MEMORANDUM

TO: Johnson County Bar Association and Public
FROM: Judges of the Johnson Circuit and Superior Courts
RE: Johnson County Caseload Allocation Plan Including Superior Court No.
DATE: September 3, 2015

Introduction:

In response to the directive issued July 16, 1999 by the Indiana Supreme Court in its Order for Development of Local Caseload Plans, Local Rule 1999-1, the Johnson County Plan for Allocation of Judicial Resources was implemented. The original caseload allocation created in Local Rule 1999-1 has, in large part, successfully equalized the caseloads of the Johnson Circuit and Superior Courts. In response to the increase in the overall caseload, the general Caseload Allocation Plan has been modified several times to ensure that the variance in the Weighted Caseload Allocation Measure for the Circuit and Superior Courts does not exceed .40.

Confirming Current Caseload Allocation:

Pursuant to Administrative Rule 1, the Johnson County Caseload Allocation Plan is subject to formal review in 2015. The 2014 Weighted Caseload Measures for the Johnson Circuit and Superior Courts reflect a variation in the Utilization of .11. This variation does not require any significant changes to the Caseload Allocation Plan. However, as a result of changes in statutory causes of action and procedural rules, some additional clarification of the Caseload Allocation Plan is appropriate.

The Johnson County Local Rules are being amended to specify that Post-Conviction Relief (PC) cases shall be filed in the court which sentenced the Petitioner but may be heard by the Magistrate of the Johnson Circuit and Superior Courts.

Miscellaneous Civil (MI) cases filed to petition for Special Driving Privileges shall be filed in the Johnson Superior Court No. 1 and the Johnson Superior Court No. 4, on a random and even basis and heard in by the Magistrate of the Johnson Circuit and Superior Courts.

As of July 1, 2015 Expungement (XP) cases shall be filed in the Johnson Superior Court No. 1 and the Johnson Superior Court No. 4, on a random and even basis and shall be heard by the Magistrate of the Johnson Circuit and Superior Courts.

Future Review:

Pursuant to Indiana Administrative Rule 1, the Johnson County Caseload Allocation Plan is subject to review in odd-numbered years. In compliance with the rule, the next scheduled review will occur in 2017. Thus, a full Caseload Allocation review incorporating Superior Court No. 4 will not occur until 2017, based upon the caseload statistics from 2015 and 2016

Comments:

Public comments regarding the caseload allocation plan will be received until October 3, 2015. Comments may be sent to: Donna Sipe, Esq., Court Administrator, Courthouse, 5 E. Jefferson St., Franklin, IN 46131 or dsipe@co.johnson.in.us .

STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

IN THE JOHNSON COUNTY
CIRCUIT AND SUPERIOR COURTS

41C01 - 1505 - CB - 000006
41D01 - 1505 - CB - 000008
41D02 - 1505 - CB - 000010
41D03 - 1505 - CB - 000012
41D04 - 1505 - CB - 000014

2015 REVIEW OF JOHNSON COUNTY PLAN FOR ALLOCATION OF JUDICIAL RESOURCES

I. INTRODUCTION:

WHEREAS Indiana Administrative Rule 1 requires periodic review of this Caseload Allocation Plan

~~**WHEREAS**, effective January 1, 2015, pursuant to Indiana Code 33-33-41-4.1, Johnson County Superior Court No. 4 shall be established; and,~~

~~**WHEREAS**, significant changes in the caseload are merited by the addition of a Superior Court; and,~~

WHEREAS, good cause exists to deviate from the schedule established pursuant to Indiana Trial Rule 81 for implementation,

IT IS THEREFORE ORDERED that this Caseload Allocation Plan and, where necessary, the Johnson County Local Rules, shall be modified as follows.

