FILED
AUG 29 2011
CLERK OF THE
INDIANA SUPREME COURT
COURT OF APPEALS
AND TAX COURT

In the
Indiana Supreme Court

IN THE MATTER OF THE	)	
	)	
APPROVAL OF LOCAL RULES	)	Case No. 33S00- 1108 -MS- 523
	)	
FOR HENRY COUNTY	)	

ORDER APPROVING AMENDED LOCAL RULES

The judges of the Henry Circuit Court request the approval of amended local rules for caseload allocation in accordance with Ind. Administrative Rule 1, and appointment of special judges in accordance with Ind. Trial Rule 79 and Ind. Criminal Rule 13. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Henry Circuit Court, this Court finds that the proposed rule amendments, LR33-AR00-01, LR33-CP00-1, LR33-TR79-1 and LR33-CP13-1, comply with the requirements of Ind. Administrative Rule 1, Ind. Trial Rule 79, and Ind. Criminal Rule 13, and accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that Henry County Local Rules, LR33-AR00-01, LR33-CP00-1, LR33-TR79-1 and LR33-CP13-1, set forth as attachments to this Order, are approved effective September 1, 2011, 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. Mary G. Willis, Henry Circuit Court 1, 1215 Race Street, #340, New Castle, IN 47362; the Hon. Bob A. Witham, Henry Circuit Court 3, 1215 Race Street, #220, New Castle, IN 47362; the Hon. E. Edward Dunsmore, Henry Circuit Court 2, 1215 Race Street, #320, New Castle, IN 47362; the Hon. Michael D. Peyton, Henry Circuit Court 2, 1215 Race Street, #320, New Castle, IN 47362; to the Clerk of the Henry Circuit Court; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Henry 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 8/29 day of August, 2011.

Randall T. Shepard
Chief Justice of Indiana

LR33-AR00-01 COUNTY CASELOAD ALLOCATION PLAN

01-10 The Circuit Courts of Henry County have adopted a rule for criminal random filing (LR33-CP00-1). While it is the intent to allow the citizens and bar to have flexibility in filing all other types of cases, the Courts now adopt this rule setting forth certain limitations on filing in order to comply with Indiana Supreme Court Administrative Rule 1(E). This rule shall be subject to the family court rules in existence for filing and transfer of cases.

01-20 All small claims shall be filed in Circuit Court No. 3

01-30 All delinquency and CHINS-cases shall be filed in Circuit Court No. 1

01-40 Dissolution of marriage and paternity actions shall be filed in Circuit Court No. 1 or Circuit Court No. 2. Pro-se dissolution of marriage actions shall be filed alternately in Circuit Court No. 1 and in Circuit Court No. 2. Paternity actions filed by the prosecuting attorney shall be filed in such a manner as to approximate an equal division of such cases between Circuit Court No.1 and Circuit Court No. 2.

01-50 Protective order actions shall be assigned by the Clerk in such a manner as to approximate a division of such cases between Circuit Court No. 1 and Circuit Court No. 2 except that protective orders involving cases where the parties in the protective order case are involved in a dissolution of marriage, paternity or prior protective order action in this county, the protective order case shall be filed in the same court where the dissolution, paternity or prior protective order case is pending. Existing protective order cases shall be transferred to the court where any dissolution of marriage or paternity action is later filed involving the same parties. If a protective order application is denied then all further applications for a protective order involving the same parties shall be filed in the same court and shall note on the application the cause number of the previously denied application.

01-60 The judges of Henry Circuit Courts shall meet at least annually for the purpose of reviewing the weighted caseload of each court or at any other time as may be necessary to comply with the orders of the Indiana Supreme Court.

LR33-CP00-1 CRIMINAL CASE ASSIGNMENT

All misdemeanors cases shall be filed in Henry Circuit Court No. 3. All Class D felonies shall be filed in Henry Circuit Court No. 3 except the following:

1. Neglect of a dependent and offenses against the family under I.C. 35-46-1-1 et. seq.
2. Felony non-support, I.C. 35-46-1-5
3. Welfare fraud, I.C. 35-43-5-7
4. Failure to Register as a Sex Offender, I.C. 5-2-12-9;
5. Theft, D Felony where value of property exceeds $10,000.00, I.C. 35-43-4-2, and
6. Domestic Battery, I.C 35-42-2-1.3.

