

In the Supreme Court of Indiana

Regarding a Local Rule Change)
in Boone County)

Come now, the Judges of Boone County, Indiana and, after consultation with the judges of District 12 SUBMIT proposed local rule change to **LR06-TR79-BLR -25 - COORDINATED LOCAL RULE OF THE COURTS OF HAMILTON COUNTY, ENACTED IN COMPLIANCE WITH T.R. 79 (H). This proposed rule would supersede and replace the existing local rule at this number.**

We the Judges of Boone County further PROPOSE and REQUEST that the Indiana Supreme Court Division of State Court Administration publish notice of the same on its Website of the opportunity to tender comments until **June 17, 2011** to:

Judge Matthew C. Kincaid
c/o Boone Superior Court I
307 Courthouse Square
Lebanon, Indiana 46052

Or

kcox@co.boone.in.us with a re line of "local rule caseload comments."

We the Judges further DIRECT that a copy of this proposed rule be distributed to the Boone County Bar Association and published conspicuously on the bulletin board on the first floor of the Courthouse at the North door a location ordinarily used for the display of public notices in Boone County. It SHALL further be published in the office of the Boone County Clerk and if practicable on the Clerk's website.

The Judges SHALL meet to consider any changes after the comment period and shall decide on the same on or before June 24, 2011.

The Rule SHALL be submitted to the Indiana Supreme Court on or before June 27, 2011.

The Rule SHALL be effective only upon approval of the Indiana Supreme Court.

If approved the Rule SHALL be effective on **July 1, 2011** until further Order of the Indiana Supreme Court.

_____/S/_____
**Judge Matthew C. Kincaid –
Boone Superior Court I**

05/17/2011
Date

_____/S/_____
**Judge Rebecca McClure –
Boone Superior Court I**

05/17/2011
Date

_____/S/_____
**Judge Jeffrey Edens –
Boone Circuit Court**

05/17/2011
Date

LR06-TR79-BLR -25 - COORDINATED LOCAL RULE OF THE COURTS OF BOONE COUNTY, ENACTED IN COMPLIANCE WITH T.R. 79 (H)

209.10 Pursuant to Trial Rule 79(H) of the Indiana Rules of Trial Procedure, the Circuit and Superior Courts of Boone County, in conjunction with the **other** Judges of **Administrative District 12, i.e., Clinton County, Hamilton County and Tipton County, Indiana**, have adopted the following rule to establish procedures for the selection of special judges in civil cases. Said rule, as approved by the Supreme Court of Indiana, is as follows:

209.20 This rule shall be subject to any previous standing orders of the Supreme Court of Indiana for the appointment of judges which may be in effect or which may become effective subsequent to the entry of this rule. Such standing orders shall preempt this rule and shall take precedence over it.

209.30 Pursuant to Trial Rule 79(D), parties to a civil action may agree (with concurrence of the judge selected) to any particular special judge.

209.40 In the absence of an agreement as to a particular special judge, the parties, pursuant to Trial Rule 79(E), may consent to have the regular sitting judge appoint a special judge from a list of local judges, magistrates, or senior judges.

209.50 In the event a special judge is not selected as provided in the paragraphs above, and excepting where the judge has disqualified and recused himself or herself under Trial Rule 79(C) the judge before whom the case is pending shall submit a panel of three eligible persons to the parties for striking constituted as set forth below. To avoid any unnecessary application of TR 79(H), the judges of the District agree that a special judge selected from such panels shall accept jurisdiction unless disqualified pursuant to *The Code of Judicial Conduct* or excused from service by the Indiana Supreme Court if:

- a. each member of the panel has agreed to serve prior to being named to the panel;
- b. the case is filed in a Hamilton County court and the panel consists of three sitting judges or magistrates serving within the county;
- c. the case is filed in a Boone County court and the panel consists of the two remaining Boone County judges and one sitting judge serving in either Clinton or Tipton counties who shall be appointed on a rotating basis;
- d. the case is filed in a Clinton County court and the panel consists of the remaining Clinton County judge and two sitting judges serving in either Boone or Tipton counties who shall be appointed to the panel on a rotating basis; or,
- e. the case is filed in the Tipton County Circuit Court and the panel consists of a combination of three judges sitting in Boone, Clinton or Tipton counties who shall be appointed to the panel on a rotating basis.

