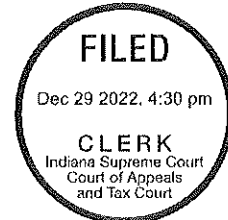


In the
Indiana Supreme Court



In the Matter of the Approval of Local
Rules for Wells County

Supreme Court Case No.
22S-MS-459

Order Approving Amended Local Rules

The Judges of the Wells County Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Indiana Administrative Rule 1(E), for court reporter services in accordance with Administrative Rule 15, for special judge assignments in accordance with Trial Procedure Rule 79, for criminal case assignments in accordance with Criminal Procedure Rule 2.2, and for criminal special judge assignments in accordance with Criminal Procedure Rule 13. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Wells County Circuit and Superior Courts, this Court finds that the proposed rule amendments at LR90-AR01-1 comply with the requirements of Indiana Administrative Rule 1(E), LR90-AR15-1 complies with Administrative Rule 15, LR90-TR79-01 complies with Trial Procedure Rule 79, and LR90-CR2.2-01 complies with Criminal Procedure Rules 2.2 and 13, and, accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules, LR90-AR01-1, LR90-AR15-1, LR90-TR79-01, and LR90-CR2.2-01, for the Wells County Circuit and Superior Courts, set forth as attachments to this Order, are approved effective January 1, 2023.

Done at Indianapolis, Indiana, on 12/29/2022.

A handwritten signature in black ink that reads "Loretta H. Rush".

Loretta H. Rush
Chief Justice of Indiana

LR90-AR01-1 Caseload Allocation Plan for Wells Circuit and Superior Courts

I Criminal, Infraction and Ordinance Violation Cases

Criminal Cases shall be filed pursuant to LR90-CR2.2-01(A). All infraction and ordinance violation cases not associated with a felony charge required to be filed in the Wells Circuit Court shall be assigned to the Wells Superior Court.

II Probate and Related Cases

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

III Juvenile Cases

All juvenile cases of every sort shall be assigned to the Wells Circuit Court.

IV Civil Cases

Except as otherwise specifically set out in this Rule, civil cases of all sorts, including domestic relations cases, shall be assigned to whichever court the attorney or the self-represented litigant filing the case designates to the Clerk. Provided, however, that petitions for dissolution of a marriage filed by a self-represented litigant shall be filed in Wells Superior Court.

V Small Claims, Eviction and Protective Order Cases

All small claims shall be assigned to the Wells Superior Court.

Protective order cases (including Workplace Violence Protective Orders) filed under the Indiana Civil Protection Act (I.C. 34-26-5), shall be assigned to the Wells Superior Court unless there is a related dissolution of marriage or paternity action pending in the Wells Circuit Court.

All eviction actions shall be assigned to the Wells Superior Court, unless the subject real estate is connected to matter pending in the Wells Circuit Court.

VI Mental Health

Mental Health cases shall be assigned to the Wells Circuit Court.

VII 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.

VIII Continuing Monitoring

Not later than May 1 each year, all judges of the courts of record in Wells County shall meet and shall evaluate each court's caseload data as reported to the Division of State Court Administration.

If in a given year the weighted caseload statistics from the Division of State Court Administration indicate that a caseload variance among these courts exceeds forty percent (40%), the courts of record in Wells County shall submit a revised Caseload Allocation Plan pursuant to the Indiana Supreme Court Division of State Court Administration's "Schedule for Submission of Caseload Plans Pursuant to Administrative Rule 1(E).

LR90-AR15-1 Court Reporter Services

Pursuant to Rule 15 of the Administrative Rules of the Indiana Supreme Court, the Wells Circuit and Superior Courts do hereby adopt the following joint local rule:

A copy of this rule shall be certified to the Indiana Supreme Court and Court of Appeals. Copies of this rule shall be located in the Clerk's Office, the office of each court and on each court bench. A copy of this rule shall also be filed with the Division of State Court Administration.

Section One. Definitions The following definitions shall apply under this 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 any other device used for recording, 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 28.
- (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 work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.

- (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 work week.
- (9) Work week means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; e.g. Sunday through Saturday, Wednesday through Tuesday, 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 Wells County.
- (11) County indigent transcript means a transcript that is paid for from county funds, and is for 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 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.

Section Two. 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 and overtime hours. The supervising court shall enter into a written agreement with the court reporters which 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 indigent, state indigent, or private transcript is Five Dollars (\$5.00) and an expedited rate of Seven Dollars and Fifty Cents (\$7.50) per page, which includes preparation of index and table of contents; the maximum per page fee a court reporter may charge for a copy of a county indigent transcript is Twenty-five Cents (\$0.25) and One Dollar (\$1.00) per page for a copy of a state indigent or private transcript. The court reporter shall submit a claim directed to the county for the preparation or copying of any county indigent transcripts.
- (3) The minimum fee that a court reporter may charge for transcripts is Thirty Five Dollars (\$35.00).
- (4) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of 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.
- (5) A court reporter may charge a maximum of Five Dollars (\$5.00) per page for the preparation of the index and table of contents regardless if it is a county indigent transcript, state indigent transcript, or private transcript.
- (6) A court reporter shall be compensated for the time and labor incurred assembling and binding transcripts and exhibits, including electronic transmission of transcripts, pursuant to Indiana Rules of Appellate Procedure 28 and 29. Said compensation shall be the

approximate hourly rate based upon the Court Reporter's annual salary, as approved by the Wells County Counsel.

