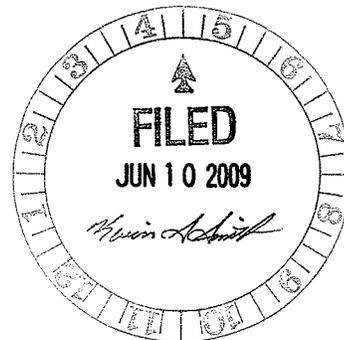


In the
Indiana Supreme Court



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

Case No. 76S00-0906-MS- 281

ORDER APPROVING AMENDED LOCAL RULES

The judges of the Steuben Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Ind. Administrative Rule 1(E), and appointment of special judges in accordance with Ind. Criminal Rule 2.2 and Ind. Trial Rule 79. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Steuben Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR76-AR1-4, LR76-CR2.2-1 and LR76-TR79-5, comply with the requirements of Ind. Administrative Rule 1(E), Ind. Criminal Rule 2.2 and Ind. Trial Rule 79, and accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that Steuben County Local Rules, LR76-AR1-4, LR76-CR2.2-1 and LR76-TR79-5, set forth as an attachment to this Order, are approved effective June 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.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. William C. Fee, Steuben Superior Court, 55 South Public Square, Angola, IN 46703-0327; the Hon. Allen N. Wheat, Steuben Circuit Court, 55 South Public Square, Angola, IN 46703-0327; and to the Clerk of the Steuben Circuit Court. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Steuben 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 10th day of June, 2009.

RT Shepard
Randall T. Shepard
Chief Justice of Indiana

LR76-CR2.2-1 Criminal Case Filings

A. All felony and misdemeanor cases shall be filed on the basis of random selection, except:

(1) If an active case or cases exist against the individual to be charged, the new case shall be filed in that court, or

(2) The prosecuting attorney certifies to the clerk that new filings are "companion cases". Companion cases shall denote cases involving co-defendants or cases arising out of the same or closely related transaction or occurrence or in any other instance where consideration of the case with others is the same forum is in the interests of judicial economy.

(3) Where a conflict of interest exists, or other good cause is shown, the presiding judge of either court may permit the filing of that case so as to avoid the conflict.

(4) In the event a cause is dismissed, it may later be refiled in the same court.

B. Pursuant to Ind. Criminal Rule 2.2(D) and Ind. Criminal Rule 13(C), in the event a change of judge is granted or a disqualification or recusal is entered, the case shall be reassigned as follows:

(1) Circuit Court: In the event a change of Judge is granted where it becomes necessary to assign another Judge in any felony or misdemeanor proceeding in Steuben Circuit Court, the case shall be reassigned to Steuben Superior Court.

(2) Superior Court: In the event a change of Judge is granted or it becomes necessary to assign another Judge in any felony or misdemeanor proceeding in Steuben Superior Court, the case shall be reassigned to Steuben Circuit Court.

(3) Alternative: In the event that a reassignment can not be accomplished pursuant to the rules set forth above, then the case will be reassigned in consecutive order to the following Judges: the Steuben County Magistrate, the regular Judge of the DeKalb Circuit Court; the regular Judge of the DeKalb Superior Court I; the regular Judge of the DeKalb Superior Court II; the regular Judge of the LaGrange Circuit Court, and the regular Judge of the LaGrange Superior Court.

C. Pursuant to Ind. Criminal Rule 13(D), 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.

LR76-TR79-5 Special Judge Appointments

(A) 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 the other judge and magistrate from Steuben County and senior judges who serve in Steuben County. If a sufficient number of Steuben County judges and senior judges does not exist, then a panel shall be named including the available Steuben County judge and senior judges, and judges, senior judges or magistrates selected from LaGrange, Noble and DeKalb counties.

If none of the above methods produce a special judge, the regular sitting judge shall select a special judge (on a rotating basis) from an alphabetical list of judges or magistrates eligible under Trial Rule 79(J) from LaGrange, Noble and DeKalb counties.

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.

(B) 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 regular sitting judge shall select a special judge (on a rotating basis) from an alphabetical list of judges or magistrates eligible under Trial Rule 79(J) from LaGrange, Noble and DeKalb counties.

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.

LR76-AR1-4 Caseload Allocation Plan

(A) CRIMINAL, INFRACTION AND ORDINANCE VIOLATION CASES

Criminal Cases shall be filed pursuant to LR76-CR2.2-1. All infraction and ordinance violation cases shall be assigned to the Superior Court.

(B) PROBATE AND RELATED CASES

Estate, Guardianship, Adoption and Trust cases shall be assigned to the Circuit Court.

(C) JUVENILE CASES

All juvenile cases, including paternity cases, shall be assigned to the Circuit Court.

(D) SMALL CLAIMS CASES

All small claims cases shall be filed in the Superior Court.

(E) CIVIL CASE TYPES PL, MF, CC, CT, DR, RS, MH, PO, MI

Cases other than those mentioned in the preceding paragraphs upon filing shall be assigned by the clerk based upon a blind draw to either Circuit Court or Superior Court. However, nothing in this rule shall prohibit a judge of said Court from transferring a case from that Court to the other as allowed by statute, or rule of trial procedure, or to ensure an even distribution of judicial workload between the courts of record in the county.

On or before May 1 of each year the Judge of the Circuit Court and the Judge of the Superior Court shall meet to review the Weighted Caseload Measures statistics as calculated by the Division of State Court Administration for the preceding calendar year. The utilization of the two Courts shall be compared and if the utilization variance is within 0.25 of one another, it shall be presumed that no action is necessary to reduce the disparity. If the utilization variance between the courts is more than 0.40 in a calendar year or more than 0.25 for two consecutive years, it will be presumed that the disparity must be reduced, unless the judges agree otherwise after discussing and evaluating the various relevant factors.

(F) REFILED CASES

Except when a change of venue is necessary, whenever a case is dismissed by action of the originating party, the case, if re-filed, must be assigned to the same court that received the original case.