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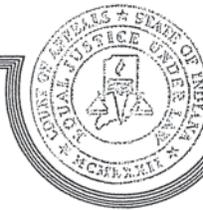
## **SMALL CLAIMS TASK FORCE**



## **REPORT ON THE MARION COUNTY SMALL CLAIMS COURTS**

**MAY 1, 2012**

COURT OF APPEALS



OF INDIANA

INDIANAPOLIS 46204-2784

May 1, 2012

To: The Indiana Supreme Court  
c/o The Honorable Brent E. Dickson, Acting Chief Justice  
315 Indiana State House  
Indianapolis, Indiana 46204

Indiana Supreme Court Committee on Rules of Practice and Procedure  
c/o Mr. Theodore F. Smith, Jr., Chair  
8888 Keystone Crossing, Suite 1300  
Indianapolis, Indiana 46240

The Honorable Louis Rosenberg, Marion County Circuit Court Judge  
City-County Building, W-506  
200 E. Washington Street  
Indianapolis, Indiana 46204

In January 2012, the Indiana Supreme Court created the Marion County Small Claims Courts Task Force to investigate whether litigants in those courts are denied access to justice that is provided to small claims litigants in Indiana's other 91 counties and whether the township trustees exert control over the courts' financial and personnel matters in a manner that threatens judicial independence.

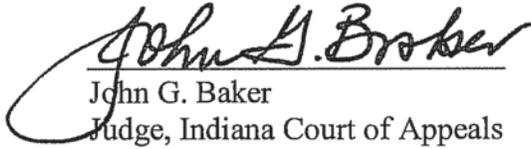
Enclosed are the results of the Task Force's investigation: findings of fact describing serious problems in the management and procedures of the Marion County Small Claims Courts and recommendations to remedy these problems.

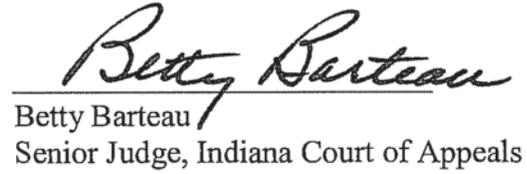
We have identified three plans to address the problems identified in our enclosed findings of fact. Plan A proposes that the Marion County Small Claims Courts be incorporated into the Marion County Superior Court. In the alternative, under Plan B, the small claims courts would remain township courts, but they would undergo organizational reform to ensure their independence from township trustees and to improve litigants' access to justice. Plan C sets forth changes that should be implemented to improve the courts' operations regardless of whether Plan A or Plan B is adopted.

Neither these problems, nor the ideas for addressing these problems, are entirely new. Many of our recommendations parallel those made by the Indianapolis Bar Association in its 1998 report on the Marion County Small Claims Courts. None of those recommendations were implemented, but we are optimistic that this report will result in action.

The problems presented by the Marion County Small Claims Courts have been evident for many years and need to be addressed now. We hope this report will not only stimulate creative discussions but lead quickly to aggressive reform.

Respectfully submitted,

  
John G. Baker  
Judge, Indiana Court of Appeals

  
Betty Barteau  
Senior Judge, Indiana Court of Appeals

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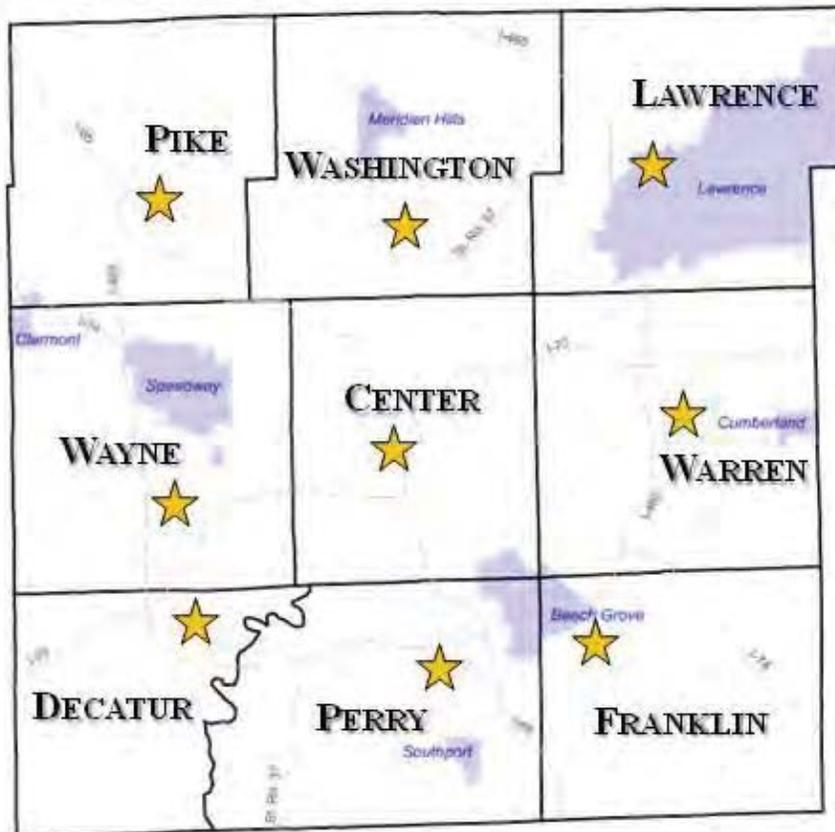
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# MARION COUNTY TOWNSHIPS AND SMALL CLAIMS COURTS



Source: Census 2000 Tiger files  
Map produced by the Indiana Business Research Center, IU Kelley School of Business

## **I. INTRODUCTION**

### **A. ORIGIN AND PURPOSE**

The Indiana Supreme Court created the Marion County Small Claims Courts Task Force (the Task Force) to review the practices and procedures of the Marion County Small Claims Courts (the township courts) and to provide recommendations on needed changes in the courts.

The Indiana Supreme Court directed the Task Force to investigate allegations that high-volume filers, such as property managers and creditors in debt collection matters, receive special treatment in the township courts. The Supreme Court further requested that the Task Force examine whether creditors in debt collection matters engage in forum shopping among the township courts. Finally, the Supreme Court directed the Task Force to investigate complaints that the judicial independence of the township courts, which are funded at the township level, is hampered by township trustees' control over the courts' budgeting and personnel decisions.

### **B. MEMBERS**

The Supreme Court appointed Judge John G. Baker and Senior Judge Betty Barteau of the Court of Appeals to the Task Force.

John G. Baker has served as a judge on the Court of Appeals since June 1989. He served as Chief Judge of the Court of Appeals from March 1, 2007 until December 31, 2010. Prior to becoming an appellate court judge, Judge Baker served as a county court and superior court judge in Monroe County for thirteen and one-half years, disposing of more than 15,000 cases—many of them small claims cases.