II. BACKGROUND:

In response to the Indiana Supreme Court's July 16, 1999 "Order for Development of Local Caseload Plans,"Local Rule 1999-1, the Johnson County Plan for Allocation of Judicial Resources was implemented. The original caseload allocation created in Local Rule 1999-1 has, in large part, successfully equalized the caseloads of the Johnson Circuit and Superior Courts. In response to the increase in the overall caseload, the general Caseload Allocation Plan has been modified several times in order to ensure that the variance in the Weighted Caseload Allocation Measure for the Circuit and Superior Courts does not exceed .40.

Pursuant to Administrative Rule 1, the Johnson County Caseload Allocation Plan is subject to formal review in 2015. ~~In addition, Johnson County Superior Court No. 4 will be established January 1, 2015. For these reasons, the prior Caseload Allocation Plan must be modified.~~ The 2014 Weighted Caseload Measures for the Johnson Circuit and Superior Courts reflect a variation in the Utilization of .11. This variation does not require any significant changes to the Caseload Allocation Plan.

However, as a result of changes in statutory causes of action and procedural rules, some additional clarification of the Caseload Allocation Plan is appropriate. These changes in the Johnson County Local Rules are set forth below.

III. AMENDMENTS TO CASELOAD ALLOCATION RULES:

~~LR41 - AR01 - 057: Criminal Cases.~~
~~Criminal case allocation among the courts of record will operate as specified in the Rules for Filing and Reassignment of Criminal Cases, LR41 - CR2.2 - 086.~~

~~**LR41 - AR01 - 058: Juvenile Cases.**~~
~~All Juvenile cases (JC, JD, JM, JP, JS, and JT) shall be filed in the Johnson Circuit Court.~~

~~A. *CHINS and Terminations*. Unless a written order indicates otherwise, Juvenile CHINS (JC) and Juvenile Termination (JT) cases shall be heard by the Judge of the Johnson Circuit Court.~~

~~B. *Other Juvenile Cases*. Unless a written order indicates otherwise, Juvenile Delinquency (JD), Juvenile Miscellaneous (JM), Juvenile Paternity (JP), and Juvenile Status (JS) cases shall be heard by the Juvenile and Family Court Magistrate.~~

~~**LR41 - AR01 - 059: Family Court Cases.**~~
~~Unless otherwise indicated by a written order, all Family Court cases shall be heard by the Juvenile and Family Court Magistrate of the Johnson Circuit Court.~~

LR41 - AR01 - 060: Remaining Civil Cases.

A. *Reciprocal Support*. Reciprocal Support (RS) cases shall be filed in the Johnson Circuit Court and will beard by the Magistrate of the Juvenile and Family Court.

B. *Probate*. All Probate cases (AD, ES, EM, EU, GU, MH, and TR) shall be filed in the Johnson Superior Court No. 1.

C. *Domestic Relations*. Domestic Relations (DR) cases shall be filed in the Johnson Circuit Court, the Johnson Superior Court No. 2, and the Johnson Superior Court No. 4, on a random and even basis.

~~D. *Remaining Civil Cases*. All remaining civil cases (CC, CT, MF, MI, and PL) shall be filed in the Johnson Superior Court No. 1 and the Johnson Superior Court No. 4, on a random and even basis.~~

D. ~~E.~~ *Small Claims*. Small Claims (SC) cases shall be filed in the Johnson Circuit and Superior Courts, on a random and even basis. Small Claims cases shall be heard by the Magistrate of the Johnson Circuit and Superior Courts.

E. ~~F.~~ *Protection Order*. Protection Order cases shall be filed in the Johnson Circuit and Superior Courts, on a random and even basis, unless involving the same parties in a pending Civil or Juvenile case (i.e., AD, DR, GU, JC, JD, JM, JP, JS, JT, *etc.*). ~~are involved~~ in a ~~pending~~

~~Domestic Relations (DR) or Juvenile Paternity (JP) case~~.

1. Protection Order (PO) cases not associated with other pending Civil or Juvenile cases ~~Dissolution (DR) or Juvenile Paternity (JP)~~ cases shall be heard by the Magistrate of the Johnson Circuit and Superior Courts.
2. Protection Order (PO) cases associated with other pending Civil or Juvenile cases involving the same parties ~~Domestic Relations (DR) or Juvenile Paternity (JP)~~ cases shall be opened in the courts wherein such associated cases are pending and may, at the discretion of the presiding Judge, be heard by the Magistrate.

