

In the
Indiana Supreme Court



IN THE MATTER OF THE)
)
APPROVAL OF LOCAL RULES)
)
FOR ST. JOSEPH COUNTY)

Case No. 71S00-0808-MS- 405

ORDER APPROVING AMENDED LOCAL RULE

The Judges of the St. Joseph Circuit and Superior Courts request the approval of an amended local rule for caseload allocation in accordance with Ind. Administrative Rule 1(E). Attached to this Order is the proposed amended local rule.

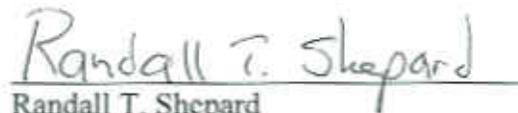
Upon examination of the proposed rule amendment requested by the St. Joseph Circuit and Superior Courts, this Court finds that the proposed rule amendment, LR71-AR1-107 complies with the requirements of Ind. Administrative Rule 1(E), and, accordingly, should be approved and posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website at least thirty (30) days prior to taking effect on January 1, 2009.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rule LR71-AR1-107 for St. Joseph County Courts, set forth as an attachment to this Order, is approved effective January 1, 2009. The Clerk of this Court is directed to post a copy of the amended rule on the Indiana Judicial Website at least thirty (30) days prior to January 1, 2009. The Clerk of this Court is further directed to forward a copy of this Order to the Hon. Michael G. Gotsch, St. Joseph Circuit Court, 101 South Main Street, South Bend, IN 46601-1807; the Hon. Roland W. Chamblee, Jr., St. Joseph Superior Court, 101 South Main Street, #140, South Bend, IN 46601-1807; the Hon. David C. Chapleau, St. Joseph Superior Court, 101 South Main Street, South Bend, IN 46601-1807; the Hon. J. Jerome Frese, St. Joseph Superior Court, 101 South Main Street, South Bend, IN 46601-1807; the Hon. Jenny Pitts Manier, St. Joseph Superior Court, 219 Lincolnway West, Mishawaka, IN 46544; the

Hon. John M. Marnocha, St. Joseph Superior Court, 101 South Main Street, South Bend, IN 46601-1807; the Hon. William T. Means, St. Joseph Superior Court, 101 South Main Street, South Bend, IN 46601-1807; Jane Woodward Miller, St. Joseph Superior Court, 101 South Main Street, South Bend, IN 46601-1807; the Hon. Peter J. Nemeth, St. Joseph Probate Court, 1000 South Michigan Street, South Bend, IN 46601-3426; the Hon. Michael Scopelitis, St. Joseph Superior Court, 101 South Main Street, South Bend, IN 46601-1807; and to the Clerk of the St. Joseph Circuit Court.

The Clerk of the St. Joseph 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 at least thirty (30) days prior to January 1, 2009.

DONE at Indianapolis, Indiana, this 21st day of August, 2008.


Randall T. Shepard
Chief Justice of Indiana

Rule LR71-AR1-107. Joint Local Caseload Allocation Plan for St. Joseph County.

