In the
Indiana Supreme Court

FILED
JUL 16 2014
CLERK OF THE
INDIANA SUPREME COURT
COURT OF APPEALS
AND TAX COURT

IN THE MATTER OF THE	)	
	)	
APPROVAL OF LOCAL RULES	)	Case No. 71S00-1407-MS- 469
	)	
FOR ST. JOSEPH COUNTY	)	

ORDER APPROVING AMENDED LOCAL RULE

The Judges of the St. Joseph Circuit, Superior and Probate 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, Superior and Probate Courts, this Court finds that the proposed rule amendment, Appendix A to Local General and Administrative Rules, 100 Series, 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.

IT IS, THEREFORE, ORDERED by this Court that amended Appendix A to Local General and Administrative Rules, 100 Series for St. Joseph Circuit, Superior and Probate Courts, set forth as an attachment to this Order, is approved effective January 1, 2015. The Clerk of this Court is directed to forward a copy of this Order to the Hon. David C. Chapleau, St. Joseph Superior Court, 101 South Main Street, South Bend, IN 46601-1807; to the Hon. James N. Fox, St. Joseph Probate Court, 1000 South Michigan Street, South Bend, IN 46601-3426; to the Hon. J. Jerome Frese, St. Joseph Superior Court, 101 South Main Street, South Bend, IN 46601-1807; to the Hon. Michael G. Gotsch, St. Joseph Circuit Court, 101 South Main Street, South Bend, IN 46601-1807; to the Hon. Elizabeth C. Hurley, St. Joseph Superior Court, 101 South Main Street, #140, South Bend, IN 46601-1807; to the Hon. Jenny Pitts Manier, St. Joseph Superior Court, 219 Lincolnway West, Mishawaka, IN 46544; to the Hon. John M. Marnocha, St. Joseph Superior Court, 101 South Main Street, South Bend, IN 46601-1807; to the Hon. Jane Woodward Miller, St. Joseph Superior Court, 101 South Main Street, South Bend, IN 46601-1807; to the Hon. Margot Fisher Reagan, St. Joseph Superior Court, 101

South Main Street, South Bend, IN 46601-1807; to the Hon. Steven L. Hostetler, St. Joseph Superior Court, 101 South Main Street, South Bend, IN 46601-1807; to the Clerk of the St. Joseph Circuit, Superior and Probate Courts; 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 St. Joseph Circuit, Superior and Probate Courts 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, on July 16, 2014.

Brent E. Dickson
Chief Justice of Indiana

APPENDIX A TO LOCAL GENERAL AND ADMINISTRATIVE RULES, 100 SERIES

CASELOAD ALLOCATION PLAN

FOR COURTS IN ST. JOSEPH COUNTY, INDIANA

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

As of January 1, 2011, 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 by 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 by 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-FLOO-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 as follows:

A. Circuit Court shall receive a total of 42.85% (3/7ths) of all upper civil filings and Superior Court shall receive 57.15% (4/7ths) of all upper civil filings.

B. Four (4) civil judges in Superior Court shall each receive ¼ (25%) of the 57.15% of the upper civil filings, which also means each judge shall receive 14.29% of the total civil filings.

C. Circuit Court shall have a Mishawaka Division with one (1) Circuit Court magistrate judge presiding and a South Bend Division with the Circuit Court judge and one (1) magistrate presiding.

D. Superior Court shall have Mishawaka Division with one (1) Superior Court judge presiding and a South Bend Division with three (3) Superior Court judges and two (2) magistrate judges presiding.

E. Civil cases (other than small claims cases) may be filed in Circuit Court and Superior Court in South Bend or Mishawaka, Indiana as follows:

   (a) 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 shall file all of their cases with the Mishawaka Clerk's office, and those cases shall be assigned to the Mishawaka Division of Superior and Circuit Courts on an alternating basis to ensure equal distribution of those filings between the Mishawaka Divisions of those courts.

   (b) All attorneys and business entities with their principal places of business and all individuals with their principal residences located east of Logan Street but within St. Joseph County may either file their civil cases (other than small claims cases) at the South Bend Clerk's office and have them assigned randomly to the Mishawaka Division of the Superior and Circuit Courts or to one (1) of the three (3) judges of the civil division of the Superior Court of the judge of the Circuit Court or file their civil cases (other than small claims

cases) with the Mishawaka Clerk's office and those cases shall be assigned to the Mishawaka Division of Superior and Circuit Courts on an alternating basis to ensure equal distribution of those filings between the Mishawaka Divisions of those courts.