- (7) Costs of supplies for the binding, assembly, and mailing or transmission of transcripts and exhibits shall be pursuant to Appendix A "Schedule of Transcript Supplies," which shall be updated annually by the Judges of the Wells Superior and Circuit Courts. This labor charge shall be equivalent to a court reporter's hourly compensation rate.

Section Three. 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, work space 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, work space 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.
- (3) A court reporter shall reimburse the county for the use of equipment, work space and supplies for the preparation of all private transcripts.

LR90-TR-79-01 Selection of a Special Judge Pursuant to TR 79(H)

Pursuant to TR 79(D) - Within seven (7) days of the notation on the Chronological Case Summary (CCS) of an order granting a change of judge or an order of disqualification, the parties may agree to the appointment of an eligible special judge. An eligible special judge is a judge, a full-time judicial officer, or a senior judge assigned to the Court. The agreement of the parties must be in writing and filed in the Court where the case is pending.

If the selection of a special judge is not agreed upon, then the remaining full-time judicial officer in the county shall be named as special judge. If that judge cannot serve, then the Court shall appoint a special judge on a rotating basis from the remaining full-time judicial officer within the district as follows: Adams Circuit Court, Adams Superior Court, Huntington Circuit Court, Huntington Superior Court, Wabash Circuit Court, and Wabash Superior Court. If that judge cannot serve, then the Court shall continue the appointment process until a special judge is selected.

If no full-time judicial officer is eligible to serve as special judge, or if the particular

circumstances of the case warrants the selection of a special judge by the Indiana Supreme Court, then the Court shall certify that fact to the Indiana Supreme Court.

LR90-CR2.2-01 Criminal Case Assignments

(A) Case Assignment

For crimes allegedly committed on or before June 30, 2014:

Except as hereinafter provided, all criminal cases wherein the most serious charge is a Class C felony or greater shall be assigned to the Wells Circuit Court. All misdemeanor criminal cases not associated with a felony charge required to be filed in the Wells Circuit Court shall be assigned to the Wells Superior Court.

For crimes allegedly committed on or after July 1, 2014:

Except as hereinafter provided, all criminal cases wherein the most serious charge is a Level 5 felony or greater shall be assigned to the Wells Circuit Court. All criminal misdemeanor cases not associated with a Level 5 charge required to be filed in the Wells Circuit Court shall be assigned to the Wells Superior Court.

Any case wherein there is a charge against a person who has one or more charges pending in the Wells Circuit Court, said case shall be filed in Circuit Court, regardless of the level of the charges to be filed in the new case. Any case pending in the Wells Superior Court at the time of the filing of a new case in Circuit Court, said case shall be transferred to Circuit Court immediately after the filing of the new case.

Criminal Non-support:

Any case wherein there is a charge of criminal non-support, said case shall be assigned to the court which, at the time of the filing, has jurisdiction of the matter in which the support obligation is established. If neither court established the support obligation upon which the charge is predicated, the case shall be filed in accordance with the rules previously set forth. It is the objective of this provision to eliminate two courts addressing the same party and related issues.

Invasion of Privacy:

Any case wherein there is a charge of invasion of privacy under I.C. 35-46-1-15.1 (as it now reads or may be amended in the future) with respect to an underlying order issued by the Wells Circuit Court or the Wells Superior Court, said case shall be filed in the court in which the underlying order was issued. If neither court has entered such an order, the case shall be filed in accordance with the rules previously set forth.

(B) Refiling and Subsequent Filings

When the State of Indiana dismisses a criminal cause and later chooses to refile the cause or to refile another charge related to the incident which was the basis for the original charge, the case shall be assigned to the court from which the original dismissal was taken.

(C) Reassignment

Where a change of judge is granted pursuant to Ind. Criminal Rule 12(B) or an order of disqualification or recusal is entered, the case shall be reassigned pursuant to the Ind. Criminal Rule 13(C) as follows:

1. When the presiding judge of Wells Circuit Court grants a motion for change of judge or enters an order of disqualification or recusal, then the case shall be assigned to the judge of Wells Superior Court.
2. When the presiding judge of Wells Superior Court grants a motion for change of judge or enters an order of disqualification or recusal, then the case shall be assigned to the judge of Wells Circuit Court.
3. In the event that a reassignment cannot be accomplished as set forth above, the Court shall appoint a Special Judge from the following list, comprising full-time judicial officers within the same administrative district as Wells County.

The Judge of the Adams Circuit Court
The Judge of the Adams Superior Court
The Judge of the Huntington Circuit Court
The Judge of the Huntington Superior Court
The Judge of the Wabash Circuit Court
The Judge of the Wabash Superior Court
The Magistrate of Huntington Circuit and Superior Courts

The Court shall select the first judge for the first case requiring assignment after adoption of these rules and selecting each judge thereafter on a rotational basis and in order of their placement on this list.

4. In the event that a reassignment cannot be accomplished as set for forth above, the Court shall appoint a Special Judge from a list of full-time judicial officers in the remaining contiguous counties.

(D) Sitting of the Judges

The judge of the Wells Circuit Court may sit as judge of the Wells Superior Court in all criminal matters when the judge of the Wells Superior Court is unavailable without further request or consent. The judge of the Wells Superior Court may sit as judge of the

Wells Circuit Court in all criminal matters when the judge of the Wells Circuit Court is unavailable without further request or consent.

(E) Supreme Court Appointment

In the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall then 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 the unique circumstance presented in such proceeding requires appointment by the Indiana Supreme Court of a special judge, this presiding judge may request the Indiana Supreme Court for such appointment.