F. *Civil Cases*. Unless a specific provision of this rule provides otherwise, all remaining civil case types (CC, CT, MF, MI, PC, PL, and XP) shall be filed in the Johnson Superior Court No. 1 and the Johnson Superior Court No. 4 on a random and even basis.

1. *Post-Conviction Relief.*
   a. Post-Conviction Relief (PC) cases shall be filed in the court which sentenced the Petitioner.
   b. Post-Conviction Relief cases may be assigned to the Magistrate.
2. Expungement / Sealing (pursuant to I.C. 35-38-9-1, et seq.). Expungement (XP) cases shall be heard by the Magistrate of the Johnson Circuit and Superior Courts.
3. *Special Driving Privileges (pursuant to I.C. 9-30-16-1, et seq.).* Civil Miscellaneous (MI) cases filed to petition for Special Driving Privileges shall be heard by the Magistrate of the Johnson Circuit and Superior Courts.

LR41 - AR01 - 061: Proceedings Supplemental.

A. Proceedings Supplemental in Small Claims (SC) cases shall be heard by the Magistrate of the Johnson Circuit and Superior Courts.

B. Unless a written order indicates otherwise, Proceedings Supplemental in all other cases shall be heard in the court supervising that case.

LR41 - AR01 - 062: Evaluation of Workload Information.

A. Future review of the Caseload Allocation Plan shall be conducted in compliance with the Schedule for the same established pursuant to Administrative Rule 1.

B. The caseload evaluation shall factor in the disparate allocation of administrative duties among the judicial officers, as well as any special circumstances such as death penalty cases.

C. Special service by: 1) Johnson County judicial officers outside their own courts; or, 2) special, senior judges, or transfer Judges serving in the Johnson County Courts shall also be considered. Such service shall be calculated, in accordance with the Weighted Caseload Worksheet and criteria established by the Indiana Supreme Court Division of State Court Administration, to the nearest half day of service.

D. Pursuant to the evaluation of factors outlined in steps 1-3 above, changes necessary to ensure that the Johnson County Courts remain in compliance with the Order for Development of Local Caseload Plans shall be developed and approved by a majority vote of the judicial officers and shall become effective on January 1 of the following ~~June 1 of each~~ year, unless good cause is shown pursuant to Indiana Trial Rule 81.

E. Pursuant to Indiana Administrative Rule 1, the Johnson County Caseload Allocation Plan is subject to review in odd-numbered years. In compliance with the rule, the next scheduled review will occur in 2017 ~~2015~~, based on data collected in 2016 ~~2014~~. Thus, a full Caseload Allocation review incorporating Superior Court No. 4 will not occur until 2017, based upon the caseload statistics from 2015 and 2016.

III. CRIMINAL RULES:

No changes in the Johnson County Local Criminal Rules are necessary at this time.

~~LR41 - CR2.2 - 086: Random Case Assignment.~~

~~A. *Felonies*. In conjunction with the Amended Johnson County Plan for Allocation of Judicial Resources, and subject to the provisions of LR41 - CR2.2 - 087 and LR41 - CR2.2 - 88, all cases involving Felonies shall assigned on a random and equal basis among the Johnson Circuit Court, Johnson Superior Court No. 2, and Johnson Superior Court No. 3.~~

~~B. *Misdemeanors, Infractions, and Ordinance Violations*. In conjunction with the Amended Johnson County Plan for Allocation of Judicial Resources, and subject to the provisions of LR41 - CR2.2 - 086 and LR41 - CR2.2 -87, Misdemeanors (CM), Infraction (IF), and Ordinance Violation (OV) cases shall be assigned to the Johnson Superior Court No. 3.~~