F. For all civil case filings with the Clerk's office in South Bend, a forty (40) case assignment rotation cycle shall be utilized with each forty (40) cases assigned as follows:

Seventeen (17) cases for Circuit Court (approximately 43%)

Twenty-three (23) for Superior Court (approximately 57%)

Circuit Court shall from time to time designate three (3) cases (17.65% of the Circuit cases) or four (4) cases (23.53% of the Circuit cases) of each of the seventeen (17) Circuit Court cases in each assignment rotation cycle to go to the Circuit Court magistrate judge sitting in Mishawaka to which direct filings will be added in order to achieve whatever total percentage of cases the Circuit Court judge wants in the Circuit Court Mishawaka Division

(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 as follows:

A. The Superior Court judge assigned to Drug Court will be assigned all felony level 5 and 6 drug cases (given a "DO1" designation) but no other ~~D~~ level 6 felonies.

B. The remaining level 6 felonies will be randomly and evenly assigned to the other three (3) Superior Court criminal judges.

C. All MR and all other felony cases (levels 1 through 5) will be randomly and evenly assigned to the four (4) Superior Court criminal judges.

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: Superior Court has a Small Claims Division with two (2) locations: South Bend and Mishawaka. All small claims cases shall be filed with the Clerk's Office of the Small Claims Division in South bend and assigned to that Division at the South Bend location, except for the following:

A. All small claims cases 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, shall be filed with the Mishawaka Clerk's office, and assigned to the Small Claims Division of Superior Court in Mishawaka.
B. All small claims cases filed at the Mishawaka Clerk's office by attorneys and business entities with their principal places of business and individuals with their principal residences located east of Logan Street but within St. Joseph County may, at the filer's direction, be assigned to the Small Claims Division in Mishawaka or the Small Claims Division in South Bend.

C. For convenience of parties, a small claims case that must be assigned to the Small Claims Division in South Bend, may be filed in the Mishawaka Clerk's Office, but the filing party or counsel shall indicate to the Clerk on a Chronological Case Summary Entry that the matter must be docketed in the Small Claims Division in South Bend, and the Clerk shall promptly forward the pleadings to the Small Claims Division in South Bend for filing and processing.

D. The two (2) Superior Court magistrates work equally for each one of the eight (8) Superior Court judges; therefore, their handling of all small claims cases shall be assigned as follows for case allocation reporting purposes:

a. Each Superior Court judge is assigned:
1/8th of all small claims cases filed in South Bend

Each Superior Court civil judge will add 1/8th of the South Bend small claims protective order cases to the number of protective order cases directly filed with each individual Superior Court civil judge.

b. The Superior Court civil judge sitting in Mishawaka is also assigned all protective order cases directly filed in Mishawaka Small Claims and all protective order cases directly filed in Mishawaka Superior Court Civil Division, if any, in addition to 1/8th of the protective order cases filed in South Bend Small Claims Division.

(4) Traffic and Misdemeanor Cases: Superior Court has a Traffic and Misdemeanor Division located in South Bend. All traffic and misdemeanor cases shall be filed in and assigned to the Traffic and Misdemeanor Division. All misdemeanor cases in which a jury demand is granted shall be assigned to the Superior Court in Mishawaka for all further proceedings.

The two (2) Superior Court magistrates work equally for each one of the eight (8) Superior Court judges; therefore, their handling of all traffic and misdemeanor cases shall be assigned as follows for case allocation reporting purposes:

a. 1/8th of all CM, IF, and OV cases filed in South Bend Traffic and misdemeanor (less new misdemeanor cases sent to Mishawaka Traffic and Misdemeanor due to jury trial requests) will be assigned equally to each of the eight (8) Superior Court judges.

b. In addition, the Superior Court judge in Mishawaka will also be assigned, for case allocation purposes, all misdemeanor cases sent to Mishawaka Division Superior Court due to jury trial requests.

(5) Mental Health Cases: All Mental Health cases will be divided equally between four (4) Superior Court civil judges.

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

(7) Civil Protective Order (CPO) Cases: Petitions for civil orders of protection alleging domestic violence (DV), sexual assault, or stalking shall be filed in Circuit Court and assigned to the CPO/DV Court, with the exception of the following matters:

i. Cases filed directly with the Court that has already assumed jurisdiction over a dissolution of marriage, paternity, child in need of services (CHINS), or delinquency proceeding involving the parties;
ii. Cases filed directly in the Mishawaka Division of Superior Court;
iii. Cases filed as plenary cases in South Bend. Plenary cases shall be randomly assigned based on subparagraph (1) *supra.*

CPO cases may be filed at any Courthouse in St. Joseph County, the Family Justice Center, and any other place designated by the Judicial Executive Committee (as defined in DR04-AR00-3). CPO hearings shall be set according to a written schedule that shall be developed by the Judicial Executive Committee or by the regularly presiding judge of the applicable court. Workplace violence cases shall be randomly assigned based on subparagraph (1) *supra.*

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 amended Caseload Allocation Plan is January 1, 2015.