Betty Barteau served as a judge on the Court of Appeals from January 1991 until April 1998, and she has served as a Senior Judge since 2003. Prior to her appointment to the Court of Appeals, Judge Barteau served for sixteen years as a judge on the Marion County Superior Court. She previously presided over small claims cases as the judge of the Boonville City Court.

### **C. INVESTIGATIVE PROCESS**

The Task Force gathered information and input from a variety of sources, including judges, attorneys, small claims plaintiffs and defendants, community leaders, local bar associations, and concerned citizens throughout Marion County.

The Task Force held three public hearings over three weeks. Advance notice of the meetings was provided to the media. The first hearing was held on the south side of Marion County at the Perry Township Small Claims Court. A second hearing was held on the north side of Marion County at the Pike Township Small Claims Court. The third hearing was held at the

Marion County Circuit Court in Center Township. Approximately sixty people attended each hearing and were provided with the opportunity to speak and to submit documents. A court reporter recorded each hearing, and transcripts of the hearings are included in the appendix to this report. The appendix is available for inspection at the Indiana Supreme Court Law Library.

The Task Force also welcomed the submission of written comments from the public regarding the courts. The Task Force received numerous letters and emails, which are included in the appendix to this report.

The township court judges, in collaboration with Marion Circuit Court Judge Louis Rosenberg, have assisted in the Task Force's review. The judges provided written input collectively and on an individual basis.

Judge Baker appeared on the radio show *Afternoons with Amos* on WTLC to discuss the Task Force's work. He answered questions from callers and responded to and noted their concerns.

Finally, the Task Force's staff visited all of the township courts to observe their procedures. The Task Force's staff also talked with judges and court staff.

#### **D. DISCLAIMERS**

The Task Force is aware of recent media reports that have alleged financial mismanagement and possible misappropriation of funds in some of the township courts. This report discusses many aspects of the courts' financial practices and offers recommendations to improve the courts' performance. However, this report is not intended to address specific allegations of financial misconduct or investigations of such allegations by other entities.

The Task Force did not investigate the adequacy of the township courts' staffing or pay levels for the courts' employees. Therefore, this report contains no information or recommendations concerning the same.

The Task Force has not investigated the role of the township courts' constables. This report presents no recommendations regarding the constables.

## II. FINDINGS OF FACT

### A. TOWNSHIP COURT ORGANIZATION AND MANAGEMENT

1. The Marion County Small Claims Courts (the township courts) are organized by township.<sup>1</sup> There are nine courts, one for each of the townships in Marion County: Center, Decatur, Franklin, Lawrence, Perry, Pike, Warren, Washington, and Wayne. Marion County is the only county in the state with courts based on township lines.
2. The township courts' caseload predominantly consists of landlord-tenant disputes and debt collection matters. Traffic infraction cases are currently filed in the Marion County Superior Court, which has a heavy traffic infraction caseload.
3. In Indiana's other counties, small claims are heard by either the circuit or superior courts as part of a small claims/minor offenses docket where, in addition to small claims, Class D felonies, misdemeanors, infractions, and ordinance violations are heard.<sup>2</sup>
4. Each township court has one judge, who is elected in his or her township. The judges are considered to be part-time and are paid accordingly. However, approximately 70,000 cases are filed each year in the township courts, which amount to more than 25% of all small claims cases filed in Indiana.<sup>3</sup> Under the state's Weighted Caseload Measures System used by the circuit and superior courts, this caseload would support nearly twelve full-time judicial officers.
5. The township court judges are governed by the Indiana Code of Judicial Conduct, subject to certain exceptions due to their status as part-time, elected judges.<sup>4</sup>
6. Each township has a township board and a township trustee. The township boards approve the township courts' budgets. In addition, each board determines the salary of its township's judge.<sup>5</sup> Furthermore, each township board is required to provide its court with supplies and furniture, provide clerks to assist the judge, and pay the clerks' salaries.<sup>6</sup>
7. Each township trustee is required to provide his or her township's court with a courtroom, an office for the judge, proper facilities for court staff, and sufficient room for files and supplies.<sup>7</sup>

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<sup>1</sup> Ind. Code § 33-34-1-2.

<sup>2</sup> I.C. §§ 33-29-2-4, -8.

<sup>3</sup> 2 DIV. OF STATE COURT ADMIN., IND. SUP. CT., IND. JUDICIAL SERV. REPORT, 76, 88-89 (2010).

<sup>4</sup> Ind. Code of Judicial Conduct, Application, Sections I, III.

<sup>5</sup> I.C. § 33-34-2-5.

<sup>6</sup> I.C. §§ 33-34-6-2, -3.

<sup>7</sup> I.C. § 33-34-6-1.

8. It appears that all but one of the township courts have adequate facilities. The exception is the Center Township Small Claims Court, whose offices are too small, too crowded, and difficult to locate within the City-County Building.
9. The township court judges report that some trustees assert unilateral control over the courts' budgets and exclude judges from the budgeting process.
10. Some township court judges have stated that they have no input into their court's budget and are often unaware of the content of the budget until the trustee submits it to the township board for approval.
11. Some of the judges further report that, despite an already large and ever-increasing caseload, their trustees consistently reject requests for additional staff, raises for staff, new equipment, and improvements in facilities.
12. The township courts are the only courts with small claims jurisdiction in Indiana that do not prepare their own budgets. In all other counties, courts prepare their own proposed budgets and submit them to the funding authority (generally the county council). The funding authority then makes any necessary changes and appropriates a sufficient budget for the courts.
13. With respect to court personnel, the township court judges report that some trustees hire, fire, supervise, and promote court staff without input from the judges. They further state that staff costs are frequently built into the townships' general budgets, rather than the courts' budgets, which reinforces the perception that the judges lack control over their staff.
14. A number of township court employees have stated that they believe they work for the trustees or feel obligated to attend trustee staff meetings. In some townships, court employees are required to seek approval from the trustee, rather than the judge, to take time off. Court personnel have also complained that if they do not follow a trustee's orders or attend trustee meetings, they risk losing their jobs.
15. Although township court employees perform the same functions in each of the townships, there are no uniform training programs for court staff or uniform policies for personnel management.
16. When the township courts' judges and township trustees cannot agree on budgeting and personnel issues, the judges' only recourse is an action for mandate. On December 18, 2006, the then-judge of the Center Township Small Claims Court filed a verified complaint for mandate for injunction and for declaratory judgment. The judge alleged that the township trustee hired court clerks without consulting with the judge and that the trustee did not consult the judge with respect to the training or promotion of court staff.
17. On November 14, 2011, the judge of the Center Township Small Claims Court issued a mandate asking the Center Township Trustee to show cause why: a) her court clerks should not

receive a five percent increase in salary; b) the court should not be provided two additional full-time clerks; c) funds should not be appropriated to allow for new space-efficient furniture; and (d) the court should not be provided with a reconfiguration of the court's existing space and for the configuration of new space offered to the court by the City-County Building Authority. The Center Township Small Claims Court further claims that the Center Township Trustee made arrangements to move the court to another location without informing the judge. This case is pending before a special judge appointed by the Indiana Supreme Court pursuant to Trial Rule 60.5.

