

In the  
Indiana Supreme Court



CAUSE NUMBER: 94S00-1003-MS-128

ORDER AMENDING INDIANA ADMINISTRATIVE RULES

Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, Indiana Administrative Rule 5 is amended to read as follows (deletions shown by ~~striking~~ and new text shown by underlining):

...

**Rule 5. Payment and Notification Procedures**

...

**(B) Senior Judges.** The Division of State Court Administration shall administer the payment procedures for senior judges in accordance with the provisions set forth in this rule.

- (1) *Appointment.* The Court of Appeals, a circuit, superior, ~~county~~ or probate court may request that the Supreme Court provide senior judge services. The request must contain the reasons for the request and the estimated duration of the need for senior judge services. Upon approving the request, the Supreme Court may appoint one or more senior judges to serve the requesting court consistent with this rule. The Supreme Court shall fix the term or period of time for the senior judge appointment.
- (2) *Number of Senior Judge Days for Requesting Court.* Each year, the Supreme Court shall fix, based upon the recommendation of the Executive Director of the Indiana Supreme Court Division of State Court Administration, who shall use the Indiana Weighted Caseload Measures System, the annual statistical reports, and other relevant

criteria, the number of senior judge days that each court may use. Every court authorized in this rule to use senior judges will be entitled to a minimum of ten (10) days of senior judge service during the year of appointment.

(3) *Qualification for Senior Judge Status.* A former judge person who is certified by the Indiana Judicial Nominating Commission may serve as senior judge. Each year the Indiana Judicial Nominating Commission shall certify to the Supreme Court that a former judge:

- (a) (i) has served as an elected or appointed judge for at least four (4) years and (ii) at least one of those years was within five (5) years of the application or, in the event the four years of service as an elected or appointed judge was more than five (5) years prior to the application, has served at least thirty (30) days as a senior judge during a calendar year within five (5) years of the application; except that the Indiana Judicial Nominating Commission may, upon the finding of exceptional circumstances, waive the foregoing criteria and certify a senior judge with less service than specified above;
- (b) agrees to serve as a senior judge for at least thirty (30) days in the year of appointment and has not in any previous year of service failed to serve for at least thirty (30) days without good cause as determined by the Indiana Judicial Nominating Commission.
- (c) agrees to comply with the Code of Judicial Conduct; further agrees to not serve as an elected official or employee of a governmental entity or subdivision except with Supreme Court permission;
- (d) agrees to serve where assigned; and that the service shall be substantially

equivalent to the daily calendar of the court to which the senior judge is assigned;

- (e) agrees to continue to serve in all special judge cases in which the former judge was serving as a special judge at the time the former judge left office as a regular judge without receiving senior judge credit for such service; however, upon the finding of exceptional circumstances at the discretion of the Supreme Court, a senior judge serving as a special judge may receive senior judge credit;
- (f) agrees not to practice law in the courts in which the senior judge is appointed or assigned as senior judge;
- (g) is fit to serve as a senior judge.

...

- (6) *Per Diem Allowance.* As provided by statute, a senior judge is entitled to senior judge service credit and a per diem allowance of one hundred dollars (\$100.00) per day for the first thirty (30) days of service in a calendar year. Pursuant to statute, the Indiana Supreme Court may adjust the per diem rate and increase it to not more than two hundred fifty dollars (\$250.00) for each day of service after the first thirty (30) days. A senior judge who serves ~~substantially shorter time less~~ than the daily calendar of the court where the judge is serving shall report only the fractional amount of the day served for payment and credit~~may, with the permission of the Executive Director, accumulate and consolidate such service times into a day's credit.~~ A senior judge residing outside of the county where service is rendered is entitled to reimbursement for mileage at a rate equal to other public officials as established by state law and

reasonable expenses incurred in performing the duties of senior judge for each day served. A senior judge may not be compensated as such for more than one hundred (100) calendar days in the aggregate during any one calendar year.

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These amendments shall take effect July 1, 2010.

The Clerk of this Court is directed to forward a copy of this Order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Prosecuting Attorney's Council; Public Defender's Council; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and Thomson Reuters. The Clerk is also directed to post this Order to the Court's website.

Thomson Reuters is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this 23rd day of June, 2010.

/s/Randall T. Shepard  
Randall T. Shepard  
Chief Justice of Indiana

All Justices concur.