All Class A, B, C, and D Felonies outlined above shall be filed randomly in Henry Circuit Court No. 1 or Henry Court No. 2. The case shall be assigned according to the highest class charge. Cases filed against other defendants arising out of the same fact situation which are joinable by law shall be filed in the same court.

All grand jury and homicide cases shall be filed alternately in Henry Circuit Court No. 1 and Henry Circuit Court No. 2. The first such homicide shall be filed in Henry Circuit Court No.1 with the second in Henry Circuit Court No.2 alternating thereafter. The order of filing shall continue on an alternate basis according to the existing rule in effect prior to the adoption of these rules.

In the event that a filing in Henry Circuit Court No. 3 causes the Judge in that Court to believe that the matter cannot be tried within 3 days or less, then that Judge shall have the option of causing that case to be reassigned to either Henry Circuit Court No. 1 or Henry Circuit Court No. 2. The case to be reassigned will be sent to the Henry County Clerk's office for reassignment based upon the random manner set forth herein.

The Henry County Clerk shall maintain a lottery system using pieces of paper or other devices by which certain designations for Henry Circuit Court No.1 and Henry Circuit Court No. 2 shall be placed thereon. The Clerk shall cause an equal number of pieces of paper or other devices to be placed in a container. At the time a case is filed or reassigned requiring that the Court be selected randomly, the Clerk or the Clerk's representative shall pull out of the container one piece of paper or other device and assign the case to the Court designated on the paper or other device pulled out by the Clerk or the Clerk's representative. Due to the random nature of such a system, it may become necessary for the undersigned Judges to adjust the number of pieces of paper or devices in the Clerk's container.

Once a case has been assigned in accordance with the provisions set out herein, the case cannot be assigned to another judge by dismissal and refiling if the second filing is based on the same underlying incident.

LR33-TR79-1 SPECIAL JUDGE IN CIVIL AND JUVENILE CASES

In the event a special judge is selected under Trial Rule 79, Sections (D) (E) or (F) does not accept the case or a judge disqualifies and recuses under Trial Rule 79(C), then the clerk of the court shall appoint on a rotating basis a special judge from the following list of regular judges in the respective courts:

Civil Cases:

a. Henry Circuit Court 1
b. Henry Circuit Court No. 2.
c. Henry Circuit Court No. 3.
d. Delaware Circuit Court No. 3
e. Jay Superior Court
f. Randolph Superior Court
g. Blackford Superior Court
h. Randolph Circuit Court
i. Delaware Circuit Court No. 1

Juvenile Cases:

a. Delaware Circuit Court No. 2
b. Blackford Circuit Court
c. Jay Circuit Court
d. Randolph Circuit Court
e. Henry Circuit Court 1
f. Henry Circuit Court No. 2

In the event that a special judge selected from the rotating list be ineligible for, disqualified from or excused from appointment then the clerk of the court shall select (on the rotating basis) the next judge on the list. In the event that no judicial officer within the above list is eligible to serve as special judge or the particular circumstances of the case warrant selection of a special judge by the Indiana Supreme Court, the judge of the Court in which the case is pending shall certify the matter to the Indiana Supreme Court for appointment of a special judge.

The Henry County Clerk shall maintain separate civil and juvenile lists, in the order of rotation as set forth in this rule, from which to determine the appropriate appointment in civil and juvenile cases.

LR33-CP13-1 SPECIAL JUDGE IN CRIMINAL CASES

In order to assure random selection of special judges in criminal cases, if a change of judge is required under Criminal Rule 12 or in the event of any type of recusal or disqualification in felony and misdemeanor cases, reassignment of a case to another judge shall be assigned in consecutive order from the following list of regular judges:

Henry Circuit Court No. 2

Henry Circuit Court No. 3

Henry Circuit Court No. 1

Delaware Circuit Court No. 1

Delaware Circuit Court No. 4

Delaware Circuit Court No. 5

Randolph Circuit Court

Randolph Superior Court

Judges who have previously exercised jurisdiction in the case, except as a Pro-Tem or while acting as a Senior Judge, shall not be eligible for reassignment as a Judge.

In the event a judge is not available for assignment from such 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).

The Henry County Clerk shall maintain a separate Criminal Special Judge list, in the order of rotation as set forth in this rule, from which the regular sitting judge can determine the appropriate appointment in criminal cases.

Cases shall be automatically transferred by the Clerk to the Court of the Henry County Judge if a Henry County Judge is selected as Special Judge in both civil and criminal proceedings.