18. Article III, Section 1 of the Indiana Constitution mandates that courts must administer justice freely and without restraint from any other governmental authority. "If the separation of powers is to be maintained, it is essential that the judicial branch of government not be throttled by either the legislative or administrative branches, and that the courts be empowered to mandate what is reasonably necessary to discharge their duties."<sup>8</sup> The township courts' lack of control over their budgets and staff threatens their independence from other government officials and undermines the public's perception of the courts. Furthermore, the courts' lack of control undermines their ability to dispense justice effectively because the judges are required to spend time negotiating with, or litigating against, other officials on financial and personnel issues.

19. Indiana Judicial Conduct Rule 2.12 provides, "A judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligation under this Code." Thus, a judge may be disciplined for failing to provide appropriate oversight of his or her staff. As matters stand now, the township court judges are potentially subject to discipline if there is misconduct by court employees, even if the employee reports to the trustee rather than to the judge. This situation further undermines judicial independence and the courts' ability to function effectively.

20. Although the township boards and trustees are responsible for the township courts' salaries and facilities, the judge of the Marion County Circuit Court is authorized to adopt uniform rules for the conduct of the township courts, establish court hours, appoint a judge pro tempore while a township court judge is absent, transfer cases from one township to another, and extend aid and assistance to the township court judges in the conduct of their courts.<sup>9</sup>

21. The Marion County Circuit Court receives no additional resources from either the county or the townships with which to exercise these statutory duties. If the circuit court were provided with additional resources, the court could provide training and resources for township court employees and assist in the establishment of uniform practices for personnel and facilities management in all of the township courts.

## **B. TOWNSHIP COURT REVENUES AND ACCOUNTING**

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<sup>8</sup> *McAfee v. State ex rel. Stodola*, 258 Ind. 677, 681, 284 N.E.2d 778, 782 (1972).

<sup>9</sup> I.C. §§ 33-34-3-6; 33-34-2-4, -9; 33-34-5-1; 33-34-1-5.

22. More than fifty percent of the filing fees from the courts' cases are remitted to the townships, while thirty percent is sent to the State. In contrast, in all other courts handling small claims throughout Indiana, nearly seventy percent of the small claims filing fee is remitted to the State, while the county retains only thirty percent.

23. In 2010, the Marion County townships received more than \$2.5 million in revenue from their courts' fees.<sup>10</sup>

24. The finances of the township courts, and the townships as a whole, appear to lack transparency. The Indiana State Board of Accounts recently released a report asserting that the Center Township Small Claims Court failed to properly manage and report funds under its control.<sup>11</sup>

25. The Task Force has reviewed copies of the budgets, expenditures, and annual reports of the township courts from 2006 through 2010. The townships' records often contradict the identification of revenues and expenditures provided by the township courts in their annual reports to the Supreme Court's Division of State Court Administration (the Division of State Court Administration).

26. The Indiana Supreme Court has adopted the state-of-the-art Odyssey computer system for case management and court financial accounting, which is provided to courts without cost. Seven of the township courts use the Odyssey case management system, but only six of them use the financial component.

27. Use of Odyssey for case management and financial reporting would greatly improve all of the courts' financial transparency and dockets.

### **C. TOWNSHIP COURT HEARINGS AND SETTLEMENT DISCUSSION PROCEDURES**

28. When parties arrive at the township courts, they are usually instructed by court staff to wait in the courtroom. Next, in some township courts, creditors' attorneys call out the names of debtor-defendants, who frequently appear without counsel, and ask the debtor-defendants to join them in nearby rooms or cubicles to discuss their case before the judge takes the bench.<sup>12</sup>

29. Often, the creditors' attorneys have the township court's official case file in their possession when they talk with debtor-defendants. In one township court, court employees delivered the case files to the creditors' attorneys in the rooms where settlement discussions occurred.

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<sup>10</sup> This figure was calculated from revenue information provided by the individual townships. See App. pp. 352-69 (available for review at the Indiana Supreme Court Law Library).

<sup>11</sup> Id. at 418-29.

<sup>12</sup> Id. at 29-30, 68.

30. In many township courts, creditors' attorneys appear to have special access to court facilities that other litigants do not share. For example, creditors' attorneys often walk behind the front counter and circulate among court staff's desks.<sup>13</sup>

31. Most township court employees are not easily distinguishable from creditors' attorneys, which can confuse debtor-defendants. However, Wayne Township court employees are easily identifiable, as they wear polo shirts with the Wayne Township logo.

32. One township court permitted creditors' attorneys to conduct admit/deny hearings without the judge being present.<sup>14</sup> The attorneys appeared to manage the courtroom, although the constable maintained order.

33. In some township courts, the judge is not always present in the courtroom for court proceedings, and, according to some reports, is not even present in the building.<sup>15</sup>

34. Debtor-defendants have complained that they were not informed upon arrival at a township court that they have a right to have their cases heard by the judge. Therefore, many defendant-debtors believe that they are required to negotiate and settle with creditors' attorneys.

35. Witnesses have also reported that in certain township courts, settlement agreements and default judgments are approved and stamped by the clerks, with no judicial oversight.<sup>16</sup>

36. As a result of some court's lack of review of settlement agreements, some debtor-defendants have agreed to pay judgments using assets that are otherwise protected from garnishment (for example, Social Security benefits, veterans' benefits, or disability payments).

37. In addition, some debtor-defendants report that creditors have attempted to collect additional attorney's fees in excess of the recorded judgment without redocketing the case or seeking to amend the judgment.

38. Many creditors' attorneys are professional and respectful toward debtor-defendants. Furthermore, they also inform debtor-defendants that they are creditors' attorneys, not court staff, when they meet with the debtor-defendants.

39. However, several debtor-defendants have complained of intimidating behavior by creditors' attorneys. This behavior is enabled by some township courts' failure to inform debtor-defendants of their right to refuse to meet with creditors' attorneys and by some courts' lack of review of settlement agreements.

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<sup>13</sup> Id. at 433.

<sup>14</sup> Id. at 430.

<sup>15</sup> Id. at 112.

<sup>16</sup> Id. at 163-64.

40. Parties should be encouraged to discuss settlement of their disputes. In debt collection matters, many defendants come to a township court to acknowledge that they are liable for their debt and simply want to set up a payment plan. In those cases, settlement discussions save the parties and the courts time and money.

41. Nevertheless, the current widespread practice of creditors' attorneys asking debtor-defendants to talk with them in township court-provided rooms when the judge is not present, the attorneys' apparent special access to court facilities and court files, and, in one township court, the attorneys' overt control of court proceedings, creates an improper appearance that they have a special relationship with the township courts.

