In the Indiana Supreme Court

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CLERK
Indiana Supreme Court
Court of Appeals
and Tax Court

In the Matter of the Approval of Local Rules for Clay County	Supreme Court Case No. 22S-MS-15

Order Approving Amended Local Rule

The Judges of the Clay Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Indiana Administrative Rule 1(E) and Criminal Procedure Rule 2.2, and for court reporter services in accordance with Administrative Rule 15. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Clay Circuit and Superior Courts, this Court finds that the proposed rule amendments at LR11-AR01-2 complies with the requirements of Indiana Administrative Rule 1(E) and Criminal Procedure Rule 2.2, and LR11-AR15-1 complies with the requirements of Administrative Rule 15, and, accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules, LR11-AR01-2, and LR11-AR15-1, for Clay Circuit and Superior Courts, set forth as an attachment to this Order, are approved effective January 18, 2022.

Done at Indianapolis, Indiana, on 1/12/2022.

Loretta H. Rush
Chief Justice of Indiana

LR11-AR01-2 CASELOAD ALLOCATION

(A) **Criminal cases** shall be filed pursuant to LR11-CR2.2-2 and as follows:

(1) **Murder and A, B, and C,** and **Level 1,2,3, and Level 4 felony cases:** The Clerk shall equally assign and allocate between the Clay Circuit Court and the Clay Superior Court criminal cases identified as murder (MR); and all felonies filed as A(FA), B(FB) and C(FC), as well as designations for Level 1,2,3 and 4 Felonies; except that no Felony cases involving Operating under the influence of alcohol and/or drugs and driving above the legal limit shall be filed in the Clay Circuit Court.

(2) **D felony cases and Level 5 and 6 Felony offenses:** The Clerk shall equally assign and allocate between the Clay Circuit Court and the Clay Superior Court all criminal cases identified as D Felonies (FD) as well as Level 5 and Level 6 felony offenses; except that no Felony cases involving Operating under the influence of alcohol and/or drugs and driving above the legal limit shall be filed in the Clay Circuit Court.

(3) **Post-Conviction Relief Cases:** The Clerk shall assign and allocate any post-conviction relief cases to the original court of criminal jurisdiction for which the post-conviction relief is based; however, the Clerk shall assign a civil cause number to the Post-Conviction Relief cases.

(4) **A, B and C Misdemeanor cases:** All misdemeanor cases shall be assigned to the Clay Superior Court if the highest-level charge filed is a misdemeanor.

(5) **Miscellaneous Criminal Cases:** The Clerk shall equally assign and allocate between the Clay Circuit Court and Clay Superior Court all criminal cases identified as miscellaneous criminal (MC).

(B) **Traffic and Ordinance Violation cases:** The Clerk shall assign all cases designated traffic (IF) and ordinance violation (OV) to the Clay Superior Court.

(C) **Juvenile Cases:** The Clerk shall assign all cases designated juvenile cases identified as JC, JD, JM, JS, JP and JT to the Clay Circuit Court.

(D) **Estate/Guardianship/Trusts/Adoption:** The Clerk shall assign all cases designated as estate (ES, EU, and EM), guardianship (GU), trusts (TR) and adoption (AD and AH) to the Clay Circuit Court.

(E) **Other Civil cases shall be filed as follows:**

(1) The Clerk shall equally assign and allocate between the Clay Circuit Court and the Clay Superior Court other civil cases identified as mortgage

foreclosure (MF), civil collection (CC), dissolution of marriage/separation (DR, DN, DC): miscellaneous civil (MI), civil plenary (PL); and mental health (MH).

(2) The Clerk shall assign all plenary (PL) cases to the Clay Superior Court arising out of counterclaims initially filed in the small claims division of the Clay Superior Court.

(3) The Clerk shall assign and allocate civil cases identified as civil tort (CT) as follows:

(a) Two thirds to Clay Circuit Court;

(b) One third to the Clay Superior Court

(4) The Clerk shall assign all cases identified as reciprocal support (RS) to the Clay Circuit Court.

(5) The Clerk shall assign all cases identified as small claims (SC) and all evictions (EV) to the Clay Superior Court.

(6) All adult protective orders (PO) shall be assigned to the Clay Superior Court. Juvenile Protective Orders will be assigned to the Clay Circuit Court.

(7) This rule does not preclude the following filings in the Clay Circuit Court.

A. Petitions for protective orders (PO) cause numbers when litigation between the same parties is pending in the Clay Circuit Court.

B. All Felonies (MR, F1, F2, F3, F4, F5 and F6) cause numbers when the same Defendant has a more serious criminal charge pending in either of the Clay Circuit Court or Clay Superior Court than in that event a new charge shall be filed in the Court with pending more serious charges.

C. As in the past, the Clay County Judges shall continue to cooperate with one another to insure the effective and efficient administration of justice by assisting one another with hearings, should they be available to do so.

LR 11-AR15-1 COURT REPORTER SERVICES

(A) Definitions The following definitions shall apply under this local rule:

(1) A Court Reporter is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.

(2) Equipment means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and other device used for recording and storing, and transcribing electronic data.

(3) Work space means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.

(4) Page means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.

(5) Recording means the electronic, mechanical, stenographic or other recording made as required by Indiana rule of Trial Procedure 74.

(6) Regular hours worked means those hours which the court is regularly scheduled to work during any given workweek. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each workweek.

(7) Gap hours worked means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.

(8) Overtime hours worked means those hours worked in excess of forty (40) hours per workweek.

(9) Work week means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, and Friday through Thursday.

(10) Court means the particular court for which the court reporter performs services. Court may also mean all of the courts in Clay County.

(11) County indigent transcript means a transcript that is paid for from county funds and is of the use on behalf of a litigant who has been declared indigent by a court.

(12) State indigent transcript means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(13) Private transcript means a transcript, including but not limited to a deposition transcript that is paid for by a private party.

(14) Expedited transcript means a transcript which is requested to be prepared within three (3) working days or less.

(B) Salaries and Per Page Fees

(1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters that outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. monetary compensation or compensatory time off regular work hours.

(2) The maximum per page fee a court reporter may charge for the preparation of a county or state indigent transcript shall be four dollars and fifty cents ($4.50); the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.

(3) The maximum per page a court reporter may charge for the preparation of a private transcript shall be $4.50 per page for a private regular transcript. If a court reporter is requested to prepare an expedited transcript, the maximum page fee shall be $7.00 when the transcript must be prepared within twenty-four (24) hours or less; $5.50 when the transcript must be prepared within three (3) working days. A minimum transcript fee shall be $35.00.

(4) In light of the various additional requirements under the new appeal process, the Court shall provide binders for said transcripts so prepared.

(5) In the event a court reporter prepares a transcript using county owned equipment, the court reporter shall provide the paper at the court reporter's own expense and provide copies of the transcript using an outside copying service at the court reporter's own expense.

(6) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent, or private transcripts to the Indiana Supreme Court Office of Judicial Administration. The reporting shall be made on forms prescribed by the Office of Judicial Administration.

(C) Private Practice

(1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

(a) The reasonable market rate for the use of equipment, workspace and supplies.

(b) The method by which records are to be kept for the use of equipment, work space and supplies; and

(c) The method by which the court reporter is to reimburse the court for the use of the equipment, workspace and supplies.

(2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.