~~C. *Miscellaneous Criminal Cases*.~~

~~1. *Search Warrants*. Miscellaneous Criminal cases opened for Search Warrants shall be assigned among the Johnson Circuit Court, Johnson Superior Court No. 1, Johnson Superior Court No. 2, and Johnson Superior Court No. 3 based upon the annual Judges' On-Call Schedule.~~

~~2. *Grand Jury*. Miscellaneous Criminal cases opened for Grand Jury proceedings shall be opened in the court of the supervising Judge, pursuant to Rule LR41-CR00-091.~~

~~3. *General*.~~

~~a. Miscellaneous Criminal cases opened for rights advisements shall be filed in the Johnson Circuit and Superior Courts on a random and even basis;~~

~~b. Miscellaneous Criminal cases opened for rights advisements and extraditions shall be heard by the Magistrate of the Johnson County Circuit and Superior Courts; and;~~

~~c. Miscellaneous Criminal cases opened for probation transfers shall be assigned to the Johnson Circuit Court.~~

~~LR41 - CR2.2 - 087: Re-filings and Subsequent Filings.~~

~~A. *Subsequent to Dismissals*.~~

~~1. In the event the State of Indiana dismisses a case or charge, any subsequent case or charge filed against the named defendant shall be assigned to the Court from which the dismissal was taken.~~

~~2. It shall be the duty of the Prosecuting Attorney to bring this fact to the attention of the Clerk's Office when charges are re-filed.~~

~~B. *New Causes of Action, Generally*.~~

~~1. Subject to the provision of subsection (c) below, in the event of the origination of a new cause of action against a defendant with an existing felony proceeding, the new cause of action shall be assigned to the Court administering the existing cause(s) of action.~~

~~2. It shall be the duty of the Prosecuting Attorney to bring this fact to the attention of the Clerk's Office when the new charges are filed.~~

~~C. *New Causes of Action, Probation Revocation*.~~

~~1. If the new felony cause of action filed against a defendant is supported by the same facts upon which a petition revoke probation or direct commitment to a Community Corrections program could be based, the new cause of action shall be assigned to the Circuit or Superior Court in which the related probation or commitment is being supervised.~~

~~2. It shall be the duty of the Prosecuting Attorney to bring this fact to the attention of the Clerk's Office when such new charges are filed.~~

~~**LR41 - CR2.2 - 089: Reassignment.**~~

~~A. *Reassignment Pursuant to District Rule*. In the event a change of Judge is granted, or it becomes necessary to assign another Judge in any felony or misdemeanor proceeding, the procedures of Indiana Judicial Administrative District Rule DR17-CR-00003 will be followed.~~

~~B. *When Case is Transferred*. If a Johnson County Judicial Officer is selected as Special Judge the case shall be transferred to the selected Johnson County Court.~~

~~C. *Not a Limitation on Transfers*. This rule is not intended to limit the authority of the Judges to transfer cases between the Courts by agreement of the Judges.~~

IV. PROCESS:

Pursuant to Indiana Trial Rule 81, notice to the Johnson County Public and the Johnson County Bar will be published no later than October 1, 2015 ~~November 20, 2014~~ via posting of the same in the Office of the Johnson County Clerk of Courts, distribution to local attorneys, and posting on the websites of Johnson County, Indiana (co.johnson.in.us), and the Indiana Judicial System (in.gov/judiciary).

All of which is **SO ORDERED** and **ADOPTED** this _____ day of September. ~~November~~, 2015 ~~2014~~.

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HON. K. MARK LOYD, JUDGE
JOHNSON CIRCUIT COURT

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HON. KEVIN M. BARTON, JUDGE
JOHNSON SUPERIOR COURT 1

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HON. CYNTHIA S. EMKES, JUDGE
JOHNSON SUPERIOR COURT 2

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HON. LANCE D. HAMNER, JUDGE
JOHNSON SUPERIOR COURT 3

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HON. MARLA K. CLARK, JUDGE
JOHNSON SUPERIOR COURT 4