42. The Indiana Creditors Bar Association (ICBA) agrees that the absence of a judge at the beginning of township court proceedings leads to an appearance of impropriety worth addressing.<sup>17</sup>

43. At least one township court judge explains litigants' rights and court policies at the beginning of every court session, and several other courts have followed suit.

#### **D. NOTICE OF LITIGANTS' RIGHTS**

44. The township courts do not have a standard procedure to ensure that litigants are given notice of their rights.

45. Indiana Legal Services reports that the indigent litigants they represent are often required to pay township court fees, in violation of Indiana Code section 33-37-3-2.<sup>18</sup>

46. Non-English speaking litigants often face obstacles in representing themselves during township court proceedings. None of the courts employ interpreters, and court forms are not available in languages other than English.<sup>19</sup>

47. The Division of State Court Administration maintains a directory of Indiana-certified court interpreters at [www.courts.in.gov/interpreter/2358.html](http://www.courts.in.gov/interpreter/2358.html). In addition, the Indiana Supreme Court provides all courts, at no cost, with access to a telephonic foreign language interpreter service. This service allows courts to have almost immediate access to interpreters of over 130 languages.

48. In landlord-tenant proceedings, many of the township courts do not require landlords to state the amount of damages (such as unpaid rent) sought by the landlord, in violation of Indiana Small Claims Rule 2(B)(4), which requires a statement of "the nature and amount of the claim."<sup>20</sup> Even some plaintiffs' lawyers reported that when they first file their Notice of Claim,

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<sup>17</sup> Id. at 335-336.

<sup>18</sup> Id. at 310.

<sup>19</sup> Id. at 17.

<sup>20</sup> Id. at 83.

they seek only possession of the property and perhaps some past due rent. After they recover possession and assess if the property sustained has any damage, the landlords then seek increased damages for the full amount of unpaid rent and any other damages. However, landlords frequently do not amend their Notices of Claim, and in those circumstances the tenants do not receive information as to the total financial damages the landlords are seeking until the tenants appear in court.

49. The Small Claims Courts Manual, published by the Indiana Judicial Center, advises litigants of court procedures and litigants' rights. However, the Manual specifically does not apply to the township courts. A Litigants' Manual has been prepared for the township courts, but it is only available on the Center Township Small Claims Court's website.<sup>21</sup>

50. There is no central township courts' website through which information is provided to litigants. Some of the courts have their own websites, but others do not, and the websites lack a uniform format that would make it easy to find the courts' locations, hours of operation, court calendars, and policies.

51. The ICBA agrees that it is important to standardize township court forms and procedures.<sup>22</sup>

52. The township court judges meet regularly to discuss practices to improve procedures for unrepresented litigants, but more uniform procedures are required to adequately inform litigants of their rights.

53. If the township courts advised litigants of their rights in advance of court proceedings and offered standardized forms, litigants would be better informed. Informed litigants will be better able to participate in court proceedings, which will improve the courts' ability to effectively dispense justice.

#### **E. VENUE PROBLEMS**

54. In Marion County, landlord-tenant disputes must be filed in the township in which the real estate is located.<sup>23</sup> All other small claims cases may be filed in any of the township courts.<sup>24</sup> As a result, many cases are filed in a township in which neither party lives nor works.

55. Although the right to a change of venue appears on the Notice of Claim, many defendants are unaware that they have a right to ask the court to transfer the case to the townships where they live.<sup>25</sup>

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<sup>21</sup> Id. at 375-385.

<sup>22</sup> Id. at 336.

<sup>23</sup> Ind. Code § 33-34-3-1.

<sup>24</sup> Id.

<sup>25</sup> Ind. Small Claims Rule 12.

56. Defendants without private transportation face few realistic options for travel to township courts outside their own townships. For example, it can take more than three hours, round-trip, to travel from Lawrence Township to the Decatur Township Small Claims Court via city bus.<sup>26</sup> Litigants who choose to take a taxi instead will pay an extraordinary amount to travel from Lawrence Township to Decatur Township.<sup>27</sup>

57. One of the intended benefits of the township courts is that parties can litigate their disputes closer to where they live. If parties must travel to the other side of Marion County to litigate their case, this benefit is lost. In fact, parties in such a situation are worse off than small claims litigants in other counties, whose courts are most often centrally located.

58. The caseload for each of the township court judges varies widely. For example, in Center Township, current case filings would support the work of nearly two-and-one-half full-time judges, while in Perry Township, current case filings would require the work of less than one full-time judge.

59. However, some have expressed a concern that large-volume filers appear to file their cases in township courts that appear to provide outcomes favorable to them or provide less oversight for settlement negotiations and settlement agreements.<sup>28</sup>

60. Others have stated that trustees have an incentive to pressure their township court judges to favor large-volume filers in order to generate revenue for the township from filing fees.

61. Judges who have made efforts to review settlement terms, as opposed to judges who allegedly rubber-stamp settlement agreements, have seen dramatic declines in new filings in their township courts, as evidenced by annual caseload information provided to the Division of State Court Administration.<sup>29</sup>

#### **F. TOWNSHIP COURT JUDGES' PAY, TRAINING, AND PRIVATE PRACTICE**

62. Despite their generally heavy caseloads, the judges of the Marion County Small Claims Courts are considered part-time judges.

63. None of the nine judges receive the same salary because their pay is set by the townships.

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<sup>26</sup> Indianapolis Public Transportation Corporation, Trip Planning, <http://www.indygo.net/pages/trip-planning> (last visited April 24, 2012).

<sup>27</sup> App. p. 279.

<sup>28</sup> *Id.* at 297, 345-46.

<sup>29</sup> 2 DIV. OF STATE COURT ADMIN., IND. SUP. CT., IND. JUDICIAL SERV. REPORT, 76 (2010).

64. As part-time judges, they are not required to comply with public reporting requirements for income from extrajudicial activities.<sup>30</sup> The judges do not publicly report income received from performing wedding ceremonies.

65. Full-time judicial officers are required to publicly report income received from performing wedding ceremonies.<sup>31</sup>

66. The Judicial Conference of Indiana (the Judicial Conference) has offered some continuing legal education to the township court judges. The Judicial Conference is funded by the state and includes all appellate judges, trial judges and other state-paid judicial officers. The Judicial Conference is not required to offer the same training to the township court judges that is offered to full-time judicial officers.

67. The township judges would benefit from fully participating in the programs sponsored by the Judicial Conference.

68. As part-time judges, the township judges may continue to practice law, so long as they do not represent clients in their own courts.<sup>32</sup>

69. Some of the judges have represented creditors in other township courts. It has been alleged that these judges appear to receive preferential treatment in other township courts.<sup>33</sup>

70. In any event, given the collegial relationships among the township court judges, the appearance of one judge as an attorney before another judge creates an impression that the attorney may have an unfair advantage.

71. If the status of township court judges was changed from part-time to full-time, potential problems stemming from the judges' private practice of law would cease to exist.

