

In the  
**Indiana Supreme Court**



In the Matter of the Approval of Local  
Rules for St. Joseph County

Supreme Court Case No.  
21S-MS-538

**Order Approving Amended Local Rules**

The Judges of the St. Joseph Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Indiana Administrative Rule 1(E) and for special judge selection in accordance with Trial Rule 79. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the St. Joseph Circuit and Superior Courts, this Court finds that the proposed rule amendments at LR71-AR1-107 Appendix A comply with the requirements of Indiana Administrative Rules 1(E) and LR71-TR79-216 comply with Trial Rule 79, and, accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules, LR71-AR1-107 Appendix A, and LR71-TR79-216, for the St. Joseph Circuit and Superior Courts, set forth as attachments to this Order, are approved effective January 1, 2022.

Done at Indianapolis, Indiana, on 12/8/2021.

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

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Loretta H. Rush  
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 July 1, 2015, the Courts of St. Joseph County are organized and assigned judicial officers as follows:

- (1) St. Joseph Circuit Court – one (1) judge and three (3) magistrate judges;
- (2) St. Joseph Superior Court – eight (8) judges and four (4) 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 be 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 be 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 (JP), Delinquency, (JD), CHINS (JC), Juvenile Status (JS), Juvenile Guardianship cases (GU), Termination of Parental Rights cases (JT), and Adoption Cases (AD): 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. Notwithstanding any other provision of this rule, cases designated ES, EU, GU and TR may continue to be filed in any of the courts consistent with traditional practice in St. Joseph County.

(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 Circuit, Superior, or 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, JD, JC, JS, JM, AD, and JT): With the exception of paternity cases (JP) discussed in subparagraph 5 above, and cases traditionally assigned to the Probate Court as the court with traditional exclusive jurisdiction over juvenile cases (CHINS, delinquency, dependency, adoption, etc.) or to the Circuit Court (license reinstatement, name changes, health department enforcement cases, TS and TP, etc.), civil cases (other than small claims) shall be assigned randomly among the judges and/or magistrate judges of the Circuit Court and the Superior Court designated to hear civil matters. Small claims" means SC cases and all EV cases filed on the small claims docket. The cases are assigned as follows:

- A. Circuit Court shall receive a total of 60% of all upper civil filings and Superior Court shall receive 40% of all upper civil filings.
- B. Four (4) civil judges in Superior Court shall receive as follows: the three Superior judges sitting in South Bend shall each receive approximately 28% of the 40% of the upper civil filings, and the judge sitting in Mishawaka shall receive approximately 16% of the 40% of the upper civil filings.

- C. Circuit Court shall have a Mishawaka Division with one (1) Circuit Court magistrate presiding and a South Bend Division with the Circuit Court judge and two (2) magistrates presiding.
- D. Superior Court shall have a Mishawaka Division with one (1) Superior Court judge presiding and a South Bend Division with three (3) Superior Court judges and four (4) 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 designate all of their cases for filing with the Mishawaka Division of Superior and Circuit Courts. The Clerk shall assign these cases on an alternating bases 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:
    - i. file their civil cases (other than small claims cases) without designation, in which case they will be 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 or the judge of the Circuit Court; or
    - ii. file their civil cases (other than small claims cases) for filing in the Mishawaka Division of Superior and Circuit Courts in which case they will be assigned on an alternating basis to ensure equal distribution of those filings between the Mishawaka Divisions of those courts.
- F. For all civil case filings other than small claims cases not designated for filing in the Mishawaka Divisions of the Circuit and Superior Court, a seventeen (17) case assignment rotation cycle shall be utilized with each seventeen (17) cases assigned as follows:

Ten (10) cases for Circuit Court (approximately 60%)  
Seven (7) for Superior Court (approximately 40%), with 2 out of 7  
going to each of the South Bend Superior Court judges and 1 out of  
7 going to the Mishawaka Superior Court judge.

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 ten (10) 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.

The Chief Judge of the Superior Court shall, from time to time, reallocate civil cases from the Mishawaka Division to the South Bend Division to ensure there is an approximate weighted caseload allocation among the four (4) judges of the Superior Court's Civil 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 "D01" designation) but no other 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 assigned to 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 designated for filing in Mishawaka and shall be assigned to the Small Claims Division of Superior Court in Mishawaka.
- B. All small claims cases filed 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 discretion:
  - a. File their small claims cases without designation, in which case they will be assigned to the South Bend Small Claims Division; or
  - b. Designate their small claims cases for filing in the Mishawaka Division, in which case they will be assigned to the Small Claims Division's Mishawaka location.
- C. The four (4) Superior Court magistrates work equally for each one of the eight (8) Superior Court judges; therefore, for case allocation reporting purposes: each Superior Court judge is assigned:  $1/8^{\text{th}}$  of all small claims

cases assigned to the Small Claims Division's South Bend location. The Superior Court civil judge sitting in Mishawaka is also assigned all:

- a. PO cases designated for filing in Mishawaka. These cases will be assigned by the Clerk to the Small Claims Division's Mishawaka location;
- b. All TR cases designated for filing in Mishawaka;
- c. All EU, ES and EM cases designated for filing in Mishawaka; and
- d. All adult GU cases designated for filing in Mishawaka

(4) Traffic and Misdemeanor Cases: Superior Court has a Traffic and Misdemeanor Division located in South Bend. All TM, CM, IF, and OV cases shall be assigned to the Traffic and Misdemeanor Division. All CM, IF, or OV cases in which a jury demand is granted shall be assigned to the Superior Court in Mishawaka for all further proceedings.