- 107.1. Caseload Review.** Not later than October 1 of each year, a committee composed of the Judge of the Circuit Court, the Judge of the Probate Court, and the Chief Judge of the Superior Court, shall meet in person, telephonically, or by other means and shall evaluate each court's caseload data, as reported by the Division of the State Court Administration.
- 107.2. Special Circumstances.** The committee shall consider in addition to the actual caseload data, any special circumstances relevant to evaluating the various caseloads of the various Courts and Judges in St. Joseph County. These special circumstances shall include such matters as death penalty cases, administrative and special Judge service, availability of physical resources, and any other relevant factors.
- 107.3. Statistical Deviation.** Based upon the foregoing caseload evaluation for each Court within the County, the committee shall determine whether or not a sufficient statistical deviation occurs between the Courts which would warrant a transfer of cases within St. Joseph County from one court to another or a limitation during the following year upon what case types may be filed in certain courts or before certain Judges in order to more effectively and efficiently provide services to the citizens of St. Joseph County.
- 107.4. Caseload Allocation Plan and Transfer of Cases.** In the event the committee determines a significant statistical deviation exists and is likely to continue to exist the following year, the committee shall unanimously adopt a written plan providing for the assignment of cases and/or for the transfer of cases from one Court to another in order to more equally distribute cases among and between the various Courts within St. Joseph County or requiring that certain types of cases only be filed in certain courts or assigned to certain Judges therein. Such transfer of cases or limitation on filing shall take into consideration the specialized jurisdictional attributes of the Probate Court and endeavor to transfer cases that fit within a receiving Judge's statutory jurisdiction. In the event that either cases transferring in or out of Probate Court are outside the normal statutory jurisdiction of the receiving Judge, the committee shall designate the receiving Judge as a special Judge of the court that retains jurisdiction over the original proceeding. The committee shall also take into consideration the impact of such transfer upon other local agencies such as the Prosecutor's Office, Public Defender's Office, Sheriff's Department, Local Law Enforcement, County Clerk's Office, Probation Departments, as well as the general citizenry and the cost of such transfers. The caseload allocation plan may be memorialized as an appendix to this rule.

107.5. Procedures Following Transfer. Once a case is assigned or transferred pursuant to the caseload allocation ~~distribution~~ plan adopted by the committee into another Court, the case shall be heard and processed as all other cases originally filed within that Court.

[Adopted July ____, 2006, effective January 1, 2009.]

APPENDIX A TO LOCAL GENERAL AND ADMINISTRATIVE RULES

CASELOAD ALLOCATION PLAN FOR COURTS IN ST. JOSEPH COUNTY, INDIANA

I. Organization of the Courts of St. Joseph County:

As of January 1, 2009, the Courts of St. Joseph County are organized and assigned judicial officers as follows:

- (1) St. Joseph Circuit Court – one (1) judge and two (2) magistrate judges;
- (2) St. Joseph Superior Court – eight (8) judges and two (2) magistrate judges; and
- (3) St. Joseph Probate Court – one (1) judge and three (3) magistrate judges.

II. Designation of Judicial Officers to Hear Civil, Criminal and Juvenile Cases:

(1) Judicial Officers Designated to Hear Civil Cases: Civil Cases (other than small claims matters) shall be heard by the judge and the magistrate judges of the Circuit Court, and by the judges and/or magistrate judges of the Superior Court designated by the Chief Judge of the Superior Court to hear civil cases;

(2) Judicial Officers Designated to Hear Felony Criminal Cases: Felony criminal cases shall be heard by the judges and/or magistrate judges of the Superior Court designated by the Chief Judge of the Superior Court to hear felony criminal cases;

(3) Judicial Officers Designated to Hear Small Claims Cases: Small claims matters shall be heard by the judges and/or magistrate judges of the Superior Court designated by the Chief Judge of the Superior Court to hear small claims matters;

(4) Judicial Officers Designated to Hear Traffic and Misdemeanor Cases: Unless otherwise assigned to a felony criminal court for judicial economy because a defendant has pending felony, misdemeanor and/or probation revocation matters, traffic and misdemeanor matters shall be heard by the judges and/or magistrate judges of the Superior Court designated by the Chief Judge of the Superior Court to hear traffic and misdemeanor matters.

(5) Judicial Officers Designated to Hear Paternity, Delinquency, Dependency, and Adoption Cases: Paternity, delinquency, dependency, and adoption matters shall be assigned to the Judge of the Probate Court unless the Judge assigns the matter to be heard by a magistrate judge of the Probate Court.

(6) Judicial Officers Designated to Hear Title IV-D Cases: Pursuant to LR71-FL00-430 et seq., Title IV-D Cases may be assigned to the Title IV-D Court and heard by a magistrate judge of the Probate Court designated to preside over Title IV-D hearings.

III. Protocol for Assignment of Cases Among the Courts of St. Joseph County:

(1) Civil cases (other than small claims): With the exception of cases that must be assigned statutorily to the Probate Court because of its designation as the court with exclusive jurisdiction over juvenile cases (paternity, delinquency, dependency, adoption, etc.) or to the Circuit Court (license reinstatement, name changes, etc.), civil cases (other than small claims cases) shall be assigned randomly among the judges and/or magistrate judges of the Circuit Court and the Superior Court designated to hear civil matters.