## **G. SERVICE OF PROCESS**

72. Some defendants reported that they did not receive service of the notice of claim. Others reported that they discovered their court documents in their bushes or wedged in their doors.<sup>34</sup> These inadequate attempts to serve defendants are commonly known as "gutter service." Some defendants further stated that they were served with documents less than one week before their hearing date, making it difficult for them to appear in court.

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<sup>30</sup> Ind. Code of Judicial Conduct, Application, Section III.

<sup>31</sup> Ind. Code of Judicial Conduct Rule 3.15.

<sup>32</sup> Id.

<sup>33</sup> App. p. 342.

<sup>34</sup> Id. at 66.

73. This lack of actual notice renders it difficult for parties to timely appear in the township courts, which hampers the speedy resolution of disputes.

#### **H. APPEALS**

74. Appeals from township courts' judgments are taken to the Marion County Superior Court and tried de novo, meaning that plaintiffs must refile and replead their complaints and pay an additional filing fee.<sup>35</sup> The township courts are the only courts in the state in which appeals from small claims matters are not taken directly to the Indiana Court of Appeals.

75. The township courts are not courts of record, so their proceedings are not recorded for transcription.

76. Because an appeal from a township court vacates the decision of that court, the non-prevailing litigant may file an appeal, fail to pursue the appeal, and avoid the township court's judgment. In all other counties, a small claims court judgment remains valid pending appeal, and the Court of Appeals' standard of review is deferential.<sup>36</sup>

77. As former justice of the peace courts, the township courts were created to allow litigants to quickly and efficiently resolve small disputes without having to navigate the traditional rules of the superior and circuit courts.

78. Requiring township court litigants to relitigate their cases in the Marion Superior Court before seeking review from the Court of Appeals eliminates the advantage of informality offered by the township courts.

79. Often, individual citizens who have been successful with a claim in the township courts abandon their claims rather than hire a lawyer and pursue the claim in the Marion Superior Court.

#### **I. SUMMARY**

The Task Force's investigation has uncovered significant and widespread problems in the operations of the Marion County Small Claims Courts. More particularly, it is apparent that some township trustees interfere with the efficient and independent operation of the township courts by maintaining control over budgeting matters and preventing judges from managing court employees. In addition, it appears to some debtor-defendants that creditors' attorneys have special access to, or special relationships with, some of the township courts. The appearance of a special relationship is unfortunately strengthened by large-volume case filers' ability to forum shop for whichever township court appears most receptive to their cases or exercises less

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<sup>35</sup> Ind. Code § 33-34-3-15.

<sup>36</sup> See Bonecutter v. Discover Bank, 953 N.E.2d 1165, 1169 (Ind. Ct. App. 2011) (stating that deference to the small claims judgment is appropriate because small claims trials are informal with the sole objective of "dispensing speedy justice" according to the rules of substantive law), trans. denied.

scrutiny over settlements. In addition, unrepresented parties are frequently not informed of their rights or informed of township court procedures. Indeed, some defendants report difficulties in timely receiving notice of the claims filed against them. Furthermore, the current practice of allowing all small claims cases except for landlord-tenant disputes to be filed in any township court can impose significant travel hardships on litigants. Finally, the appeals process imposes upon appellants an extra step, specifically de novo review in the Marion Superior Court, which appellants in other counties are not required to take. These problems need to be addressed comprehensively and in a timely manner. The township court judges are addressing some of these problems, but more thorough and systematic reforms are needed.

### **III. SUMMARY OF RECOMMENDATIONS**

#### **PLAN A: INCORPORATE THE TOWNSHIP COURTS INTO THE MARION COUNTY SUPERIOR COURT**

One option for addressing the serious problems identified in the Findings of Fact is to entirely disassociate the township courts from township governments. Incorporation of the township courts into the Marion Superior Court would promote judicial independence and accessibility to litigants while retaining the informality of small claims proceedings. This option will require action by the Indiana General Assembly. Under this plan:

1. The township courts will become the Small Claims Division of the Marion County Superior Court.
2. As with other courts in the Marion County Superior Court system, the county will be responsible for funding the Small Claims Division.
3. The county executive and the county's fiscal body, with input from the Marion Superior Court, will be responsible for providing facilities for the courts.
4. As judges of the Marion County Superior Court, the Small Claims Division judges will serve full-time, with a salary fixed by statute.
5. The township courts will become courts of record, and appeals from those courts would go directly to the Court of Appeals.
6. To ensure more equitable distribution of cases among the Marion County Superior Court, the jurisdiction of the Small Claims Division will be expanded to include traffic infractions.

#### **PLAN B: REFORM THE EXISTING TOWNSHIP COURTS**

If the township courts are not incorporated into the Marion County Superior Court and remain part of the township governments, other reforms must be implemented to ensure that the courts can effectively, efficiently, and independently dispense justice. This option will also require some action by the Indiana General Assembly. Under this plan:

1. The Marion County Circuit Court shall receive funding from the townships to hire a Small Claims Court Administrator to provide logistical support and to assist the township courts in adopting common practices in court procedures, budgeting and accounting, and personnel management.
2. To ensure a greater degree of financial independence, the township courts shall prepare their own budgets for approval by their township boards.
3. The township courts shall maintain control over all court financial accounts, including accounts used to manage filing fees and money judgments. All courts shall use Odyssey's case management and financial management program to track court revenues and expenditures.
4. To allow the township courts to ensure that their employees are fulfilling the requirements of the Code of Judicial Conduct, the courts shall have sole authority to hire, supervise, and fire court personnel. In addition, township courts shall pay for their staff out of court budgets, rather than the trustees' budgets.

5. To continue to attract and retain quality jurists, the township court judges will serve full-time, with a salary fixed by statute.
6. The small claims courts shall become courts of record, and appeals shall go directly to the Court of Appeals, as in all other counties.
7. The Indiana Supreme Court Committee on Rules of Practice and Procedure should adopt a rule regarding the small claims courts' venue that would end forum shopping.

### **PART C: COMPLEMENTARY REFORMS**

Regardless of whether Plan A or Plan B is chosen, or even if neither is chosen, the following reforms should be implemented as soon as possible. None of these changes necessarily require statutory amendments or rule changes, although some will require the cooperation of other entities.

