rule 15(B) are adopted for use in this rule and control any question of interpretation. For the purposes of this rule, the regular hours worked by the court reporting staff shall be Monday through Friday from 8:00 a.m. until 4:00 p.m. with one hour for the noon meal. The work week shall be a seven day period commencing with Sunday and ending with the Saturday of each week and contain thirty-five hours for which salaried compensation is paid.

Section 2 - Compensation

A court reporter shall work directly under the control, direction and direct supervision of the court by which they are employed during all hours of employment. Each court reporter shall be paid an annual salary, as set by the court and approved by the county council, for regular hours worked during a work week. Gap hours shall be separately compensated at a rate equivalent to the hourly rate of the yearly salary and overtime hours shall be separately compensated at a rate equivalent to one and one-half times the hourly rate of the yearly salary.

Section 3 - Duties and Responsibilities

The duties of a court reporter shall include:

a. reporting the evidence presented in proceedings before the court,

b. preservation and storage of any physical evidence presented in court proceedings,

c. preparation of chronological case summary entries at the direction of the court and providing notice thereof as required by the rules of trial procedure,

d. preparation of written documents to effectuate the rulings, orders and judgments of the court or comply with the rules of the Indiana supreme court,

e. preparation of transcripts of evidence presented in court proceedings requested pursuant to the rules of trial procedure and

f. such other functions and responsibilities as required by law or the court for its effective administration.

Section 4 - Transcript Preparation

A reporter shall prepare transcripts of evidence only during regular hours unless requested or ordered to do so by the court, the Indiana Court of Appeals or the Indiana Supreme Court. If a transcript cannot be completed during regular hours due to applicable appellate deadlines, the reporter shall receive additional salary as follows: gap hours shall be paid in the amount equal to the hourly rate of the annual salary, overtime hours shall be paid in the amount of one and one-half times the hourly rate of the annual salary; or compensatory time off shall be given weighted in the same manner. The manner of the provision of such additional salary or time off shall be determined by a written agreement to be freely negotiated and executed between the court and the reporter.

Section 5 - Private Practice

A reporter may elect to engage in the private practice of court reporting, i.e., the recording of and preparation of deposition transcripts; but such activity, regardless of whether the deposition concerns a cause pending before the court, shall be conducted outside of regular hours. If a reporter, in exercise of such private practice, utilizes, with the consent of the court, its facilities, equipment and/or supplies, the reporter shall reimburse the court for such usage pursuant to a written agreement between the court and reporter. Such agreement shall establish the:

a. reasonable market rate for the use of the equipment, facilities and supplies,

b. method by which records are kept for the use of the same and

c. method by which the reporter shall reimburse the court for such usage.

Section 6 - Maximum per Page Fees

The reporter shall not charge more than the following rates per page:

a. Private practice work:

Depositions taken by private counsel:

$ ~~2.50~~ $3.00 for originals and $ ~~1.25~~ $1.75 for copies

Depositions taken by pauper counsel:

$ ~~2.00~~ $2.50 for originals and $ 1.00 $ 1.50 for copies

b. Private transcripts of evidence

Cases with private counsel:

$ ~~3.75~~ $4.25 for originals and $ ~~1.85~~ $2.35 for copies

Cases with pauper counsel:

~~$ 2.75~~ $ 3.25 for originals and ~~$ 1.00~~ $1.50 for copies.

Section 7 - Annual Report

A court reporter shall annually report all transcript and deposition fees received to the Office of State Court Administration on such forms as may be prescribed.