The four (4) 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. 1/8<sup>th</sup> of all CM, IF, and OV cases (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 the Mishawaka Division will also be assigned, for case allocation purposes, all CM, IF, and OV cases transferred to Mishawaka Division for jury trial requests.

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

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

(7) Separate petitions for specialized driving privileges shall be filed in the St. Joseph Circuit Court; however, petitions for post-conviction relief (PCR) or requests for relief from suspensions entered in a pending criminal cause of action shall be filed before the court that issued the judgment of sentence or interlocutory suspension.

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

a. Cases filed directly with a Court that has already assumed jurisdiction over a dissolution of marriage, paternity, child in need of services (CHINS), or delinquency proceeding involving the parties;

b. Cases designated for filing in the Mishawaka Division of Superior Court;

c. Cases filed as plenary cases in South Bend. Plenary cases shall be randomly assigned based on subparagraph (1) *supra*. PO 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). PO 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, 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, 2022.

**Rule LR71-TR79-216. Special Judge Selection.**

**216.1. Selection of Agreed Special Judge.** For civil cases other than those specified in Rule 216.3, Within seven (7) days of the notation in the Chronological Case Summary of a judge granting a motion for change of judge or recusing or disqualifying from a case pursuant to T.R. 79(C) or otherwise, the parties shall attempt to select a special judge by agreement. As required by T.R. 79(D), the parties shall have seven (7) days within which to file a written agreement:

(a) selecting an eligible special judge or reporting that an agreement was not reached; or,

(b) proceeding directly under § 216.2 in a case where a change of judge has been granted or under § 216.3 in a case where the judge has recused or disqualified

If no agreement is filed within seven (7) days, the selection of a special judge shall proceed as provided by § 216.3 of this local rule

**216.2. Selection of Special Judge in DR, DN, and DC cases**

Notwithstanding any other provision of this Rule, within seven (7) days of the notation in the Chronological Case summary of a judicial officer granting a motion for change of judge or recusing or disqualifying from a case with a DR, DN, or DC designation, pursuant to T.R. 79(C) or otherwise, the regularly presiding judicial officer shall direct the Clerk to randomly select a special judge from a list of all eligible Judges or Magistrates of the Circuit and Superior Courts.

**216.2.1. Naming a Panel.** Prior to the striking conference, the Court shall name a panel of judges consisting of any three (3) persons eligible under T.R. 79(J) who are from Administrative District 4, or who are from a contiguous county and who have agreed to serve as special judge in courts of St. Joseph County. Absent extraordinary circumstances or good cause, the names on the panel shall be provided to the parties at least two (2) days in advance of the striking conference by telephone, facsimile or electronic transmission.

**216.2.2. Conference Procedure.** At the striking conference, the parties (or sides) shall be afforded an opportunity to strike from the panel, and the parties (or sides) shall be prepared to strike at the conference. Where the selection of a special judge has occurred by motion of a party, the moving party (or side) shall strike first, followed by a strike by the nonmoving party (or side). After each party (or side) has made a strike, the remaining judge shall be named as the special judge.

**216.3. Failure of Special Judge to Accept or to Qualify; Failure to Meet Selection Deadlines; Random Selection. In the event :**

- (a) a special judge who was selected by agreement fails to accept after being selected or is otherwise disqualified or excused from the case, or
- (b) the striking conference is not conducted in a timely manner or fails to produce a special judge, or
- (c) the parties stipulate to the random selection of a special judge, or
- (d) the judge before whom the case was pending has recused or disqualified,

the regularly presiding judicial officer shall direct the Clerk to randomly select a special judge from a list of all eligible Judges or Magistrates of the Circuit and Superior Courts.

**216.4. Failure of Special Judge to Accept or to Qualify; Failure to Meet Selection Deadlines; Random Selection. In the event :**

- (e) a special judge who was selected by agreement fails to accept after being selected or is otherwise disqualified or excused from the case, or
- (f) the striking conference is not conducted in a timely manner or fails to produce a special judge, or
- (g) the parties stipulate to the random selection of a special judge, or
- (h) the judge before whom the case was pending has recused or disqualified,

the regularly presiding judge shall direct the Clerk to randomly select a special judge from a list of eligible judicial officers, which may include Judges, Magistrate Judges or Senior Judges.

**216.5. Acceptance; Disqualification; Ineligibility. A special judge selected pursuant to § 216.3. of this rule must accept jurisdiction unless disqualified pursuant to the Code of Judicial Conduct or excused from service by the Supreme Court of Indiana. In the event no judicial officer within Administrative District 4 is eligible to serve as special judge or the particular circumstances dictate the selection of a special judge by the Supreme Court**

of Indiana, a regularly presiding judge of the court in which the matter is pending shall certify the matter to the Supreme Court of Indiana for appointment of a special judge.

**216.6. Discontinuation of Service as Special Judge.** In the event a special judge who has assumed jurisdiction thereafter fails to act or notifies the parties that he or she no longer can serve as special judge, a regularly presiding judge of the court in which the case is pending shall assume jurisdiction; provided such judge has not previously served in the case and is otherwise eligible to serve. If the regularly presiding judge cannot assume jurisdiction under this section, selection of a successor special judge shall proceed pursuant to T.R. 79(D) and this rule.