1. Court Management:
  - a. The township courts shall have sole authority to prepare and submit budgets, manage court funds, and supervise court employees.
  - b. Township court judges must exercise their authority to ensure that litigants are served with notice in a manner that complies with the Indiana Trial Rules.
2. Court Procedures - the following reforms should be implemented immediately:
  - a. Court employees must be easily identifiable by litigants.
  - b. The judge shall appear in the courtroom at the beginning of each court session to inform the parties of all of their rights, including the right to request a continuance. The judge shall inform the parties that they are not obligated to discuss their cases with opposing parties prior to the hearing.
  - c. Judges shall ensure that court staff do not make substantive judgments about cases, approve settlement agreements, or engage in any other fact-finding or decision-making that is within the province of the judicial officer.
  - d. Judges shall ensure that they, rather than court staff or litigants, lead court proceedings.
  - e. Settlement agreements must receive judicial review before approval.
  - f. Court files must not be given to creditors' attorneys for use in settlement negotiations against unrepresented defendants.
  - g. Before issuing an order for default judgment, a judge shall inquire as to the absent party's military status, whether the absent party has disabilities, and whether proper service of process occurred.
  - h. In landlord/tenant disputes in which the landlord has requested back rent and other damages, the court shall require the landlord to state the amount of damages sought at the time the claim is filed. If additional damages are incurred after the claim is filed, the landlord must amend the claim once this amount is determined.
  - i. Once a judgment has been ordered, no additional attorney's fees or costs shall be awarded without a modification of the judgment amount by the court.
3. Litigants' Rights:

- a. Defendants shall be advised of their rights at the earliest possible point in the case. In particular, they must be advised of the right to request a change of venue before they appear in court.
  - b. A litigants' rights brochure shall be made available at the courts and on the internet.
  - c. Litigants' rights posters shall be placed in all private conference rooms and common areas.
  - d. Court forms shall be made available in other languages, and certified interpreters should be made available.
4. Court Forms: The township court judges, in collaboration with the Marion County Circuit Court judge, shall prepare the following court forms and documents and make them available to litigants, both online and at the courts. The forms must avoid legalese and shall be understandable to those with a sixth grade reading level.
- a. Uniform Summons and Notice of Claim. The form must notify the litigants of their right to seek counsel, the right to request a continuance of the hearing or a change of venue, and the deadlines for each.
  - b. Uniform Request for Change of Venue.
  - c. Uniform Request for Continuance.
  - d. Uniform Notice of Appeal.
  - e. Contact information for pro bono/modest means legal and housing resources.
  - f. Other forms as they become necessary.
5. Small Claims Courts Website: The courts shall create a common website, which should include locations, hours of operation, and the courts' calendars.
6. Small Claims Manual: The Indiana Judicial Center should update the Small Claims Manual to include information on the township courts.
7. Continuing Legal Education: The Judicial Conference should provide to the township court judges the full range of continuing legal education opportunities that are provided to full-time judicial officers.
8. Practice of Law: The township court judges should not practice law in another township court.
9. If neither Plan A nor Plan B is adopted, the Indiana Code of Judicial Conduct should be amended to require the township court judges to publicly report income from performing wedding ceremonies.
10. Small Claims Clinic: The Indiana University Robert H. McKinney School of Law should consider creating a Small Claims Clinic through which supervised law students could assist unrepresented defendants.

#### **IV. RECOMMENDATIONS FOR REFORM**

##### **PLAN A: INCORPORATE THE TOWNSHIP COURTS INTO THE MARION COUNTY SUPERIOR COURT**

This option ensures that the township courts are independent and able to implement court-wide best practices for managing cases and finances but remain informal and accessible to the self-represented litigant. Under this plan:

**1. The township courts will become the Small Claims Division of the Marion County Superior Court.**

The General Assembly has already established a small claims and misdemeanors division of the superior or circuit court in 91 of Indiana's 92 counties. If the township courts are incorporated into the Marion Superior Court, they would operate under the existing Indiana Rules for Small Claims, thus preserving their informal proceedings and accessibility to unrepresented litigants. At the same time, the township courts, as part of the Marion Superior Court, would no longer be subject to interference from township trustees on budgeting and personnel management issues and would benefit from uniform personnel and financial management policies.

In addition, incorporation of the township courts into the Marion County Superior Court would resolve current problems with forum shopping. The superior court would have the authority, by local rule, to determine the proper venue for filing a small claim in order to achieve the equitable distribution of cases. Such a venue rule should consider the convenience to defendants, the prevention of forum shopping, and the equitable distribution of cases. As a guide, the superior court may want to consider a rule enacted in Porter County. Under that rule, claims from the five southern townships are to be filed in Porter Superior Court 4, in Valparaiso, while claims from the seven northern townships are to be filed in Porter Superior Court 3, in Portage.<sup>37</sup> Using the Porter County rule as a template for a Marion County small claims venue rule would address many of the current problems with venue in the small claims courts.

Incorporating the township courts into a Small Claims Division of the Marion County Superior Court requires new legislation and the repeal of Indiana Code Title 33, Article 34, which establishes and regulates the courts in their current form.

**2. As with other courts in the Marion County Superior Court system, the county will be responsible for funding the Small Claims Division.**

If the township courts become a division of the Marion County Superior Court, the townships will no longer have any responsibility for funding them. Instead, as is the case in all other counties, Marion County would fund the Small Claims Division's operating expenses,

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<sup>37</sup> Porter County Local Small Claims Rule R64-SC12-1800(A) and (B).

including employee salaries, supplies, and equipment, as a part of the superior court's budget. The State would fund the judges' salaries, as discussed below.

Although Marion County would shoulder the responsibility for funding the new Small Claims Division, Marion County will also receive additional funding. Specifically, filing fees from the township courts are currently allocated among the township, the county, and the State. Once the township courts become part of the Marion County Superior Court, the portion of the courts' revenues and costs currently allocated to the townships would shift to the county and the State.

We recognize that the township courts currently generate significant revenues for the townships. The General Assembly could consider providing a transition period during which the courts will gradually reduce their contributions to the townships as they transition into the Marion County Superior Court. Such a period will lessen the immediacy of the economic impact on the townships and provide the townships with time to adjust their budgets.

**3. The county executive and the county's fiscal body, with input from the Marion Superior Court, will be responsible for providing facilities for the courts.**

Once the township courts become the Small Claims Division of the Marion Superior Court, the townships will no longer be obligated to provide facilities for the courts. The Task Force's recommendation that the township courts become a division of the superior court should not be taken as a recommendation to centralize the courts or to change their locations. To the contrary, the courts, in their current locations, benefit litigants by allowing them to attend court closer to their homes, if they choose. The county executive and the county's fiscal body, with input from the Marion County Superior Court, may place the courts in locations throughout the county, taking into consideration convenience to litigants and the equitable distribution of cases. Again, the county would receive additional funds from the share of filing fees that formerly went to the townships.

**4. As judges of the Marion County Superior Court, the Small Claims Division judges will serve full-time, with salaries fixed by statute.**

As superior court judges, the judges of the Small Claims Division would serve full-time, with their salaries fixed by statute, and would qualify for judicial retirement benefits. In addition, the judges would participate in the full range of the Judicial Conference's continuing legal education opportunities. The judges would be elected through the same procedures currently used for Marion County Superior Court judges.

**5. The township courts will become courts of record, and appeals from those courts will go directly to the Court of Appeals.**

Marion County is the only county in Indiana where litigants in a small claims action must try their case a second time before having their appeal heard by the Court of Appeals. Incorporating the township courts into the Marion County Superior Court will eliminate this

extra step, improving efficiency. In addition, as a Small Claims Division, the courts would become courts of record. The courts and litigants will benefit from having access to accurate records of court proceedings for appeal and, if necessary, to resolve litigants' complaints about the conduct of judges or opposing counsel.