(2) Felony Criminal Cases: With the exception of criminal cases that must be assigned to the Circuit Court by L71-CR2.2-303.1 or 303.2, felony criminal cases shall be assigned randomly among the judges and/or magistrate judges of the Superior Court designated to hear criminal cases. However, and notwithstanding this method of random assignment, in all felony criminal cases, except MR cases, where co-defendants are charged, cases shall be reassigned to a single judge or magistrate judge, as follows: (a) where co-defendants have been equally assigned to different judges, the judge having the lowest assigned cause number shall be assigned/reassigned all co-defendant cases; or (b) in the event that co-defendants have been unequally assigned to different judges, the judge having the greatest number of co-defendants shall be assigned/reassigned all co-defendant cases. Further, the Chief Judge of the Superior Court may reassign cases involving a defendant who has a pending case to the judge presiding over the earliest assigned cause number. The Chief Judge of the Superior Court may reassign MR cases or other felony cases where such reassignment is in the interest of judicial economy or dictated by the weighted caseload balancing requirements.

(3) Small Claims Cases: With the exception of small claims matters filed by the City of Mishawaka, the School City of Mishawaka or a resident of the City of Mishawaka where all defendants are residents of the City of Mishawaka, small claims cases shall be assigned to South Bend Division of the Superior Court. For convenience of parties, a small claims case that must be assigned to the South Bend Division may be filed in the Mishawaka Division, but the filing party or counsel shall indicate to the Clerk on the Chronological Case Summary that the matter must be docketed in the South Bend Division, and the Clerk shall promptly forward the pleadings to the South Bend Division for filing and processing.

(4) Traffic and Misdemeanor Cases: With the exception of ordinance or traffic matters filed by the City of Mishawaka, traffic and misdemeanor cases shall be filed in and assigned to the South Bend Division of the Superior Court.

(5) Paternity, Delinquency, Dependency, and Adoption Cases: Paternity, delinquency, dependency, and adoption cases shall be filed in Probate Court.

IV. Exceptions to the Protocol for Assignment of Cases:

(1) Mass Filing of Collection Cases (other than small claims): Upon request and designation by the Judge of the Circuit Court and the Chief Judge of the Superior Court, a lawyer or law firm may be approved to make mass filing of collection cases

(other than small claims). Unless otherwise directed by the Judge of the Circuit Court or the Chief Judge of the Superior Court based on weighted caseload balancing requirements or otherwise, cases filed by a lawyer or law firm approved for mass filing shall be assigned to the Circuit Court.

(2) Special Judge or Transfer: Nothing in these local rules shall be interpreted to prevent a party from taking a change of judge or requesting transfer of a case as otherwise authorized by statute or rule of court.

(3) Temporary or Permanent Assignment of Cases: Nothing in these local rules shall be interpreted to prevent the regularly presiding judge of a Court from assigning a case on a temporary or permanent basis to a Magistrate Judge, Special Judge, Senior Judge, Temporary Judge, Judge Pro Tem, Referee, or other duly appointed judicial officer.

(4) Caseload Balancing: Nothing in these local rules shall be interpreted to prevent the Judge of the Circuit Court, the Chief Judge of the Superior Court or the Judge of the Probate Court, either jointly or individually, from reassigning a case for the purpose of caseload balancing based on the weighted caseload criteria or other caseload balancing criteria.

(5) Emergency or Exigent Circumstances: Nothing in these local rules shall be interpreted to prevent the Judge of the Circuit Court, the Chief Judge of the Superior Court or the Judge of the Probate Court, either jointly or individually, from assigning a case based on emergency or exigent circumstances.

V. Authority and Effective Date:

(1) This Caseload Allocation Plan is adopted pursuant to the requirements of A.R. 1 (E) and LR71-AR1-107.1

(2) The effective date of this Caseload Allocation Plan is January 1, 2009.

[Adopted July ____, 2006, effective January 1, 2009.]