Where the appointment to a panel under this section is on a rotating basis, it will be the responsibility of the county making the appointment to properly record and rotate appointments to the panel.

209.60 If a special judge is required to be selected under Trial Rule 79(H) then the special judge shall be selected on a rotating basis from the following list:

- a. Judge of the Boone Circuit Court
- b. Judge of the Clinton Circuit Court
- c. Judge of the Hamilton Circuit Court
- d. Judge of the Tipton Circuit Court
- e. Judge of the Boone Superior Court No. 1
- f. Judge of the Boone Superior Court No. 2
- g. Judge of the Clinton Superior Court No. 1
- h. Judge of the Hamilton Superior Court No. 1
- i. Judge of the Hamilton Superior Court No. 2
- j. Judge of the Hamilton Superior Court No. 3
- k. Judge of the Hamilton Superior Court No. 4
- l. Judge of the Hamilton Superior Court No. 5
- m. Judge of the Hamilton Superior Court No. 6

209.70 A special judge selected under 209.60 must accept jurisdiction unless disqualified pursuant to *The Code of Judicial Conduct* or excused from service by the Indiana Supreme Court but shall not be eligible to be named again as a special judge under 209.60 until every person on the list has served. The Administrator of Courts for Hamilton County shall maintain a copy of the above list and shall be notified each time a judge is selected from it. The Administrator of Courts shall be responsible to keep the list updated with those who have served, and to be able to provide on request the name of the next judicial officer on the list.

209.80 In the event that no judicial officer within Administrative District 12 is eligible to serve as special judge or the particular circumstance of the case warrants selection of a special judge by the Indiana Supreme Court, the judge of the Court in which the case is pending shall certify the matter to the Indiana Supreme Court for appointment of a special judge.

Boone County's Resubmission of Local Rule 06-AR01-BLR-30 regarding Boone County's Case Load Plan.

Come now the Judges of the Boone County Courts pursuant to the First Amended Schedule and Format for Adoption of County Caseload Allocation Plans as approved by the Indiana Supreme Court and resubmits its existing plan as previously approved.

The Judges take note that case loads, pursuant to LR06-AR01-BLR-30, which is incorporated by reference herein as if fully set forth, have previously been allocated by a variety of local rules including LR06-CR00-BLR-13 for the non-discretionary filing of criminal cases, LR06-SC00BLR-19 for small claims and the Indiana Code making Superior Court One the Court of probate jurisdiction and Circuit Court the Court of juvenile jurisdictions.

The Judges note that the measure of Boone County's Courts' case loads according to the most recent Weighted Caseload Study do not differ by more that .40 basis points as calculated under State Court Administration's methodology.

The Judges note that the particular Courts of Boone County have developed expertise in various particularized jurisdictions.

The Judges note that the Judges have continuously cooperated on shifting and transferal of cases where justice and judicial economy so require and that they will continue to do the same.

Wherefore the Judges PROPOSE and REQUEST that the Indiana Supreme Court approve for the biennium the existing case management plan of the Boone County Courts as set forth in LR06-AR01-BLR-30 such that jurisdictional exercise and filing patterns shall remain unchanged for the Biennium and that said approval continue for Boone County at this time regardless of any legislative changes to jurisdiction of trial courts which may give uniform jurisdiction to all State trial courts.

We the Judges of Boone County further PROPOSE and REQUEST that the Indiana Supreme Court Division of State Court Administration publish notice of the same on its Website of the opportunity to tender comments to:

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