**6. The Small Claims Division's jurisdiction shall include traffic infractions.**

If the township courts become a Small Claims Division of the Marion County Superior Court, assignment of traffic infraction matters to the Division would provide needed relief to the superior court that currently hears those cases and would not detract from the Small Claims Division's principal purpose as small claims courts.

However, assignment of class D felony cases, misdemeanor cases, and ordinance violation matters to the Small Claims Division would potentially detract from their principal purpose as small claims courts. Various logistical concerns, such as handling jury trials and the need for additional security, render those cases incompatible with a small claims court's procedures and mission. For this reason, the Task Force does not recommend that these cases be assigned to the Small Claims Division. The Marion County Superior Court should enact a local rule to limit the types of minor offenses and violations that the Small Claims Division may hear.

**PLAN B: REFORM THE EXISTING TOWNSHIP SMALL CLAIMS COURTS**

If the townships continue to hold responsibility for funding the courts, the following reforms are essential to ensure that the courts can effectively, efficiently, and independently dispense justice.

**1. The Marion County Circuit Court shall receive funding from the townships to hire a Small Claims Court Administrator.**

A Small Claims Court Administrator (Administrator) would assist the township courts in preparing and submitting budgets, allocating budgeted funds, tracking and reporting caseload information, accounting for fees collected and judgments paid out, preparing and distributing uniform court forms, helping to manage and supervise court staff, and other tasks as needed. An Administrator would promote best management practices and uniformity among the courts, so that litigants will be treated similarly regardless of the township in which their cases are heard. The Administrator would report to the circuit court judge and work closely with the township courts' judges.

The majority of filing fees collected in the township courts go to the townships, so it is appropriate for the townships to provide resources to assist the circuit court in funding this position. The circuit court judge could seek contribution from the townships on a pro rata basis, with each township trustee contributing one-ninth of the cost of the court administrator's salary and benefits. As an alternative, a township's contribution could be calculated based on its court's percentage of the county's total small claims court caseload. The Administrator position may also be created and funded by rule or by statute.

**2. The township courts shall prepare their own budgets for approval by their township boards.**

The township courts will not be independent and will not function efficiently so long as township trustees maintain control over the courts' budgets. The township courts shall prepare their own budgets, with the assistance of Odyssey and the Administrator, and submit these budgets to their township boards for approval. In addition, the trustees must not be permitted to amend the courts' budgets.

Nothing in the statute that sets forth the trustees' duties to the township courts grants trustees authority over the courts' budgets. Nevertheless, in light of the lengthy history of budgeting and staffing disputes between trustees and the courts, the General Assembly may need to act in order to ensure the courts' independence.

**3. The township courts shall maintain sole control over all court funds.**

Trustees should not be allowed to access or control the township courts' bank accounts and financial management systems. Once again, the statute that governs the trustees' duties to

the township courts does not grant trustees such access or control. As is the case with the courts' budgeting authority, the General Assembly may need to act in order to ensure the township courts' independence.

Furthermore, each township court's financial data must be entered and managed by a court employee rather than an employee of the trustee. This employee should be supervised by the Administrator and report to the Administrator and the court's judge.

All of the township courts must use Odyssey to track and reconcile revenues and expenditures and the processing of judgments. This platform provides accountability to the public and protects the court from financial mismanagement of funds.

**4. The township courts shall have sole authority to hire, supervise, and fire court personnel.**

The trustees' control over the township courts' staff infringes upon the courts' constitutionally required independence and prevents the courts from ensuring that court employees are fulfilling their ethical obligations as employees of judicial officers. The judges, with the assistance of the Administrator, should establish their own procedures to manage employees. Ensuring that all township court employees are paid from the court's budget further ensures that the employees work for the judges rather than the trustees.

The trustees do not have statutory authorization to control court employees. The General Assembly may need to act in order to establish the township courts' authority.

**5. Judges shall serve full-time, with salaries fixed by statute.**

As is the case in every other county in Indiana, Marion County's township court judges should serve full-time, with salary and benefits adjusted accordingly. The township courts' caseload easily supports at least nine full-time judicial officers and continues to grow. Thus, the courts would operate more effectively with full-time judicial officers. Ending part-time service would also eliminate any appearance of unfairness caused by judges who represent clients in other small claims judges' courtrooms. In addition, as full-time judicial officers, the judges could take advantage of the full range of continuing legal education that is available to all other Indiana judicial officers. Finally, the township judges should receive judicial retirement benefits.

**6. The township courts shall become courts of record, and appeals should go directly to the Court of Appeals.**

As is noted under Plan A above, Marion County is the only county in Indiana where litigants must try their small claims case a second time before having their appeal heard by the Court of Appeals. Litigants and the court system as a whole would save time and resources if the township courts became courts of record and the courts' decisions were directly appealable to the Court of Appeals.

The transition to courts of record need not be an expensive one. Modern court reporting equipment often eliminates the need for a dedicated court reporter during court proceedings. In addition, professional transcribing companies are available to assist in the transcription of the record on appeal. Townships should appropriate money for the courts to assist with this transition.

**7. The Indiana Supreme Court Committee on Rules of Practice and Procedure should adopt a rule regarding the township courts' venue to end forum shopping.**

The Task Force recommends the adoption of a rule establishing venue for the township courts. The rule should establish that small claims defendants must be sued in the township where the defendant lives or in the township where the transaction or incident occurred. This reform would eliminate forum shopping. In addition, these changes would eliminate the inconvenience some defendants have experienced in having to travel across Marion County to go to court.

**PART C: COMPLEMENTARY REFORMS**

Regardless of whether Plan A or B is chosen, or even if neither is chosen, the following recommendations will improve the courts' efficiency and accessibility to litigants. None of these changes require statutory amendments or revisions to the Rules for Small Claims, although some will require action by, or cooperation with, other agencies.

**1. Court Management**

- a. The township courts shall have sole authority to prepare and submit budgets, manage court funds, and supervise court employees.**

As is noted in the discussions of these issues in Plan B above, the trustees' statutory duty to provide facilities to the township courts does not authorize them to exercise control over the courts' budgets, funds, and employees. Even in the absence of action by the General Assembly, the township courts should consistently affirm, and work to ensure, the courts' independence from the trustees in these areas. The Task Force recommends that the township courts work with the circuit court to establish uniform policies for financial management and employee management.

In addition, all of the courts must use Odyssey for case management and financial recordkeeping. This program will improve financial transparency and accuracy and improve docket management.

- b. Township court judges must exercise their authority to ensure that litigants are served with notice in a manner that complies with Indiana Small Claims Rule 3.**

Proper and timely service of legal documents is fundamental to the administration of justice. Indiana Small Claims Rule 3(C) provides that the township courts may designate an employee as bailiff for the purpose of effecting service of process. While the township constables are generally charged with the task of service, the judge is free to designate any other court employee for this purpose. In doing so, the judge is also charged with the authority to ensure that all litigants have received proper and timely notice, either by requiring personal service and a signature of a receipt or through some other method.

**2. Court Procedures: The following procedures shall be implemented immediately.**

- a. Court employees must be easily identifiable by litigants.
- b. Judges shall appear in the courtroom at the beginning of each court session and inform the parties of all of their rights, including the right to request a continuance. In addition, the judge shall inform the parties that they are not obligated to discuss their cases with opposing parties prior to their hearing.
- c. Judges shall ensure that court staff do not make substantive decisions about cases, approve settlement agreements, or engage in any other fact-finding or decision-making that is within the province of the judicial officer.

- d. Judges shall ensure that they, rather than court staff or litigants, lead court proceedings.
- e. Settlement agreements must receive judicial review before approval.
- f. Litigants shall have equal access to court files. Court files should not be given to creditors' attorneys for use in settlement negotiations with unrepresented defendants.
- g. Before issuing an order for default judgment, a judge shall inquire as to the absent party's military status, whether the absent party has disabilities, and whether proper service of process occurred.
- h. In landlord-tenant disputes in which the landlord has requested back rent and other damages, the courts must require the landlord to state the amount of damages sought at the time the claim is filed. If additional damages are incurred after the claim is filed, the landlord must amend the claim once this amount is determined.
- i. Once the trial court enters judgment, no additional attorney's fees or costs shall be awarded without a modification of the judgment amount by the court.

### **3. Litigants' Rights**

- a. Defendants shall be advised of their rights, including the right to request a change in venue, at the earliest possible point in the case.**

Defendants must be made aware of several rights, including the right to request a change of venue, before a hearing. The Task Force recommends that a brief, clear statement of rights be served upon the defendant along with the summons and notice of claim.

- b. A litigants' rights brochure shall be made available at the courts and on the internet.**

Under the supervision of the Marion County Circuit Court, the township court judges are developing a brochure describing litigants' rights. The publication of this brochure will be an important first step in helping to ensure that litigants receive due process.

- c. Litigants' rights posters shall be placed in all private conference rooms and common areas.**

With guidance from the Marion County Circuit Court, the township court judges are developing a poster to inform litigants of their rights. Such posters will help to eliminate the complaint from many debtor-defendants that they believe they are required to speak with creditors' attorneys before the judge hears their case.

- d. Court forms shall be made available in other languages, and certified interpreters shall be made available.**

In order to ensure that non-English speakers receive access to justice, the Courts should prepare forms in other languages commonly spoken in Marion County. This is not to say that every form must contain the same information in multiple languages; a sentence at the bottom of

each English-printed form stating, “This form is available in [language] at [address/website/telephone]” would suffice.

In addition, the courts shall provide interpreters to the parties.

#### **4. Court Forms**

The township court judges, in collaboration with the Marion County Circuit Court judge, shall prepare the following court forms and documents and make them available to litigants, both online and at the courts. The forms must avoid legalese and shall be understandable to those with a sixth grade reading level.

- a. Uniform Summons and Notice of Claim. The form must notify the litigants of their right to seek counsel, the right to request a continuance of the hearing or a change of venue, and the deadlines for each.
- b. Uniform Request for Change of Venue.
- c. Uniform Request for Continuance.
- d. Uniform Notice of Appeal.
- e. Contact information for pro bono/modest means legal and housing resources.
- f. Other forms as they become necessary.

#### **5. The township courts shall create a common website. The website should include locations, hours of operation, and the courts’ calendars.**

More and more Hoosiers are turning to the internet as their primary source for information. A single website should be created to provide one source for information about all of the township courts. In the alternative, a central website should provide links to, and information on, each of the courts.

#### **6. The Indiana Judicial Center should update the Small Claims Manual and include information on the township courts.**

The Small Claims User Manual, available at <http://www.in.gov/judiciary/2710.htm>, is an excellent resource for unrepresented persons, but it specifically excludes the township courts. The Task Force recommends that the Judicial Center update the Small Claims User Manual to add a Marion County section to the manual or create a separate Marion County-specific manual. In the alternative, the township courts should update and more widely disseminate the Litigants’ Manual that is currently found on the Center Township Small Claims Court’s website.

#### **7. The Judicial Conference should provide to the township court judges the full range of continuing legal education opportunities that are provided to full-time judicial officers.**

Regardless of whether or not the township judges become full-time judicial officers, they would benefit from the full range of continuing legal education provided by the Judicial

Conference, rather than occasional offerings. The township courts, and by extension, litigants, will benefit from judges that have full access to up-to-date, high quality continuing education on substantive law and practices that will improve the courts' operations.

**8. The township court judges shall not practice law in another township court.**

If the judges do not become full-time judicial officers, or until Plan A or Plan B is implemented, it is crucial to avoid the appearance of unfairness created by township court judges practicing in their colleagues' courts. We strongly urge the judges to refrain from representing clients in another township court.

**9. If neither Plan A nor Plan B is adopted, the Indiana Code of Judicial Conduct should be amended to require the township court judges to publicly report income from performing wedding ceremonies.**

Under Plan A or Plan B, the township court judges will become full-time judicial officers and will be subject to public reporting requirements for income from extrajudicial activities. If neither Plan A nor Plan B is implemented, the Indiana Code of Judicial Conduct should be amended to clarify that the judges are required to publicly disclose income earned from performing weddings. The only reason the judges have the opportunity to earn such income is due to their position as judicial officers, so it is fair to require them to publicly report amounts earned from performing wedding ceremonies. Furthermore, if the weddings occur during a township court's business hours, the fee should inure to the benefit of the township court rather than to the individual judge.

**10. The Indiana University Robert H. McKinney School of Law should consider creating a Small Claims Clinic through which law students could assist unrepresented defendants.**

Indiana permits the certification of law student interns, who may "interview, advise, negotiate for, and represent parties in any judicial or administrative proceeding in this State," provided all legal activities are supervised by a licensed attorney.<sup>38</sup> The creation of a Small Claims Clinic would both provide invaluable legal experience to the next generation of Indiana attorneys and help level the playing field between plaintiffs' attorneys and self-represented defendants.

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<sup>38</sup> Ind. Admission and Discipline Rule 2.1(4).

## **V. CONCLUSION**

The Task Force appreciates the important work of Marion County's township court judges and their staff. These courts are often the only contact the citizens of Marion County have with Indiana's justice system. Furthermore, caseloads are high and continue to grow every year. Nevertheless, changes are necessary to ensure that all litigants receive equal treatment and that large-volume case filers do not appear to have special access to the courts. Moreover, it is essential that the courts' independence in budgeting and personnel matters is strengthened. Finally, it is essential that forum shopping is ended so that defendants are not required to travel across town to go to court. The recommendations set forth in this report will ensure that these goals are met and that Marion County is served by effective, accessible small claims courts.

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